

~~P.C.~~  
~~CLIG 2~~

(33), 1965

No. 29 OF 1964

Supreme Court of Ceylon,  
No. 165 (Final) of 1960.

District Court of Gampaha,  
Case No. 6748/D.

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

BETWEEN

PERUMBADU PIYASENA WICKRAMASURIYA of  
Meddewatta, Matara .. .. . *Defendant-Appellant*  
(Appellant)

AND

SAMARASURIYA LIYANAARACHCHI SIRIMATHIE RATNAVALI  
SAMARASURIYA of Medagama, Gampaha .. .. . *Plaintiff-Respondent*  
(Respondent)

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R E C O R D  
OF  
P R O C E E D I N G S

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No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
Continued

(5) 10.6.58.

Mr. Valentine Dias, proctor for defendant-respondent with notice to proctor for plaintiff, files petition and affidavit and moves to accept same.

*Vide* order at Journal Entry (4).  
File.

(Intd.) C. E. J.,  
D.J.

*Inquiry re Alimony and Costs*

(6) 16.6.58.

10

Mr. K. P. G. Perera for plaintiff.  
Mr. Valentine Dias for defendant.  
*Vide* Proceedings and Order.  
Trial 25 and 26.5.1959.

(Intd.) C. E. J.,  
D.J.

(7) 20.3.59.

As Mr. K. P. G. Perera, proctor for plaintiff, is dead, Mr. Louis Chandrasekera files his appointment as proctor for plaintiff with notice to proctor for defendant and moves to accept same.

20

Accept and file.

(Intd.).....  
A.D.J.

(8) 25.3.59

Proctor for plaintiff moves, with notice to proctor for defendant to amend the plaint by (1) deleting the word "threatening" which is a typist's error in para 6 of the Plaint and substituting therefor the word "treating" and (2) amplifying para 6 of the Plaint by inserting the following new para numbered 6A immediately after the said 6th para as stated therein.

30

File Amended Plaint.

(Intd.).....  
A.D.J.

(9) 17.4.59.

Proctor for plaintiff files amended plaint of plaintiff with notice to proctor for defendant and moves to accept same.

- (1) Amended Plaint filed.
- (2) Trial dates stand.

(Intd.).....  
A.D.J. 40

(10) 29.4.59.

As the plaintiff has amended the plaint on 17.4.59, Mr. Valentine Dias for defendant files amended answer of defendant with notice to proctor for plaintiff and moves to accept same. The trial date in this case need not be altered.

- (1) Amended answer filed.
- (2) Mention on 25.5.59.
- (3) Trial dates stand.

(Intd.).....  
A.D.J.

10

(11) 5.5.59.

Proctor for defendant files defendant's list of witnesses with notice to proctor for plaintiff and moves for summons on 1st, 2nd, 3rd, 4th, 5th and 6th witnesses.

- (1) File.
- (2) Cite witnesses 1-6 as applied for.

(Intd.).....  
A.D.J.

(12) 7.5.59.

20 Summons on 4 witnesses for defendant issued to Matara. Summons on one witness issued to Panadura. Summons on one witness issued to Colombo.

(Intd.).....

Kachcheri Receipt No. 1/15—049240/85 of 7.5.59 for Rs. 10/- filed.

(Intd.).....

(13) 7.5.59.

Proctor for defendant files defendant's additional list of witnesses with notice to proctor for plaintiff.

30 *Vide* letter dated 6.5.59 from Inspector of Police, Borella, annexed hereto.

- (1) File.
- (2) Cite witnesses.

(Intd.).....  
A.D.J.

(14) 8.5.59.

Summons on 2 witnesses from defendant issued to Gampaha.

(Intd.).....

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued*

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued*

(15) 8.5.59.

Proctor for plaintiff files plaintiff's list of witnesses and documents with notice to proctors of the represented parties and moves to issue summons on 5th to 7th and 11th to 12th witnesses to the Fiscal for service and also moves for a Paying-in-Voucher for Rs. 25/- being batta for the attendance of 7th and 9th witnesses to wit :—Rs. 15/- for witness No. 7 and Rs. 10/- for witness No. 9.

- (1) File.
- (2) Cite witnesses.

(Intd.) F. C. P., 10  
A.D.J.

(16) 8.5.59.

Proctor for plaintiff files plaintiff's additional list of witnesses with notice to proctor for defendant, and moves to issue summons on 1st to 3rd witnesses.

- (1) File.
- (2) Cite witnesses.

(Intd.) F. C. P.,  
A.D.J.

(17) 12.5.59.

20

Summons on 3 witnesses for plaintiff issued to Gampaha. Summons on one witness issued to Panadura. Summons on 3 witnesses issued to Matara. Summons on one witness issued to Matara. Summons on one witness issued to Colombo.

(Intd.).....

(18) 15.5.59.

Proctor for defendant files defendant's 2nd additional list of witnesses with notice to proctor for plaintiff and moves for summons on them in hand.

1. File.
2. Allowed.

30

(Intd.).....  
A.D.J.

(19) 18.5.59.

Summons on 2 witnesses for defendant issued in hand.

(Intd.).....

*Trial (1)*

(20) 25.5.59.

Mr. L. Chandrasekera for plaintiff.

Mr. Valentine Dias for defendant.

*Vide* Proceedings.

Further trial 26.5.59.

(Intd.) F. C. P.,  
*D.J.*No. 1  
Journal Entries  
15.1.58 to  
7.11.62--  
*Continued**Further Trial*

10 (21) 26.5.59.

*Vide* proceedings.

Further trial 24 and 27 July.

(Intd.) F. C. P.,  
*D.J.*

(22) 8.6.59.

Requisition No. 417 for Rs. 10/- in favour of Mr. M. A. H. Fernando, Requisition No. 418 for Rs. 10/- in favour of P.S. 758 Alaldeen and Requisition No. 419 for Rs. 15/- in favour of P.S. 2494, Tilakaratne.

20

(Intd.).....  
*Acting Secretary.*

(23) 13.6.59.

As the Assistant Superintendent of Police, Matara, has refused to issue certified copies of the complaints made by Mr. P. P. Wickramasuriya of Medawatta, Matara (defendant) to the Matara Police on 10.10.1957 Mr. Louis Chandrasekera for plaintiff moves to order the issue of summons on Assistant Superintendent of Police, Matara, to produce or cause to be produced the said complaints made by Mr. P. P. Wickramasuriya of Medawatta, Matara (defendant), to

30 Matara Police on 10.10.1957.

The issue of a certified copy of the complaint made by Mr. P. P. Wickramasuriya on 10.10.57 is hereby authorised on payment of the usual charges.

(Sgd.) F. C. PERERA,  
*D.J.*  
16.6.59.

(24) 9.7.59.

Mr. Valentine Dias for defendant moves for summons in hand on 1st, 2nd and 16th witnesses mentioned in the list dated 5.5.59

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
Continued

(Journal Entry 11) and further moves that summons be issued to Fiscal for service on 6th witness mentioned in the said list and on 2nd witness in list of 7.5.59 (Journal Entry 13).

Allowed.

(Sgd.) F. C. PERERA,  
*D.J.*  
10.7.59.

(25) 10.7.59.

Summons on 2 witnesses for defendant issued to Colombo.  
Summons on 3 witnesses issued in hand. 10

(Intd.).....

(26) 17.7.59.

Mr. Valentine Dias, proctor for defendant, moves that the court be pleased to direct Officer-in-charge of the Panadura and Gampaha Police Stations to issue certified copies of the following statements :

- (1) Statement of Mrs. C. D. Samarasuriya made to Panadura Police on 10th October, 1957.
- (2) Statement of Mrs. S. R. Wickramasuriya made to Panadura Police on 10th October, 1957.
- (3) Statement of Mr. C. Samarasuriya made to Gampaha Police 20 on or about 9th October, 1957. Proctor for plaintiff received notice.

Issue directions to issue copies.

(Sgd.) F. C. PERERA,  
*D.J.*

(27) 20.7.59.

Mr. Louis Chandrasekera for plaintiff moves to authorise the Assistant Superintendent of Police, Gampaha, to issue certified copies of the complaints made by Mr. P. P. Wickramasuriya of Medawatta, Matara (defendant), to Gampaha Police on 11.1.58 on payment of 30 the usual charges as the same is necessary to be produced at the trial in this case.

Proctor for defendant receives notice.

Authorised on payment of the usual charges.

(Sgd.) F. C. PERERA,  
*D.J.*  
22.7.59.

*Further Trial*

(28) 24.7.59.

Mr. L. Chandrasekera for plaintiff.

Mr. Valentine Dias for defendant.

*Vide* proceedings.

Further hearing on 27.7.59.

(Intd.) F. C. P.,  
*D.J.*No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued**Further Trial*

10 (29) 27.7.59.

Mr. L. Chandrasekera for plaintiff.

Mr. Valentine Dias for defendant.

Further trial 22, 23 and 24 September, 1959.

(Intd.) F. C. P.,  
*D.J.*

(30) 7.9.59.

Mr. Valentine Dias for defendant files defendant's additional list of witnesses with notice to proctor for plaintiff and moves for summons on them.

20 He also moves that the said summons be handed to him for personal service.

1. File.

2. Allowed.

(Sgd.) F. C. PERERA,  
*D.J.*  
8.9.59.

(31) 7.9.59.

30 Mr. Valentine Dias for defendant moves for summons in hand on 2nd witness mentioned in list of witnesses filed—*Vide* Journal Entry (11) and that summons be issued through Fiscal on 6th witness in list of 5.5.59 and on 2nd witness mentioned in list of witnesses dated 7.5.59 (Journal Entry 13).

Allowed.

(Sgd.) F. C. PERERA,  
*D.J.*  
8.9.59.

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued*

(32) 8.9.59.  
Summons on 2 witnesses for defendant issued in hand. Summons on 3 witnesses for defendant issued to Colombo.  
(Intd.).....

*Further Trial*

(33) 22.9.59.  
Mr. L. Chandrasekera for plaintiff.  
Mr. Valentine Dias for defendant.  
*Vide* proceedings.  
Further trial 23.9. 10  
(Intd.) F. C. P.,  
D.J.

D5, D8, D9, D10, D11A and D12  
filed and kept in safe.

(Intd.).....  
*Secretary*  
22.9

*Trial resumed*

(34) 23.9.59. 20  
Mr. L. Chandrasekera for plaintiff.  
Mr. Valentine Dias for defendant.  
*Vide* proceedings.  
Further trial 24.9.  
Issue notice of Interlocutory Decree for 15.10.  
(Intd.) F. C. P.,  
D.J.

*Further Trial*

(35) 24.9.59. 30  
Mr. L. Chandrasekera for plaintiff.  
Mr. Valentine Dias for defendant.  
*Vide* proceedings.  
Inquiry on 15.10.59.  
Further hearing on 6th November, 1959.  
(Sgd.) F. C. PERERA,  
D.J.

(36) 26.9.59.  
Interlocutory Order entered.

(Intd.).....  
Secretary.

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
Continued

(37) 2.10.59.  
Interlocutory Order on defendant-respondent issued to Matara.

(Intd.).....

*Inquiry re payment of costs*

(38) 15.10.59.

10 Mr. L. Chandrasekera for plaintiff-petitioner.  
Mr. Valentine Dias for defendant-respondent.  
Interlocutory Order not served on defendant-respondent.  
He was not at the station at present.  
*Vide* proceedings.  
Call 6.11.

(Intd.) F. C. P.,  
D.J.

Interlocutory Order extended.

(Intd.).....

20 Secretary.  
23.10.59.

(39) 21.10.59.

Mr. L. Chandrasekera for plaintiff states that plaintiff in this case has received the payments specified below from the defendant in this case hence he moves to certify the said payment of record :

(1) Cash Rs. 175/- received on 23.8.58 being the alimony *pendente lite* for plaintiff and maintenance for the child for July, 1958.

30 (2) Cash Rs. 175/- received on 23.9.58 being the alimony *pendente lite* for plaintiff and maintenance for the child for August, 1958.

(3) Cash Rs. 175/- received on 27.10.58 being the alimony *pendente lite* for plaintiff and maintenance for the child for September, 1958.

(4) Cash Rs. 175/- received on 27.11.58 being the alimony *pendente lite* for plaintiff and maintenance for the child for October, 1958.

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
Continued

- (5) Cheque No. A/6 311984 dated 16.12.58 for Rs. 175/- received on 16.1.59 being the alimony *pendente lite* for the plaintiff and maintenance for the child for November, 1958.
- (6) Cheque A/6 311986 dated 2.2.59 for Rs. 175/- received on 3.2.59 being alimony *pendente lite* for the plaintiff and maintenance for the child for December, 1958.
- (7) Cheque No. A/6 311989 for Rs. 175/- received on 26.3.59 being the alimony *pendente lite* for the plaintiff and maintenance for the child for January, 1959.
- (8) Cheque No. A/6 311995 for Rs. 175/- received on 5.5.59 <sup>10</sup> being the alimony *pendente lite* for plaintiff and maintenance for child for February, 1959.
- (9) Cheque No. A/6 311998 dated 19.5.56 (dishonoured) for Rs. 175/- being the alimony *pendente lite* for plaintiff and maintenance for child for March, 1959.
- (10) Cheque No. A/6 312000 for Rs. 100/- received on 20.5.59 being the costs.
- (11) Cheque No. A/6 900253 dated 26.6.59 for Rs. 175/- received on 30.6.59 being the alimony *pendente lite* for plaintiff and maintenance for child for April, 1959. 20
- (12) Cheque No. A/6 900253 dated 31.7.59 for Rs. 175/- received on 4.8.59 being alimony *pendente lite* for plaintiff and maintenance for the child in place of cheque No. A/6 311998 dated 19.5.56.
- (13) Cheque A/6 900257 dated 31.7.59 for Rs. 175/- received on 4.8.59 being the alimony *pendente lite* for the plaintiff and maintenance for the child for May, 1959.
- (14) Cheque No. A/6 900259 dated 22.9.59 for Rs. 175/- received on 22.9.59 being alimony *pendente lite* for plaintiff and maintenance for the child for June, 1959. 30
- (15) Cheque No. A/6 900262 dated 3.10.59 for Rs. 350/- received on 8.10.59 being the alimony *pendente lite* for plaintiff and maintenance for the child for the months of July and August, 1959.

Plaintiff received the above-mentioned payments.

Proctor for defendant received notice.

Payments certified.

(Sgd.) Illegibly.

D.J.

26.10.59. 40

(40) 21.10.59.

Mr. L. Chandrasekera for plaintiff files additional list of witnesses and documents and moves to issue summons on 1st witness to the Fiscal for service, and moves for a Paying-in-Voucher for Rs. 15/- being the batta for the attendance of witness No. 1. Proctor for defendant objects to the additional list of witnesses and documents (as for the reasons stated therein).

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued*

- (1) File.
- (2) Cite witness No. 1.
- 10 (3) Issue Paying-in-Voucher.

(Sgd.) Illegibly.  
*D.J.*  
26.10.59.

(41) 21.10.59.

Mr. Velentine Dias for defendant tenders summons on 15th witness mentioned in the list of witnesses filed by him on 5.5.59 and on witnesses Nos. 1 and 2 mentioned in the additional list of witnesses filed on 7.9.59 by him and moves that summons be issued through Fiscal on 15th witness in the list of 5.5.59 and that summons 20 on other two witnesses be issued to him for personal service.

- (1) File.
- (2) Allowed.

(Sgd.) Illegibly.  
*D.J.*  
26.10.59.

(42) 26.10.59.

Summons on one witness for defendant issued to Colombo. Summons on one witness for plaintiff, issued to Colombo and summons on 2 witnesses issued in hand. Kachcheri Receipt for Rs. 15/- 30 filed.

(Intd.).....

(43) 27.10.59.

Interlocutory Order on defendant re-issued to Matara.

(Intd.).....

*Further Trial*

(44) 6.11.59.

Mr. L. Chandrasekera for plaintiff-petitioner.  
Mr. Valentine Dias for defendant-respondent.

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued*

Interlocutory Order served on defendant-respondent.

*Vide* proceedings.

Inquiry and further trial on 19.11.

Trial 12, 13 and 15 January, 1960.

(Intd.) F. C. P.,  
*D.J.*

(45) 9.11.59.

Mr. Valentine Dias for defendant files list of witnesses with notice to proctor for plaintiff and moves for summons on them.

Cite.

(Sgd.) Illegibly.  
*D.J.*  
9.11.59.

10

(46) 10.11.59.

Summons on 2 witnesses for defendant issued to Colombo.

(Intd.).....

(47) 11.11.59.

Requisition No. 480 for Rs. 15/- issued in favour of Mr. S. P. S. Rodrigo.

(Intd.)..... 20  
*Acting Secretary.*

*Further Trial*

(48) 19.11.59.

Mr. L. Chandrasekera for plaintiff.

Mr. Valentine Dias for defendant.

Order on 3.12.

(Intd.) F. C. P.,  
*D.J.*

(49) 3.12.59.

Order delivered in open court.

(Sgd.) F. C. PERERA,  
*D.J.*  
3.12.59.

30

(50) 4.12.59.

Mr. Valentine Dias for defendant-appellant tenders Petition of Appeal together with Secretary's Certificate in Appeal and stamps

to the value of Rs. 6/- enclosed in envelope attached thereto for the Supreme Court Judgment.

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued*

He also tenders Application for typewritten copy of the record together with Treasury Receipt No. L/15 082901 of 4.12.59 for Rs. 12/- being copying fees for the brief applied for.

He also tenders notices of Security for service returnable on 18.12.59 together with notices of appeal with copy of the Petition of appeal annexed thereto for service immediately thereafter.

He also tenders a Paying-in-Voucher for Rs. 100/- being security for costs of appeal of plaintiff-respondent and moves to issue same.

(1) Appeal accepted.

(2) Issue Paying-in-Voucher.

(3) Issue Notice of tendering security forthwith returnable on 18.12.59.

(4) Keep stamps in safe.

(Sgd.) F. C. PERERA,  
*D.J.*  
4.12.1959.

Stamps in safe.

20 (Intd.).....  
*Secretary.*  
17.12.

(51) 4.12.59.

Notice of security on Mr. L. Chandrasekera for plaintiff-respondent issued to Gampaha.

(Intd.).....

(52) 18.12.59.

Mr. Valentine Dias for defendant-appellant. Notice of tendering security served on Mr. L. Chandrasekera, Proctor for plaintiff-respondent. Present.

(1) Security accepted.

(2) Enter also the Bond.

(3) Issue notice of appeal for 16.2.60.

(Sgd.) F. C. PERERA.  
18.12.59

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued*

(53) 18.12.59.  
Security Bond perfected and filed today.

(Intd.).....  
*Secretary.*  
18.12.

(54) 19.12.59.  
Notice on Mr. L. Chandrasekera issued to Gampaha.

(Intd.).....

*Addresses (Further Trial)*

(55) 12.1.60.  
Mr. L. Chandrasekera for plaintiff.  
Mr. Valentine Dias for defendant.  
The District Judge is on leave.  
Call to fix date for addresses 27.1.60.

10

(Sgd.) Illegibly.  
12.1.60.

(56) 27.1.60.  
Mr. L. Chandrasekera for plaintiff.  
Case called *Vide* Journal Entry (55) to fix date for addresses.  
Call 8.2.60.

20

(Sgd.) Illegibly.  
*A.D.J.*  
27.1.60.

(57) 8.2.60.  
Mr. L. Chandrasekera for plaintiff.  
Case called *Vide* Journal Entry (56).  
Addresses 27.2.60.

(Sgd.) F. C. PERERA,  
*D.J.*

(58) 16.2.60.  
Mr. Valentine Dias for defendant-appellant.  
Notice of appeal served on Mr. L. Chandrasekera, Proctor for  
plaintiff, present.

30

Forward record to the Supreme Court in due course.

(Sgd.) F. C. PERERA.  
16.2.60.

*Addresses*

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued*

(59) 27.2.60.

Mr. L. Chandrasekera for plaintiff.  
Mr. Valentine Dias for defendant.  
*Vide* proceedings.  
Further hearing 4.3.60.

(Sgd.) F. C. PERERA,  
*D.J.*  
27.2.60.

10

*Further Addresses*

(60) 4.3.60.

Mr. L. Chandrasekera for plaintiff.  
Mr. Valentine Dias for defendant.  
*Vide* proceedings.  
Judgment 21.3.60.

(Sgd.) F. C. PERERA,  
*D.J.*  
4.3.60.

20 (1) P1 to P2, P2A, P3, P3A, P4,  
P4A, P5, P5A, P6, P7 to P25)  
filed.

(Sgd.).....  
10.3.60.

(2) D1 to D3, D3A, D4 to D10,  
D11A, D12 to D23, D23A and  
D24 to D27 filed.

(Sgd.).....  
11.3.60

(61) 21.3.60.

30 Judgment not ready.  
Judgment on 4.4.60.

(Sgd.) F. C. PERERA,  
*D.J.*  
21.3.60.

(62) 4.4.60.

Judgment not ready.  
Judgment on 11.4.60.

(Sgd.) F. C. PERERA,  
*D.J.*  
4.4.60.

40

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
Continued

(63) 11.4.60.

Judgment delivered in open court. Enter accordingly Decree Nisi in the first instance, not to be made absolute for a period of three months.

(Sgd.) F. C. PERERA,  
*D.J.*  
11.4.60

(64) 19.4.60.

Mr. Valentine Dias for defendant-appellant tenders Petition of Appeal together with Secretary's Certificate in appeal and also un- 10 cancelled stamps to the value of Rs. 6/- enclosed in envelope annexed hereto for the Supreme Court Judgment.

He also tenders application for typewritten copy of the record of the defendant-appellant together with Treasury Receipt No. X/15 771255 of 19.4.60 for the sum of Rs. 12/- being copying fees for the typewritten copy of the brief applied for.

He also tenders notice of security for service on the plaintiff-respondent returnable 29.4.60.

He moves for an order of court to issue the notice of security on Mr. L. Chandrasekera, proctor for the plaintiff-respondent, return- 20 able also on 29.4.60.

He also tenders notice of appeal with copy of the petition of appeal annexed thereto for service on Mr. L. Chandrasekera, proctor for the plaintiff-respondent, after the security is accepted by court.

He further tenders Paying-in-Voucher for Rs. 100/- being security for costs of appeal of the plaintiff-respondent and moves that same be issued forthwith to enable the deposit to be made forthwith.

1. Appeal accepted.
2. Issue notice of security forthwith on plaintiff-respondent and on proctor for plaintiff-respondent returnable 29.4.60. 30
3. Issue Paying-in-Voucher for Rs. 100/- and keep stamps in safe.

(Sgd.) F. C. PERERA,  
*D.J.*  
19.4.60.

Stamps in safe.

(Intd.).....  
*Secretary*  
16.5.60.

P. I. V. issued.

(Intd.).....  
21.4

(65) 21.4.60.

Notice of security on plaintiff-respondent and on Mr. L. Chandrasekera for plaintiff issued to Gampaha.

(Intd.).....

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued*

(66) 29.4.60.

Mr. L. Chandrasekera for plaintiff.

Mr. Valentine Dias for defendant.

1. Notice of security on plaintiff-respondent and proctor for plaintiff served. Receipt for Rs. 100/- tendered with security bond.  
10 Accept Security and Perfect Bond. Issue notice of appeal for 2.6.60.

(Sgd.) Illegibly.  
29.4.60.

(67) 29.4.60.

Security Bond duly perfected and filed today.

(Intd.).....  
*Secretary.*  
29.4.60.

(68) 29.4.60.

Notice on Mr. L. Chandrasekera issued to Gampaha.

20

(Intd.).....

(69) 18.5.60.

Return to notice of appeal from Gampaha filed.

(Intd.).....  
18.5.60.

(70) 19.5.60.

Mr. L. Chandrasekera for plaintiff states that the plaintiff in this case has received the payments specified below from the defendant in this case; hence he moves to certify the said payment of record :

- 30
1. Cheque No. A/6—900266 dated 6.11.59 for Rs. 175/- received on 17.11.59 being the alimony *pendente lite* for the plaintiff and the maintenance for her child for the month of September, 1959.
  2. Cheque No. A/6—900272 dated 6.1.60 for Rs. 175/- received on 19.1.60 being alimony *pendente lite* for the plaintiff and the maintenance for her child for the month of October, 1959.

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
Continued

3. The sum of Rs. 367.50 being the costs *as per order* of court dated 27.2.60 (received on 4.3.60).
4. The sum of Rs. 1,050/- only being the alimony *pendente lite* for the plaintiff and the maintenance for her child for the months of November, 1959, to April, 1960, (both months inclusive) (received on 14.5.60).

Plaintiff received the above-mentioned payments.  
Proctor for defendant received notice with a copy.  
Payment certified of record.

(Sgd.) Illegibly. 10  
D.J.

(71) 2.6.60.

Mr. Valentine Dias for defendant-appellant.

Notice of appeal served on Mr. L. Chandrasekera, proctor for plaintiff-respondent. Present.

Forward record to Supreme Court.

(Sgd.) Illegibly.  
2.6.60.

(72) 3/9.6.60.

Mr. L. Chandrasekera for plaintiff-respondent applies for type-20 written copy of this action (as per particulars stated therein).

1. Note and file application for copy *re* appeal against Final Order.
2. Issue Paying-in-Voucher for Rs. 12/-.

(Sgd.) Illegibly,  
D.J.  
10.6.60.

(73) 3/9.6.60.

Mr. L. Chandrasekera for plaintiff-respondent applies for type-written copy of this action (as per particulars stated therein). 30

1. Note application for copy *re* Interlocutory Appeal and file.
2. Issue Paying-in-Voucher for Rs. 12/-.

(Sgd.) Illegibly,  
D.J.  
10.6.60.

(74) 11.6.60.

Decree Nisi not in order.

(Intd.).....

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued*

(75) 15.6.60.

Treasury Receipt Y/15 185011 of 14.6.60 for Rs. 12/- and Treasury Receipt Y/15 185012 of 14.6.60 for Rs. 12/- (both) being copying fees in appeal brief tendered by proctor for plaintiff-respondent. *Vide Journal Entries 72 and 73.*

File.

10

(Sgd.) Illegibly.

*D.J.*  
17.6.60.

(76) 21.6.60.

Decree Nisi not entered yet *vide* Journal Entry (63).

1. Request proctor for plaintiff-respondent to tender draft Decree Nisi before 5.7.60.
2. Call case on 5.7.60.

(Sgd.) Illegibly.

*D.J.*  
21.6.60.

20

(77) 5.7.60.

Mr. L. Chandrasekera for plaintiff-respondent.

Draft decree due—tendered.

Check and submit.

(Sgd.) Illegibly.

*D.J.*  
5.7.60.

(78) 25.7.60.

Decree Nisi and Interlocutory Order entered.

(Intd.).....

*Secretary.*  
25.7.60

30

(79) 5.7.62.

The Registrar, Supreme Court, returns the record Volumes I and II and Supreme Court Decree and states that it is considered and adjudged that these appeals be and the same are hereby dismissed.

It is ordered and decreed that the defendant-appellant do pay to the plaintiff-respondent the taxed costs of these appeals.

No. 1  
Journal Entries  
15.1.58 to  
7.11.62—  
*Continued*

- 1. File.
- 2. Call case on 16.7.62.

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

(80) 16.7.62.

Mr. L. Chandrasekera for plaintiff-respondent.  
Case called *vide* Journal Entry (79).  
Supreme Court order conveyed to proctors for parties.

(Intd.).....  
16.7.62. 10

(81) 7.11.62.

The Registrar, Supreme Court, informs that permission has been granted to file an appeal in the Privy Council; hence he requests that this case record be forwarded to him.

Forward record to Registrar, Supreme Court.

(Sgd.).....  
D.J.  
8.11.62.

No. 2  
Plaint of the  
Plaintiff  
15.1.58

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

20

IN THE DISTRICT COURT OF GAMPAHA

No. 6748/D.	Samarasuriya Liyanaarachchi Srimathie
Nature : Divorce.	Ratnavali Samarasuriya of Medagama,
Procedure : Regular.	Gampaha..... <i>Plaintiff</i>
Class : I	<i>vs.</i>
	Perumabadu Piyasena Wickremasuriya of
	Meddawatta, Matara..... <i>Defendant.</i>

On this 15th day of January, 1958.

The plaintiff of the plaintiff abovenamed appearing by K. P. G. Perera, her proctor, states as follows :—

30

- 1. The plaintiff resides within the jurisdiction of this court.
- 2. The plaintiff married the defendant on the 31st day of January, 1957, in Colombo. A certified copy of the marriage certificate is filed herewith marked P1.
- 3. After the marriage the plaintiff and the defendant lived at Matara with the defendant's parents in the parents' house.

4. Since a few days after the marriage the defendant and his parents have been continuously harassing the plaintiff stating that the dowry given was not enough although to her knowledge there was no talk of dowry before the marriage.

5. In June, 1957, the defendant brought the plaintiff to Gampaha and sent her to her parents to ask her father to transfer the forty acres of paddy land belonging to him to the plaintiff and the defendant.

6. As the plaintiff failed to get the said transfer the defendant and his parents started insulting and humiliating the plaintiff and threatening her with gross cruelty. Which conduct amounted to constructive malicious desertion.

7. As the plaintiff was cruelly treated and neglected the plaintiff got down her mother and left for her parents' home on the 10th day of October, 1957.

8. There is one child of the said marriage named Ravindra Rohan one and a half ( $1\frac{1}{2}$ ) months old.

9. The defendant has an income of rupees two thousand (Rs. 2,000/-) a month.

10. Thus a cause of action has accrued to the plaintiff to sue the defendant for a divorce on the ground of constructive malicious desertion and gross cruelty, for alimony in a sum of rupees four hundred a month and for the custody of the child and rupees two-hundred and fifty as maintenance for the said child.

Wherefore the plaintiff prays :—

- (a) that the marriage of the plaintiff with the defendant be dissolved on the ground of constructive malicious desertion and gross cruelty ;
- (b) for alimony in a sum of rupees four-hundred (Rs. 400/-) per month ;
- (c) for the custody of the said child Ravindra Rohan ;
- (d) for rupees two-hundred and fifty (Rs. 250/-) as maintenance for the said child ;
- (e) for costs and for such other and further relief as to the court shall seem meet.

(Sgd.) K. P. G. PERERA,  
*Proctor for Plaintiff.*

*Documents filed with the Plaint :*

1. Certified copy of the marriage certificate marked P1.

(Sgd.) K. P. G. PERERA,  
*Proctor for Plaintiff.*

Settled by :

Mr. FRANCIS P. PERERA,  
*Advocate.*

No. 3  
Answer of the  
Defendant  
1.4.58

**No. 3**

**Answer of the Defendant**

**IN THE DISTRICT COURT OF GAMPAHA**

Samarasuriya Liyanaaratchi Srimathie  
Ratnavali Samarasuriya of Medagama,  
Gampaha.....*Plaintiff*

No. 6748/D.

*vs.*

Perumabadu Piyasena Wickramasuriya of  
Meddawatta, Matara.....*Defendant.*

On this 1st day of April, 1958.

10

The answer of the defendant abovenamed appearing by his proctor, Valentine Dias, states as follows :—

1. This defendant admits the contents of paragraphs 1, 2 and 3 of the plaint.

2. This defendant denies the contents of paragraphs 4 and 10 of the plaint.

3. Answering paragraph 5 of the plaint, this defendant admits that in June, 1957, he accompanied the plaintiff to visit her parents at Gampaha ; but he denies that he requested her to ask her father to transfer forty acres of paddy land to the plaintiff and the defendant 20 or to anybody else.

4. This defendant specially denies paragraph 6 of the plaint.

5. Answering paragraph 7 the defendant denies that the plaintiff was cruelly treated or neglected. The defendant further states that on the 10th of October, 1957, the plaintiff left for Gampaha against his wishes.

6. The defendant admits paragraph 8 of the plaint.

7. The defendant denies paragraph 9 and puts the plaintiff to the strict proof thereof. He also denies that he is liable to pay any sum of money as alimony to the plaintiff. 30

8. Further answering the defendant states that the plaintiff on 10.10.1957 maliciously and *sine animo revertendi* deserted the defendant.

9. The defendant asks for a dissolution of the said marriage on the ground of the said malicious desertion.

10. This defendant asks for the custody of the child, Ravindra Rohan.

11. In any event the amount of alimony asked for the plaintiff and the child is grossly excessive.

12. The defendant states that the plaint does not disclose a cause of action in law against him and the action as at present constituted cannot be maintained in law.

13. Finally the defendant denies all and singular the averments which are inconsistent with this answer.

Wherefore the defendant prays :—

- (a) That the plaintiff's action be dismissed ;
- 10 (b) That the marriage of the defendant to the plaintiff be dissolved on the ground of malicious desertion by the plaintiff;
- (c) For the custody of the child, Ravindra Rohan ;
- (d) For costs and for such other and further relief as to this court shall seem meet.

(Sgd.) VALENTINE DIAS,  
*Proctor for Defendant.*

Settled by :

20 NELSON KARUNARATNA,  
*Advocate.*

No. 3  
Answer of the  
Defendant  
1.4.58—  
*Continued*

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**No. 4**

**Petition of the Plaintiff**

IN THE DISTRICT COURT OF GAMPAHA

Samarasuriya Liyanaarachchi Srimathie  
Ratnawalie Samarasuriya of Medagama,  
Gampaha.....*Plaintiff*

No. 6748/D.

*vs.*

Perumabadu Piyasena Wickramasuriya of  
Meddawatta, Matara.....*Defendant.*

30

Samarasuriya Liyanaarachchi Srimathie  
Ratnawalie Samarasuriya of Medagama,  
Gampaha.....*Plaintiff-Petitioner*

*vs.*

Perumabadu Piyasena Wickramasuriya of  
Meddawatta, Matara .....  
.....*Defendant-Respondent.*

No. 4  
Petition of the  
Plaintiff  
1.4.58

No. 4  
 Petition of the  
 Plaintiff  
 1.4.58—  
*Continued*

On this 1st day of April, 1958.

The petition of the plaintiff-petitioner abovenamed appearing by her proctor, K. P. G. Perera, states as follows :—

1. That the petitioner is the plaintiff abovenamed.
2. That the defendant-respondent is her husband.
3. That she is not possessed of any property and she has no income whatsoever.
4. That the defendant-respondent is an advocate practising at Matara and gets a professional income of about Rs. 2,000/- per month. 10
5. That he is also possessed of properties from which he derives a monthly income of above Rs. 1,000/- and also has shares in several companies.
6. That she has no income to maintain herself and her child Ravindra Rohan who is about five months old and she has no means to maintain this action.
7. That she claims a sum of Rs. 750/- as legal expenses and a sum of Rs. 400/- per month as alimony *pendente lite* and Rs. 250/- per month as maintenance for her said child from the defendant-respondent. 20

Wherefore the plaintiff-petitioner prays :—

- (a) That the defendant-respondent be ordered to pay a sum of Rs. 750/- as legal expenses ;
- (b) That the defendant-respondent be ordered to pay a sum of Rs. 400/- per month as alimony *pendente lite* ;
- (c) That the defendant-respondent be ordered to pay a sum of Rs. 250/- per month as the maintenance for the petitioner's said child Ravindra Rohan ;
- (d) For costs, for such other and further relief as to this court shall seem meet. 30

(Sgd.) K. P. G. PERERA,  
*Proctor for Plaintiff-Petitioner.*



No. 5  
Affidavit of the  
Plaintiff  
1.4.58—  
Continued

The contents of the foregoing  
affidavit having been duly  
read over to the affirmant in  
Sinhalese her own language  
and she appearing to under-  
stand the contents thereof  
the same was affirmed to  
and signed at Gampaha on  
this 1st April, 1958. } (Sgd.) S. R. WICKRAMASURIYA.

Before me,  
(Sgd.) Illegibly.  
J.P.

No. 6  
Affidavit of the  
Defendant  
3.5.58

**No. 6**  
**Affidavit of the Defendant**

**IN THE DISTRICT COURT OF GAMPAHA**

Samarasuriya Liyanaarachchi Srimathie  
Ratnavali Samarasuriya of Medagama,  
Gampaha.....*Plaintiff-Petitioner*

No. 6748/D.

*vs.* 10

Perumabadu Piyasena Wickramasuriya of  
Meddawatta, Matara .....  
..... *Defendant-Respondent*

I, Perumabadu Piyasena Wickramasuriya not being a Christian  
do hereby solemnly, sincerely and truly declare and affirm as follows:—

1. I have a professional income of about Rs. 300/- per month  
and not Rs. 2,000/- per month as stated by the plaintiff-petitioner.

2. I am not possessed of any properties apart from shares out  
of which I get a monthly income of Rs. 60/-.

3. My total income is about Rs. 360/-. 20

Signed and affirmed to at }  
Matara on this 3rd day of } (Sgd.) P. P. WICKRAMASURIYA,  
May, 1958. } *Affirmant.*

Before me.  
(Sgd.) A. M. BUHARI,  
J.P.

3.5.58.

No. 7

Objections of the Defendant

No. 7  
Objections of  
the Defendant  
10.6.58

IN THE DISTRICT COURT OF GAMPAHA

Samarasuriya Liyanaarachchi Srimathie  
Ratnavali Samarasuriya of Medagama,  
Gampaha.....Plaintiff-Petitioner

No. 6748/D.

vs.

Perumabadu Piyasena Wickramasuriya of  
Meddawatta, Matara.....  
.....Defendant-Respondent.

10

On this 10th day of June, 1958.

The objections of the abovenamed defendant-respondent appearing by his proctor, Valentine Dias, states as follows :—

1. The defendant-respondent denies that his professional income is about Rs. 2,000/- per month. But he states that his professional income is about Rs. 300 per month.

2. Defendant-respondent also denies that he is possessed of any properties. Hence he denies that he has any income from that source.

20 3. The defendant-respondent has an income of about Rs. 60/- per month from shares. Hence his total income is about Rs. 360/- per month.

4. He further states that the sum of Rs. 750/- as costs of the action is excessive and that a sum of Rs. 100/- is reasonable which he is willing to pay.

5. The defendant-respondent further states that that the sum claimed as alimony *pendente lite*, viz. Rs. 400/- for the petitioner and Rs. 250/- for the child is excessive.

30 6. The defendant-respondent states that a sum of Rs. 50/- for the petitioner and Rs. 25/- for the child is reasonable.

Wherefore the defendant-respondent prays :—

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

(b) that the court hold that a sum of Rs. 100/- is sufficient as legal expenses, and a sum of Rs. 50/- a month for the petitioner and Rs. 25/- for a month for the child as alimony *pendente lite*;

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

(Sgd.) VALENTINE DIAS,  
Proctor for Defendant-Respondent.

40

No. 8  
Order of the  
District Court  
16.6.58

**No. 8**  
**Order of the District Court**

D.C. No. 6748/D.

16.6.1958

Mr. Advocate F. P. Perera instructed by Mr. K. P. G. Perera for the plaintiff.

Mr. Advocate Karunaratne instructed by Mr. V. Dias for the defendant.

**ORDER**

The plaintiff states that she is not possessed of any property and has no income whatsoever ; whereas the defendant, who is an Advocate 10 practising at Matara, and it is admitted that he has so practised for the last 10 years, gets a professional income of about Rs. 2,000/- per month in addition to a monthly income of about Rs. 1,000/- from his shares. The defendant has not filed any counter-affidavit. As a matter of practice in this court summary matters of this nature are dealt with only on evidence by affidavit. However, he has filed a statement by way of objections, and I propose to overlook the fact that there is no counter-affidavit, but shall consider the objections that have been filed. I should have thought that the income of the defendant would be set out for the 3 years preceding, but that also 20 has not been done. The statement of the shares that he is the owner of would also have been useful. Any necessary documents should have been annexed to the objections. However, he has submitted to court a document marked " X " which purports to set out the details of his income for the year 1955, and it is admitted that these details were copied by the plaintiff at the dictation of the defendant. As a matter of grace I propose to consider this document also. According to the pleadings, it will be seen that the trouble between the parties has come to a head in 1957. The details with regard to the income 30 are for the year 1955, and the income works out to Rs. 248/- per month. The statement of objections gives the professional income at Rs. 300/- per month, and Mr. Advocate Karunaratne has submitted that the defendant has taken part in politics and has therefore not reached that level of income which could be expected. I accept the position that his income from his profession is Rs. 300/- a month and also that his income from the shares is Rs. 60/- per month. I am compelled to accept this as being his average net income for the 3 years next preceding this order. According to the statement of objections he is prepared to pay Rs. 50/- a month for the petitioner and Rs. 25/- a month for the child. I think both these offers are 40 grossly inadequate. The child of an advocate have to be maintained in the status to which it is entitled to. I fix the alimony *pendente-lite* at Rs. 75 per month and the maintenance for the child at Rs. 100/- per month.

As regards the costs the plaintiff is apparently resident in Gampaha, while the defendant is resident at Matara. It is bound to cause the plaintiff less than it would cost the defendant to fight this action. The grounds upon which both parties ask for a dissolution of their marriage is malicious desertion. I fix the costs also at Rs. 100/-.

The child is in the custody of the mother, and the father must have reasonable access to the child pending a final decision of this case. It is agreed that the child will be brought by the plaintiff to the Rest House at Gampaha to enable the defendant to have access to him. The date and time could be arranged by the proctors on either side.

(Sgd.) C. E. JAYAWARDENA,  
D.J.  
16.6.1958.

No. 8  
Order of the  
District Court  
16.6.58—  
*Continued*

**No. 9**

**Amended Plaintiff of the Plaintiff**

**IN THE DISTRICT COURT OF GAMPAHA**

Samarasuriya Liyanaarachchi Srimathie  
Ratnavali Samarasuriya of Medagama,  
Gampaha.....*Plaintiff*

20

No. 6748/D.

*vs.*

Perumabadu Piyasena Wickremasuriya of  
Meddawatta, Matara.....*Defendant.*

On this 17th day of April, 1959.

The amended plaintiff of the plaintiff abovenamed appearing by Louis Chandrasekera, her proctor, states as follows:—

1. The plaintiff resides within the jurisdiction of this court.
2. The plaintiff married the defendant on the 31st day of January, 1957, in Colombo. A certified copy of the marriage certificate is filed herewith marked PI.
3. After the marriage the plaintiff and the defendant lived at Matara with the defendant's parents in the parents' house.
4. Since a few days after the marriage the defendant and his parents have been continuously harassing the plaintiff stating that the dowry given was not enough although to her knowledge there was no talk of dowry before the marriage.
5. In June, 1957, the defendant brought the plaintiff to Gampaha and sent her to her parents to ask her father to transfer the forty acres of paddy land belonging to him to the plaintiff and the defendant.

No. 9  
Amended  
Plaint of the  
Plaintiff  
17.4.59

6. As the plaintiff failed to get the said transfer the defendant and his parents started insulting and humiliating the plaintiff and treating her with gross cruelty which conduct amounted to constructive malicious desertion.

6A. The plaintiff states that the defendant treated her with cruelty particularly in that he—

- (a) Refused to allow the plaintiff to visit her father during his illness in 1957;
- (b) Refused to stay with the plaintiff in her father's house at Gampaha during visits when occasion arose ; 10
- (c) Frequently intercepted letters written to the plaintiff by her parents ;
- (d) Prevented the plaintiff from visiting her friends and relations ;
- (e) Neglected the plaintiff and failed to give her care during her pregnancy ;
- (f) Refused to allow the plaintiff to go to her parents' house for her confinement ;
- (g) Refused to arrange for the plaintiff to enter hospital for her confinement ;
- (h) Refused to pay the plaintiff's lying-in expenses and hospital 20 charges ;
- (i) Insulted and humiliated the plaintiff in hospital shortly after child birth.

7. As the plaintiff was cruelly treated and neglected the plaintiff got down her mother and left for her parents' home on the 10th day of October, 1957.

8. There is one child of the said marriage named Ravindra Rohan one and a half ( $1\frac{1}{2}$ ) months old.

9. The defendant has an income of rupees two thousand (Rs. 2,000/-) a month. 30

10. Thus a cause of action has accrued to the plaintiff to sue the defendant for a divorce on the ground of constructive malicious desertion and gross cruelty, for alimony in a sum of rupees four hundred a month and for the custody of the child and rupees two hundred and fifty as maintenance for the said child.

Wherefore the plaintiff prays :—

- (a) That the marriage of the plaintiff with the defendant be dissolved on the ground of constructive malicious desertion and gross cruelty ;
- (b) For alimony in a sum of rupees four hundred (Rs. 400/-) 40 per month ;

- (c) For the custody of the said child Ravindra Rohan ;  
 (d) For rupees two hundred and fifty (Rs. 250/-) as maintenance for the said child.  
 (e) For costs and for such other and further relief as to the court shall seem meet.

No. 9  
 Amended  
 Plaintiff of the  
 Plaintiff  
 17.4.59—  
 Continued

(Sgd.) LOUIS CHANDRASEKERA,  
*Proctor for Plaintiff.*

Documents filed with the plaint.

1. Certified copy of the marriage certificate marked P1.

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(Sgd.) LOUIS CHANDRASEKERA,  
*Proctor for Plaintiff.*

Settled by :

Mr. Advocate FRANCIS P. PERERA.

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**No. 10**

**Amended Answer of the Defendant**

**IN THE DISTRICT COURT OF GAMPAHA**

Samarasuriya Liyanaarachchi Srimathie  
 Ratnavali Samarasuriya of Medagama,  
 Gampaha.....*Plaintiff.*

20 No. 6748/D.

*vs.*

Perumabadu Wickramasuriya, Meddawatta,  
 Matara.....*Defendant.*

No. 10  
 Amended  
 Answer of the  
 Defendant  
 28.4.59

On this 28th day of April, 1959.

The amended answer of the defendant abovenamed appearing by his proctor, Valentine Dias, states as follows :—

1. This defendant admits paras 1, 2 and 3 of the amended plaint.
2. The defendant denies paras 4 and 10 of the amended plaint.
3. Answering para 5 of the amended plaint this defendant admits that in June, 1957, he accompanied the plaintiff to visit her parents at Gampaha, but denies that he requested her to ask her

30

No. 10  
Amended  
Answer of the  
Defendant  
28.4.59—  
Continued

father to transfer forty acres of paddy land to the plaintiff and the defendant or anybody else.

4. This defendant specially denies paras 6 and 6(a) of the amended plaint.

5. Answering para 7 the defendant denies that the plaintiff was cruelly treated or neglected. The defendant further states that on 10th October, 1957, the plaintiff left for Gampaha against his wishes.

6. The defendant admits paragraph 8 of the amended plaint.

7. The defendant denies paragraph 9 and puts the plaintiff 10 to the strict proof thereof. He also denies that he is liable to pay any sum of money as alimony to the plaintiff.

8. Further answering, the defendant states that on 10th October, 1957, the plaintiff maliciously and *sine animo revertendi* deserted the defendant.

9. The defendant asks for a dissolution of the said marriage on the ground of plaintiff's malicious desertion.

10. This defendant asks for the custody of the child Ravindra Rohan.

11. In any event the amount of alimony asked for by the plain- 20 tiff and the child is grossly excessive.

12. The defendant states that the amended plaint does not disclose a cause of action in law against him and the action as at present constituted cannot be maintained in law.

13. Finally the defendant denies all and singular the averments which are inconsistent with this answer.

Wherefore the defendant prays :—

(a) that plaintiff's action be dismissed ;

(b) that the marriage of the defendant to the plaintiff be dissolved on the ground of malicious desertion by the plaintiff ; 30

(c) for custody of the child Ravindra Rohan ;

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

(Sgd.) VALENTINE DIAS,  
*Proctor for Defendant.*

Gampaha,  
28th April, 1959.

## No. 11

## Petition of the Plaintiff

No. 11  
Petition of the  
Plaintiff  
23.9.59

## IN THE DISTRICT COURT OF GAMPAHA

In the matter of an Action

*between*

Samarasuriya Liyanaarachchi Srimathie  
Ratnavali Samarasuriya of Medagama,  
Gampaha.....*Plaintiff*

*and*

Perumabadu Piyasena Wickramasuriya of  
Medawatta, Matara.....*Defendant.*

No. 6748/D.

10

The 23rd day of September, 1959.

The humble petition of the abovenamed plaintiff appearing by L. Chandrasekera, her proctor, showeth as follows:—

1. The plaintiff, who is the wife of the defendant, has instituted this action on 15th January, 1958, for a dissolution of her marriage, claiming permanent alimony, custody of the child, maintenance for the said child, and costs of suit.

20 2. The court by its order dated 16th June, 1958, fixed the alimony pending the action at Rs. 75/- per month and the maintenance for the child at Rs. 100/- per month payable by the defendant. In the same order, the court fixed the costs at Rs. 100/- payable by the defendant.

3. The plaintiff is not possessed of property and has no income and is not in a position to find the means for maintaining this action.

4. The sum of Rs. 100/- ordered as costs on 16th June, 1958, was paid by the defendant by a cheque dated about the 20th May, 1959, that is, more than eleven months after the said order, and the plaintiff has been thereby put to great hardship.

30 5. The said sum of Rs. 100/- has been spent by the plaintiff on necessary legal expenses and is insufficient and entirely inadequate to enable the plaintiff to proceed on with this action. The plaintiff has had to meet the cost of stamps, of summoning witnesses, of obtaining certified copies of documents, of translations of documents and the like. In addition the plaintiff has had to pay her proctor's and Counsel's fees. A sum of Rs. 1,000/- is necessary for the plaintiff as costs. The plaintiff states that the said sum is reasonable in all the circumstances.

No. 11  
Petition of the  
Plaintiff  
23.9.59—  
*Continued*

6. The trial has taken place so far on 25th and 26th May, 1959, 24th and 27th July, 1959, and 22nd September, 1959. Further trial is fixed for today 23rd September and tomorrow 24th September, 1959. Three or four more days of trial appear to be necessary for its conclusion. The defendant has filed an additional list of witnesses on 7th September, 1959, while the trial was proceeding.

7. The defendant is an advocate of the Honourable the Supreme Court and has an income and is in a position to find the means to enable the plaintiff to continue this action. The plaintiff pleads that the defendant is liable to meet the legal expenses of this action reasonably incurred by the plaintiff. 10

Wherefore the plaintiff prays :—

- (a) That the court be pleased to order the defendant to pay the plaintiff the sum of Rs. 1,000/- as costs, or such other sum as the court may deem just ;
- (b) for costs of this application ; and
- (c) for such further or other relief as to the court may seem meet.

(Sgd.) LOUIS CHANDRASEKERA,  
*Proctor for the Plaintiff.*

No. 12  
Affidavit of the  
Plaintiff  
23.9.59

**No. 12**

20

**Affidavit of the Plaintiff**

**IN THE DISTRICT COURT OF GAMPAHA**

In the matter of an Action

*between*

No. 6748/D.

Samarasuriya Liyanaarachchi Srimathie  
Ratnavali Samarasuriya of Medagama,  
Gampaha..... *Plaintiff*

*and*

Perumabadu Piyasena Wickramasuriya of  
Medawatte, Matara..... *Defendant.* 30

I, Samarasuriya Liyanaarachchi Srimathie Ratnavali Samarasuriya of Medagama, Gampaha, the plaintiff in the action, solemnly, sincerely and truly affirm and declare as follows :—

1. I instituted this action against my husband the defendant on 15th January, 1958, for a dissolution of my marriage. I have claimed permanent alimony, custody of my child and maintenance for it and costs of suit.

2. The court by its order dated 16th June, 1958, fixed the amount of alimony pending the action and the amount of maintenance for the child and also fixed the costs payable by the defendant at Rs. 100/-.

No. 12  
Affidavit of the  
Plaintiff  
23.9.59—  
Continued

3. I am not possessed of property and I have no income and I am not in a position to find the means for maintaining this action.

4. The sum of Rs. 100/- ordered as costs by the court was paid by the defendant more than eleven months after the said order, and the defendant by such delay has put me to great hardship.

10 5. I have already spent the said sum of Rs. 100/- on necessary legal expenses as stated in my petition. I have to bear the cost of stamps and of summonses, of getting documents translated and of obtaining certified copies of documents. In addition, I have been paying and still have to pay my Lawyers' fee and the sum of Rs. 100/- paid by the defendant is insufficient to enable me to proceed on with this action. I verily believe and I am advised that a sum of Rs. 1,000/- is necessary for legal expenses of this action, and the said sum is reasonable in all the circumstances.

20 6. The trial has taken place so far on five days and is fixed also for today and tomorrow. I am advised that three or four more days of trial are necessary. The defendant has filed an additional list of witnesses a few days ago.

7. The defendant is an advocate of the Honourable the Supreme Court and has an income and is in a position to find the means to enable me to continue this action. I humbly beg that for the reasons herein stated and on the grounds set out in my petition, the defendant be ordered to pay me a sum of Rs. 1,000/- as costs or such other sum as the court may deem just.

30 Affirmed at Gampaha, this } (Sgd.) S. R. WICKRAMASURIYA,  
23rd day of September, 1959. }

Before me,

(Sgd.) Illegibly.

J.P.

No. 13  
Interlocutory  
Order of the  
District Court  
23.9.59

## No. 13

## Interlocutory Order of the District Court

INTERLOCUTORY ORDER  
IN THE DISTRICT COURT OF GAMPAHA

In the matter of an action

*between*

Samarasuriya Liyanaarachchi Srimathie  
Ratnavali Samarasuriya of Medagama,  
Gampaha.....*Plaintiff*

*and*

Perumabadu Piyasena Wickremasuriya of  
Medawatta, Matara.....*Defendant.*

10

Samarasuriya Liyanaarachchi Srimathie  
Ratnavali Samarasuriya of Medagama,  
Gampaha.....*Plaintiff-Petitioner*

*vs.*

Perumabadu Piyasena Wickramasuriya of  
Medawatta, Matara.....*Defendant-Respondent.*

No. 6748/D.

This matter coming on for disposal before F. Conrad Perera, Esquire, District Judge of Gampaha on the 23rd day of September, 1959, after reading the affidavit of the plaintiff-petitioner abovenamed dated 23rd September, 1959, and the petition of the plaintiff-petitioner dated the said 23rd September, 1959.

It is ordered that the 15th day of October, 1959, be and the same is hereby appointed for the determination of the matters in the said petition contained and that the said Perumabadu Piyasena Wickramasuriya defendant-respondent be heard in opposition to the prayer of the same if he appears before this court on the said day.

On this 23rd day of September, 1959.

(Sgd.) Illegibly. 30  
*District Judge.*

Drawn by me.

(Sgd.) LOUIS CHANDRASEKERA,  
*Proctor for Plaintiff-Petitioner.*

**No. 14****Proceedings before the District Court**

No. 14  
 Proceedings  
 before the  
 District Court  
 15.10.59

D.C. No. 6748/D.

15.10.1959.

Mr. Advocate F. P. Perera instructed by Mr. Chandrasekera for the plaintiff-petitioner.

Plaintiff-petitioner is present.

Mr. V. Dias is present, but he states he has no instructions to appear and he is not appearing for the defendant-respondent today.

Mr. Perera states that a special process server was employed 10 to serve the Interlocutory Order on the defendant, and he went to the defendant's house on several occasions but he was not available for service. He moves that the Interlocutory Order be reissued in duplicate, one to the Fiscal, Matara, and one to the Fiscal, Gampaha.

Issue Interlocutory Order in duplicate accordingly, returnable on 6.11.1959.

(Sgd.) F. C. PERERA,  
*D.J.*  
 15.10.1959.

**No. 15****Objections of the Defendant**

No. 15  
 Objections of  
 the Defendant  
 6.11.59

20

**IN THE DISTRICT COURT OF GAMPAHA**

In the matter of an Action

*between*

Samarasuriya Liyanaarachchi Sirimathie  
 Ratnavali Samarasuriya of Medagama,  
 Gampaha.....*Plaintiff*

*vs.*

Peramabadu Piyasena Wickremasuriya of  
 Medawatta, Matara.....*Defendant.*

No. 6748/D.

30 This 6th day of November, 1959.

The objections of the defendant abovenamed appearing by his proctor, Valentine Dias, states as follows :—

1. The defendant admits para (1) of the petition.
2. Answering para (2), the defendant states on the 1st day of April, 1958, the plaintiff filed petition and affidavit asking for a sum

No. 15  
 Objections of  
 the Defendant  
 6.11.59—  
*Continued*

of Rs. 400/- per month as alimony *pendente lite* for herself and Rs. 250/- for the child. She also asked for a sum of Rs. 750/- as costs of the action.

3. The defendant filed his objections and in answer to the claim of Rs. 750/- as costs of this action he stated that this amount was excessive and that a sum of Rs. 100/- was sufficient.

4. This matter was fixed for inquiry on the 16th June, 1958. On this date the learned District Judge after inquiry held that a sum of Rs. 100/- was sufficient as costs of the action.

5. The defendant states that the order as to costs in a sum 10 of Rs. 100/- made on 16th June, 1958, is *res judicata* and binding on the parties and cannot be re-agitated.

6. Answering para (3) the defendant states that the plaintiff was possessed of—

- (a) 200 shares of Uva Highlands Tea Co., Ltd.
- (b) 100 shares of Ceylon Provincials Tea Estates Co., Ltd.
- (c) 100 shares of Dickoya Tea Co., Ltd.

7. Further answering the defendant states that between the 16th June, 1958, and 18th September, 1958, the plaintiff sold the shares referred to as (a) and (b) and realised a sum of about Rs. 5,000/-. 20 From the 10th October, 1957, the plaintiff appropriated the dividends on the said shares.

8. The 100 shares of Dickoya Tea Co. referred to as (c) in para (6) of the objections are the subject-matter in D.C. Gampaha Case No. M/7109.

9. Defendant further states that the plaintiff has not brought the dividends of Dickoya Tea Co. to the credit of the above case.

10. Answering para (4) of the petition, defendant states that the plaintiff did not request that the costs should be paid on a particular date. The order of court too did not state that the costs should 30 be paid on a particular date.

11. The defendant paid the costs before the first day of trial and no hardship was caused to the plaintiff.

12. Answering para (5) of the petition, the defendant states that a sum of Rs. 100/- is reasonable in the circumstances and the sum of Rs. 1,000/- claimed is grossly excessive.

13. Answering para (6) of the petition, the defendant states that he filed an additional list of two witnesses as he considered it necessary in view of the new issue No. 14 raised by her on a later date of the trial. The plaintiff is solely responsible for this new issue. 40

14. Answering para (7) of the petition, the defendant states that his income does not warrant the payment of any further sum of money as costs of the action.

No. 15  
Objections of  
the Defendant  
6.11.59—  
*Continued*

Wherefore the defendant prays :—

- (a) That plaintiff's petition be dismissed;
- (b) For costs of this application;
- (c) and for further and other relief as to this court may seem meet.

(Sgd.) VALENTINE DIAS,  
*Proctor for Defendant.*

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**No. 16**

**Affidavit of the Defendant**

IN THE DISTRICT COURT OF GAMPAHA

In the matter of an Action

*between*

Samarasuriya Liyanaarachchi Srimathie  
Ratnavali Samarasuriya of Medagama,  
Gampaha.....*Plaintiff*

*vs.*

Perumabadu Piyasena Wickramasuriya of  
Medawatta, Matara.....*Defendant.*

No. 6748/D.

20

I, Perumabadu Piyasena Wickramasuriya of Meddewatte, Matara, being a Buddhist, do solemnly, sincerely and truly declare and affirm as follows :—

1. I am the defendant in the above case.
2. The Court by its order dated 16th June 1958 fixed the amount of alimony pending the action and the amount of maintenance for the child and also fixed the costs payable by the defendant at Rs. 100/-.
- 30 3. I verily believe that the order as to costs made on 16th June, 1958, is *res judicata*.
4. The plaintiff was possessed of—
  - (a) 200 shares of Uva Highlands Tea Co.
  - (b) 100 shares of Ceylon Provincials Tea Co.
  - (c) 100 shares of Dickoya Tea Co., Ltd.

No. 16  
Affidavit of the  
Defendant  
6.11.59—  
*Continued*

Between the 16th June, 1958, and 18th September, 1958, the plaintiff sold the shares (a) and (b).

5. The plaintiff did not request that the costs should be paid on a particular day and the court too did not state that the costs should be paid on a particular date.

6. I paid the costs before the first day of trial and verily believe that no hardship was caused to the plaintiff.

7. I verily believe that the sum of Rs. 100/- already paid as costs is reasonable.

8. I filed an additional list of two witnesses, as I considered <sup>10</sup> it necessary in view of the new issue No. 14 raised by plaintiff on a later day of the trial and for which the plaintiff alone is responsible.

9. I verily believe that my income does not warrant the payment of a further sum of money as costs of the action.

The foregoing affidavit having been duly read over and explained by me to the abovenamed affirmant in English and he appearing to understand the nature and effect hereof signed and affirmed to at Gampaha on this 6th day of November, 1959 . . .

(Sgd.) P. P. WICKRAMASURIYA,  
*Affirmant.*

Before me.

(Sgd.) P. P. JAYAWARDENA,  
*Commissioner for Oaths.*

No. 17  
Inquiry into  
the Application  
for Costs  
19.11.59

### No. 17

20

### Inquiry into the Application for Costs

19.11.59.

Defendant's case closed reading in evidence D1 to D27.

I now proceed with the inquiry into the application for costs.

Of consent, P25 is admitted without further evidence.

Mr. Panditha Gunawardena calls :—

G. V. ARNOLDA. Sworn, 32 years, Clerk, Messrs. E. John Thompson White and Company, Colombo.

I have been negotiating the sale of certain tea shares for the plaintiff. 100 shares of the Ceylon Provincials were sold on 17.4.1958, and by that sale she realised a sum of Rs. 1,089/-. 200 shares from Uva Highlands were sold on 28.5.58, at Rs. 17.50 a share, and by that she realised a sum of Rs. 3,500/- less Rs. 35/-. Those monies have been credited to the account of the plaintiff in this case. I have also brought a letter written by the defendant to my Company to have the shares only in his name. The defendant wanted the shares transferred in the name of his wife. They were bought in his name.

10 The transfer was certified by her.

*Cross-examined.*

Q. When was that transfer signed by the plaintiff ?

A. That transfer was not done by my Company. The transfer is with the Agents of the Company. There were two transfers.

*Re-examined.* Nil.

(Sgd.) F. CONRAD PERERA,  
D.J.  
19.11.1959.

P. D. W. RATNAYAKE. Affirmed, 23 years, Assistant at  
20 George Stewart & Company, Ltd., Colombo.

My Company are the Agents for Dickoya Tea Company, Ltd. Shares have been purchased in the name of the plaintiff. 100 shares have been purchased from Dickoya Tea Company, and the dividends have been sent to her address. On 26.3.1957, a 10 per cent. interim nett payment of Rs. 61/- was made to her. On 26.3.58, a sum of Rs. 580/- had been paid to her. On 25th September, 1958, she was paid Rs. 61/-. On 25.3.1959, she was paid Rs. 213.50 and on 25.9.1959, a sum of Rs. 66.67 was paid to her.

30 *Cross-examined* : The total amount we have paid to the plaintiff is Rs. 585.17.

(Sgd.) F. C. PERERA,  
D.J.  
19.11.1959.

Mr. Panditha Gunewardena closes his case.

Mr. de Silva calls :—

Mrs. S. L. S. R. SAMARASURIYA : Recalled. Affirmed.

40 I am the plaintiff-petitioner. I have filed a petition and an affidavit. I rely on the statements made in both the petition and the affidavit, and I say that the sum of Rs. 100/- which has been ordered as costs, is insufficient for me to carry on this case. I am not possessed of any property. I received certain monies on account of dividends

No. 17  
Inquiry into  
the Application  
for Costs  
19.11.59—  
*Continued*

No. 17  
 Inquiry into  
 the Application  
 for Costs  
 19.11.59—  
 Continued

from shares. I have spent all that money for my expenses. After I left the defendant, I did not receive any money from him for my maintenance. After the child was born he did not make any payment. During the time I was in the lying-in-home, he did not make any payment. I had to make all those payments. I met all my medical bills after 10.10.1957. I have made a note of the various expenses I have incurred from 11.10.1957, regarding medical expenses, to buy eggs, milk, vitamins, medicines for me. I had an Ayah. From October, 1957, until the child was born, I had special food such as milk, eggs, meat, cheese, butter, etc. I had to pay Rs. 35/- a month 10 for the Ayah.

Q. Did you have to spend any money for your clothes ?

A. Yes, for my clothes and for the baby.

From 11.10.1957, I have spent about Rs. 5,000/- odd.

*Cross-examined.* I spent Rs. 5,000/- within nine months. During this time I was living with my parents. Food was prepared separately for me. I did not take food with my parents. Meals were brought to my room. For clothing, food, medicines, lying-in-home charges, etc. I had to spend about Rs. 5,000/-. This was before and after the child was born. The normal expenses of the house were borne 20 by my father. He spent the money and later I gave him the money. After I got the Rs. 5,000/-, I gave him the money that he had spent for me. I cannot remember how much I gave him.

Q. Roughly about how much did you give your father ?

A. I cannot remember.

I cannot say whether it was Rs. 50/-, Rs. 500/- or Rs. 1,000/-. In connection with my earlier application for alimony, I filed an affidavit. About 3 months ago I got a cheque for Rs. 60/- being dividends in respect of the tea shares. I did not cash that cheque yet. I spent all the monies I received. Out of that money I have 30 spent for this case also.

*Re-examined :—*

Q. Did you receive any cheques from George Stewart & Co. ?

A. I cannot remember whether I received any cheques. I received a cheque for Rs. 60/- from the Dickoya Tea Company. I did not cash that cheque. My father paid all the lying-in-home charges and later I paid what he had spent.

(Adjourned.)

(Sgd.) F. C. PERERA,

D.J. 40  
 19.11.1959.

(Resumed after the interval.)

Addresses *re* inquiry for costs.

No. 17  
Inquiry into  
the Application  
for Costs  
19.11.59—  
*Continued*

Mr. DE SILVA addresses court. One of the matters taken up is that this matter is *res judicata*. It is not *res judicata* because it was not a claim which could have been anticipated and put in issue. It was impossible to say beforehand how long the case would take. At the start, the case was fixed for two days only. The Judge does not say that this sum of Rs. 100/- is once and for all. It is merely an expression of opinion by a Judge. An opinion of a Judge, which  
10 is vague, does not have the effect of *res judicata*. He cites 3 Ceylon Law Weekly, page 134, *Sinniah vs. Murugasu*. The question of *res judicata* is governed by Sections 34 and 207 of the C. P. C. Costs is a recurring claim. In the C. P. C. there is no provision for a husband to bear the wife's costs. The matter is taken over from the English Law. He cites 8 N. L. R. 280, which is referred to in 12 N. L. R. 95. The amount should be what is sufficient to cover the wife's costs. Applications are made in England from time to time. Under certain circumstances, a wife is not entitled to ask for costs. 28 N. L. R. 411. The plaintiff is not possessed of any property. In this case the  
20 defendant has stated that he is in a position to find the money. The order should come within Section 839 of the Civil Procedure Code. Section 839 of the C. P. C. was enacted in 1921. He cites 46 N. L. R. 109 at 111. This was not a position that could have been foreseen or anticipated. This application would apply for the earlier dates as well.

Mr. PANDITHA GUNewardena addresses court :—He submits that the order made by my predecessor is final and conclusive. It is an order made on an application by the plaintiff, supported by affidavit, evidence, counter-affidavit and evidence on behalf of the  
30 defendant. The order made is an Interlocutory Order, unless the order reserved the right to any party to reagitate it. That order is binding. The applicant should have known what her expenses would be, and if she defaulted she should bear the consequences. The plaintiff claimed only a sum of Rs. 750/- altogether. The order made by my predecessor is not an expression of opinion. It is an order made after hearing both sides. *Vide* Chitaley's Civil Procedure Code, (Vol. 1) 1935 edition, at pages 146 and 147. If the plaintiff did not deem it fit to reserve to herself the right that she would not know how long the trial would last, then she cannot subsequently  
40 agitate for that right. The 3 C. L. W. case cited by Mr. de Silva has no application to this matter. Sections 34 and 207 of the C. P. C. are also not applicable in this case. This is an Interlocutory Order made in the same case. Once an order has been made a subsequent order revising that order cannot be made. He refers to Laity on Divorce, 13th Edition, page 251. The 28 N. L. R. case has no application. The plaintiff has drawn certain sums of money. There is

No. 17  
 Inquiry into  
 the Application  
 for Costs  
 19.11.59—  
 Continued

no explanation that all that money has been expended. Section 839 of the C. P. C. cannot be made use of in this matter. The plaintiff should have reserved the right to make a further application for costs. The plaintiff has placed all the material before court when she first made an application for costs. If the plaintiff was not satisfied with that order, she could have appealed to the Supreme Court.

Mr. de Silva submits that this matter is governed by the Matrimonial Causes Act of 1950. In England the Solicitor had to say what would be the sum necessary for the entire costs. Now the practice in England is that the Registrar takes into account the probable costs 10 for the entire case and makes an order. The plaintiff is not seeking to revise an order. This is a recurrent matter. He refers to Laity, 13th Edition, page 1051. These rules were repealed in 1950 and fresh rules were framed in 1951.

Order with regard to the application for costs on 3.12.1959.

Addresses on the main case on 12.1.1960.

(Sgd.) F. C. PERERA,  
*D.J.*  
 19.11.1959.

No. 18  
 Order of the  
 District Court  
 on the  
 Application  
 for Costs  
 3.12.59

No. 18

20

**Order of the District Court on the Application for Costs**

D.C. 6748/D.

3.12.1959.

**ORDER**

On the 15th January, 1958, the plaintiff instituted this action against the defendant, her husband, asking for a dissolution of their marriage on the ground the latter subjected her to gross cruelty and is guilty of constructive malicious desertion. On 1st April, 1958, she made an application to court asking from the defendant a sum of Rs. 750/- as legal expenses. The court, after consideration of several matters, fixed the costs at Rs. 100/- and the trial was fixed 30 for 25th and 26th May, 1959. In the course of the order it is stated "The grounds upon which both parties ask for a dissolution of their marriage is malicious desertion." Though the case was heard on 25th and 26th May, 1959, the trial was not concluded. Thereafter the case was heard on 24th July, 27th July, 22nd September, 23rd September, 24th September, 6th November and 19th November, 1959, and yet finality has not been reached. On 23rd September, 1959, the plaintiff presented a petition supported by an affidavit and asked for a sum of Rs. 1,000/- as costs. The defendant and his Counsel were informed by court their contents and in their presence 40

the inquiry into this matter was fixed for 15.10.1959. The interlocutory order entered in consequence of the petition and affidavit was issued by court on 2nd October, 1959, for service on the defendant. Though the Fiscal's officer was accompanied by the plaintiff's agent, the order could not be served on the defendant and the Fiscal has reported that the defendant was not at the station. On 15th October, 1959, the defendant was not present, though in his presence the date was fixed for the inquiry. Before the next date, that is the 6th November, which is also a date fixed for the further hearing of the trial, the interlocutory order has been served on the defendant. On that date he filed objections to the interlocutory order being made final. He has stated therein that the order made on 16th June, 1958, fixing the costs at Rs. 100/- is *res judicata* and the plaintiff has means to prosecute the action. Both these contentions were pressed at the inquiry. In the petition dated the 1st April, 1958, the plaintiff has not stated the sum of Rs. 750/- claimed by her was to cover her entire costs. It seems to me she has asked for an initial payment of Rs. 750/-. Costs is a recurring expense depending on a number of circumstances. It seems to me when the trial was fixed for 25th and 26th May, 1958, the court expected it would be concluded on 25th May, and if not, on 26th May. There was justification to hold this view, as both parties had one end in view and were claiming a dissolution of their marriage. The order made on 16th June, 1958, has to be considered in the context of things that prevailed at that time. I am of opinion that when the court ordered a payment of Rs. 100/-, it was meant only to cover the costs up to end of 26th May, 1958 only, and that the order made on 16th June, 1958, does not operate as *res judicata* with regard to the expenses the plaintiff was called upon, subsequently to incur, which the court has not then considered. Since the two days for which expenses have been provided, the case was heard on 24th July, 27th July, 22nd September, 23rd September, 24th September, 6th November and 19th November. Though the hearing of evidence was over, yet the trial is not concluded. This application was made on 23rd September, 1958, after three days of hearing, for which no order of court has been made for the expenses of the plaintiff. Therein she asked for a sum of Rs. 1,000/-. It was stated by the defendant that he required thirty guineas or Rs. 315/- as expenses for a day and he frankly admitted that the plaintiff would require the same sum; but he contended that the plaintiff has means, apart from the legal objections raised. It must be stated that costs, taxed as provided by the Civil Procedure Code, do not meet the ends of justice. Though this action has been valued at Rs. 1,000/- for stamping purposes, but the real interests involved are of much greater value, if they are capable of being valued in financial terms: moreover, the Civil Procedure Code having been enacted in 1890 does not reflect the actual

No. 18  
Order of the  
District Court  
on the  
Application  
for Costs  
3.12.59—  
*Continued*

No. 18  
 Order of the  
 District Court  
 on the  
 Application  
 for Costs  
 3.12.59—  
*Continued*

expenses the plaintiff is called upon to incur in this trial. If a fair and just order has to be made in favour of the plaintiff, she must be given the actual expenses, namely Rs. 315/- per day of hearing. The principle that the husband must bear the expenses of the wife has been borrowed from English law and at that time the practice had been for the court, on applications made from time to time, to make suitable orders. That practice, until it is reversed by legislation or by decision of a superior court, must be followed, though in England as a result of the enactment of new rules, the present practice is for the Solicitor at the commencement to ask for the full expenses. We have no corresponding new rules or regulations and are left with the old practice. Now, only one other matter remains to be discussed, namely, has the plaintiff sufficient means. Is it necessary before the wife asks for expenses, she should exhaust all her assets? Should she not be allowed to retain some assets for ordinary expenses? I think if after meeting all normal and necessary expenses, considering her status, if she has assets to spare, sufficient to cover expenses, she is not entitled to ask for expenses from her husband. Since her separation from him she had received about Rs. 5,500/-, a large portion of which by the sale of capital assets. She had to pay for the expenses of the birth of a child, medical bills, incur legal expenses for instituting this action and for two days of trial, for which only Rs. 100/- was given by order of court and expenses for her upkeep and that of the child till an order for their maintenance was made by court, which she may have found to be inadequate. She had to employ an ayah and take a certain diet. For most of these purposes she took money from her father and later refunded to him. The father cannot take upon himself these expenses, as he is not financially well off, as the result of giving of a dowry, which was taken by the defendant, and incurring expenses for a wedding in Colombo. The plaintiff said she has spent all the moneys realised from the shares of the companies and I have no reason to disbelieve her and accept her word. The defendant was asked the question "Are you in a position to find money if necessary?" His reply was "Yes." I order the defendant to pay to the plaintiff at the rate of Rs. 315/- per day, for the following days 24th July, 27th July, 22nd September, 23rd September, 24th September, 6th November and 19th November, 1959, that is a sum of Rs. 2,205/-. If this sum is not paid the plaintiff may proceed to recover the same by execution. In that event she is entitled to costs of execution. Further, with regard to future dates of hearing, I order the defendant to pay at the rate of Rs. 315/- per day, before 10 a.m. on each date of hearing. I make no order with regard to the expenses likely to be incurred by the plaintiff, in the event of an appeal being preferred to the

Supreme Court by either party. In such an event it is left open to her, if she is so advised, to make an application to the proper court.

(Sgd.) F. CONRAD PERERA,  
D.J.

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Order of the  
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3.12.59—  
*Continued*

The above order was pronounced in open court in the presence of the plaintiff, Mr. Chandrasekera and Mr. Valentine Dias.

(Sgd.) F. CONRAD PERERA,  
D.J.  
3.12.1959.

10

**No. 19**

**Interlocutory Order of the District Court**

**INTERLOCUTORY ORDER**

**IN THE DISTRICT COURT OF GAMPAHA**

In the matter of an action

*between*

Samarasuriya Liyanaarachchi Srimathie Ratnavali Samarasuriya of Medagama, Gampaha . . . . . *Plaintiff*

*and*

Perumabadu Piyasena Wickremasuriya of Medawatta, Matara . . . . . *Defendant.*

Samarasuriya Liyanaarachchi Srimathie Ratnavali Samarasuriya of Medagama, Gampaha . . . . . *Plaintiff-Petitioner.*

*vs.*

Perumabadu Piyasena Wickramasuriya of Medawatta, Matara . . . . . *Defendant-Respondent.*

20 No. 6748/D.

No. 19  
Interlocutory  
Order of the  
District Court  
3.12.59

30 This matter coming on for disposal before F. Conrad Perera, Esquire, District Judge of Gampaha, on the 23rd day of September, 1959, after reading the affidavit of the plaintiff-petitioner abovenamed dated 23rd September, 1959, and the petition of the plaintiff-petitioner dated the said 23rd September, 1959.

It was ordered that the 15th day of October, 1959, be appointed for the determination of the matters in the said petition contained and that the said Perumabadu Piyasena Wickramasuriya defendant-respondent be heard in opposition to the prayer of the same if he appears before this court on the said day.

No. 19  
Interlocutory  
Order of the  
District Court  
3.12.59—  
*Continued*

And on the said 15th day of October, 1959, Mr. Francis P. Perera instructed by Mr. Louis Chandrasekera, Proctor on the part of the plaintiff-petitioner and the defendant having been absent and the interlocutory order not having been served and this matter having been fixed for the 6th day of November, 1959, in the presence of Mr. Advocate L. W. de Silva with Mr. Advocate Francis P. Perera and Mr. Advocate D. C. W. Wickramasuriya instructed by Mr. Louis Chandrasekera, proctor on the part of the plaintiff-petitioner and Mr. Valentine Dias, proctor on the part of the defendant-respondent and the affidavit of the defendant-respondent dated 6th November, 1959, having been read of consent this matter having been adjourned 10 for the 19th day of November, 1959, and the appearances for the plaintiff-petitioner having been as before and Mr. Advocate Panditha Gunawardena with Mr. Advocate Wijetunga instructed by Mr. Valentine Dias, proctor on the part of the defendant-respondent having appeared on the said 19th day of November, 1959, and order having been delivered on the 3rd day of December, 1959, in the presence of Mr. Louis Chandrasekera, proctor on the part of the plaintiff-petitioner and of Mr. Valentine Dias, proctor on the part of the defendant-respondent it is ordered that the defendant do pay to the plaintiff at the rate of Rs. 315/- per day for the following days, viz :— 20  
24th July, 27th July, 22nd September, 23rd September, 24th September, 6th November, 19th November, 1959, *i.e.* a sum of Rs. 2,205/-.

It is further ordered that if this sum be not paid the plaintiff-petitioner may proceed to recover same by execution and in that event she will be entitled to costs of execution.

It is further ordered with regard to future dates of hearing that the defendant do pay at the rate of Rs. 315/- per day before 10 a.m. on each date of hearing.

It is further ordered that no order is made with regard to the expenses likely to be incurred by the plaintiff in the event of an 30 appeal being preferred to the Supreme Court by either party.

It is further ordered that in such an event it is left open to her if she is so advised to make an application to the proper court.

On this 3rd day of December, 1959.

(Sgd.) Illegibly.  
*District Judge.*  
25.7.60.

Drawn by me :

(Sgd.) LOUIS CHANDRASEKERA,  
*Proctor for Plaintiff-Petitioner.*

## No. 20

## Petition of Appeal to the Supreme Court

IN THE SUPREME COURT OF THE DOMINION OF  
CEYLONNo. 20  
Petition of  
Appeal to the  
Supreme Court  
4.12.59

S.C. 145/59 (Inty.)

In the matter of an action

*between*D.C. Gampaha  
10 Case No. 6748/D.  
Value Rs. 1,000/-  
Nature : DivorceSamarasuriya Liyanaarachchige Sirimathie  
Ratnawali Samarasuriya of Medagama,  
Gampaha.....*Plaintiff**and*Perambadu Piyasena Wickramasuriya of  
Medawatta, Matara.....*Defendant*Perambadu Piyasena Wickramasuriya of  
Medawatta, Matara....*Defendant-Appellant.**vs.*Samarasuriya Liyanaarachchige Srimathie  
Ratnawali Samarasuriya of Medagama,  
Gampaha.....*Plaintiff-Respondent.*

To :

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

On this 4th day of December, 1959.

The petition of appeal of the defendant-appellant abovenamed  
appearing by Valentine Dias, his proctor, states as follows :—1. The plaintiff-respondent filed the above action for a divorce  
against the defendant-appellant on the 15th day of January, 1958.2. On the 1st day of April, 1958, the plaintiff-respondent filed  
petition and affidavit and prayed that she be given alimony *pendente*  
*lite* and costs in a sum of Rs. 750/-.30 3. To this application the defendant-appellant filed objections  
and the matter was fixed for inquiry by the then learned District  
Judge for the 16th day of June, 1958.4. On the 16th day of June, 1958, after hearing the parties  
through their Counsel fixed alimony *pendente lite* at Rs. 75/- per  
mensem for the plaintiff-respondent and maintenance for the child  
at Rs. 100/- and costs of action at Rs. 100/-.5. On the 23rd day of September, 1959, the plaintiff-respondent  
filed petition and affidavit again and asked for a sum of Rs. 1,000/-  
as further costs of the action.

6. To this the defendant-appellant filed objections and also an affidavit objecting to the further application for costs.

7. After inquiry on the 19th day of November, 1959, the learned District Judge by his order delivered on the 3rd day of December, 1959, awarded a sum of Rs. 2,205/- as costs and also a further sum of Rs. 315/- for each further date of trial.

8. Being aggrieved by the said order the defendant-appellant appeals therefrom to Your Lordships' Court on the following amongst other grounds which may be urged by Counsel for the appellant at the hearing of this appeal:—

10

- (a) The said order is contrary to law and against the weight of evidence led at the inquiry.
- (b) That the order made on the 16th day of June, 1958, awarding the plaintiff-respondent a sum of Rs. 100/- as costs of this action is *res judicata* and binding on the parties. Hence it is respectfully submitted that the plaintiff-respondent's application is barred on the grounds of *res judicata*.
- (c) The plaintiff-respondent having asked only for a sum of Rs. 1,000/- as costs it was not open to the learned District Judge to have awarded any sum over and above that amount. 20
- (d) In awarding this enhanced amount the learned District Judge has failed to appreciate the income as stated in the Income Tax return filed of record which the plaintiff-respondent admitted was in her own hand-writing.
- (e) The learned District Judge has also not given due consideration to the fact that the defendant-appellant does not have an income taxable by the Income Tax Department.
- (f) The learned District Judge has also failed to take into consideration the fact that the plaintiff-respondent's affidavit filed at the first inquiry into alimony *pendente lite* and costs contained a false averment when she stated that she was not possessed of any property and had no income whatsoever. 30
- (g) It transpired in evidence that about two weeks after the plaintiff-respondent filed this affidavit that she has sold shares of which she was possessed for about Rs. 5,000/-. 40
- (h) It is also respectfully submitted that when the plaintiff-respondent states in paragraph 3 of her affidavit filed on the 23rd day of September, 1959, that she was not possessed of property and had no income it was proved

to be an incorrect averment according to the evidence given by the representative of the Dikoya Tea Company, Ltd.

No. 20  
Petition of  
Appeal to the  
Supreme Court  
4.12.59—  
*Continued*

- (i) It is respectfully submitted that the question whether the plaintiff-respondent had to incur expenses for the birth of the child and medical bills is irrelevant to this inquiry. In any event, it is respectfully submitted there is no adequate evidence to prove the expenses for the birth of the child.
- 10 (j) It is respectfully submitted that the relevant matter in awarding enhanced further costs is not the question whether the defendant-appellant is in a position to find money, if necessary, but the question whether his income warranted it.

Wherefore the defendant-appellant prays :—

- (a) That Your Lordships' Court be pleased to set aside the said order made on 3rd December, 1959.
- (b) That the application of the plaintiff-respondent for further costs be dismissed.
- 20 (c) For costs, and
- (d) For such other and further relief as to Your Lordships' Court may seem meet.

(Sgd.) VALENTINE DIAS,  
*Proctor for Defendant-Appellant.*

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**No. 21**  
**Issues Framed**

No. 21  
Issues Framed

D.C. No. 6748/D.

25.5.1959.

Mr. Advocate L. W. de Silva with Mr. Advocate Francis P. Perera and Mr. Advocate D. C. W. Wickremasekera instructed by  
30 Mr. Chandrasekera for the plaintiff.

Mr. Advocate D. H. Panditha Gunawardena with Mr. Advocate E. P. Wijetunge instructed by Mr. V. Dias for the defendant.

No. 21  
Issues  
Framed—  
Continued

Mr. de Silva suggests the following issues :—

1. Did the defendant in June, 1957, send the plaintiff to her father at Gampaha to ask him to transfer to the defendant and the plaintiff forty acres of paddy land belonging to the plaintiff's father ?

2. As the plaintiff failed to obtain a transfer of the said paddy land, did the defendant and his parents insult and humiliate the plaintiff and treat her with cruelty ?

3. Did the defendant treat the plaintiff with cruelty as alleged in paragraph 6A of the plaint ?

4. If issue 2 and/or 3 is answered in the affirmative, is the defendant guilty of constructive malicious desertion ?

5. Did the plaintiff leave the defendant for her parents' home on 10th October, 1957, as a result of the defendant's conduct alleged in issue 2 and/or 3 ?

6. If so, is the defendant guilty of constructive malicious desertion ?

7. If the plaintiff is granted a divorce, to what amount of permanent alimony per month is she entitled from the defendant ?

8. Should the custody of the child Ravindra Rohan be granted to the plaintiff or the defendant ? 20

9. If the custody of the said child is granted to the plaintiff, what monthly sum should the defendant pay to the plaintiff as maintenance for the said child ?

Mr. Panditha Gunawardena suggests the following Issues :—

10. Did the plaintiff maliciously desert the defendant on 10th October, 1957, as averred in paragraph 5 of the answer ?

11. If so, is the defendant entitled to a dissolution of the marriage on the ground of malicious desertion by the plaintiff ?

12. Is the defendant entitled to the custody of the child ?

13. Does the plaint disclose a cause of action for a dissolution of her marriage ? 30

I accept all the issues.  
(Adjourned.)

(Sgd.) F. CONRAD PERERA,  
*D.J.*  
25.5.1959.

**No. 22**  
**Plaintiff's Evidence**

No. 22  
Plaintiff's  
Evidence

(Resumed.)

(It is agreed that all statements made to the Police be accepted without calling the Police Officers who recorded them.)

Mr. L. W. de Silva calls :—

Mrs. S. L. S. R. WICKRAMASURIYA, affirmed, 26 years, wife of the defendant, Gampaha.

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Examination

I am the plaintiff. I married the defendant on 31.1.1957. I  
10 produce the marriage certificate marked P1. I left school in December, 1951. I studied at the Buddhist Ladies' College, Colombo. After I left school, I taught in my father's school at Gampaha. My father is a retired school master. The defendant is an advocate practising at Matara. His father is a landed proprietor. The defendant is possessed of a share of a coconut estate and a paddy field.

On 31.1.1957, the poruwa ceremony took place in my parents' home at Gampaha and the civil ceremony took place at the Grand Oriental Hotel, Colombo. At the poruwa ceremony, Rs. 50,000/- in cash and Rs. 25,000/- worth of jewellery, were given as dowry.  
20 The defendant was also given a ring, which I did not include in the jewellery I mentioned. It was a brilliant ring worth Rs. 4,000/-. At the time this dowry was given, I did not know how much was contributed by my father and how much by somebody else. The dowry was handed to the defendant's father by my mother. After he received the dowry, the defendant's father announced that Rs. 50,000/- in cash and Rs. 25,000/- worth of jewellery were given as dowry.

At that time, I did not know anything about a mortgage bond given by my father to the defendant's father. I came to know about  
30 that mortgage about four months after my marriage from the defendant. I came to know that my father had given a mortgage of his residing property at Gampaha to the defendant's father for a sum of Rs. 35,000/- two days before the wedding took place.

After the marriage, the defendant and I lived in defendant's parents' house at Matara, in which besides the two of us, the defendant's parents and brother also lived. The house was run by the defendant's mother, and I had nothing to do regarding the running of the house. I paid my first visit to my parents at Gampaha with the defendant on  
40 10.2.1957. The defendant's father did not accompany us on that visit. Up to that moment, I had no cause for complaint in the defendant's house. On that occasion, my husband and I stayed in my parents' house at Gampaha for about two hours, and then we left for Matara.

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Examination—  
Continued

After I returned to Matara, the defendant told me that my father had promised to give him 40 acres of paddy, and that he would not allow me to go home until he got a transfer of 40 acres of paddy lands. He asked me to speak to my father about it.

Q. What did he want you to do about it ?

A. He wanted me to go to my parents' house again. I made my second visit to my parents on 15.2.1957. That was why the second visit took place so soon. On the second visit to my parents' house, the defendant and I stayed in my parents' house.

Q. What happened there ?

10

A. I asked my mother about the paddy lands the defendant was speaking about and she said that no such promise had been made.

(Mr. Panditha Gunewardena objects to this witness coming out with statements made by her mother with regard to the paddy lands.

Mr. de Silva draws my attention to Section 151 of the Civil Procedure Code (the last part of the explanation to Section 151) and to Section 60 (2) of the Evidence Ordinance.

*Order* : I allow the evidence to go in.)

I told my husband what my mother told me. Then the defendant asked me to get the paddy lands transferred in his name somehow or 20 other, and he said that he would not allow me to go home until I got that done. Thereafter, we went back to Matara. At Matara, there was a discussion regarding this matter between me and the defendant and his mother.

Q. What was the result of that discussion ?

A. Thereafter they started to insult and harass me.

I was not allowed to visit my parents and relatives. The defendant called my father a liar. He said that the jewellery that were given to me were imitations. That was the first time that disputes arose between me and the defendant. From that time onwards, I 30 found life in defendant's house miserable. I was not allowed to have my meals until the defendant returned. I am referring to the lunch-time. Sometimes the defendant came home for lunch at about 12.30 and sometimes at about 2 p.m. The defendant's mother prevented me from having my lunch until the defendant came. During this time I came to know that my father was ill and I wanted to go to Gampaha. When I asked the defendant for permission to go to Gampaha, he said that my father was a damn liar and a cheat, and that he would not allow me to go home. He did not, in fact, allow me to go to Gampaha to see my father. I have a cousin called 40 Kamala, she got married on 4.3.1957. I wanted to attend her wedding and the defendant was at first willing to take me to that wedding,

but later at the instigation of his father and mother he did not take me for that wedding. At this time, I wrote to my mother. I did not write to my father.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

About March, 1957, I was with child, and I wanted particular types of food. I asked for such food from the defendant. I wanted eggs, milk, barley water, etc. At first, the defendant brought for me boiled eggs from a hotel in the town. After 2 or 3 occasions he stopped that. In the morning, I used to have hoppers, rice and curry for lunch and for dinner also rice and curry. During this period  
10 I never got any milk. Before this time there were cows in the defendant's premises, but after I became pregnant, the defendant's father sold those cows.

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Examination—  
*Continued*

Q. Did you have any choice in the matter of your clothes ?

A. Yes. I liked sarees, brassiers, house-coats, etc.

(To Court :

After I got married, I bought only one saree. I bought the saree of my choice. I wanted to buy 3 or 4 sarees. The cost of that saree which the defendant bought for me was Rs. 13/-. That was the only saree that the defendant bought for me.)

20 Defendant's mother said that only prostitutes wear brassiers.

Q. Were you wearing brassiers ?

A. Yes.

Q. What was the nature of the house in which you lived ?

A. It was an upstairs building. I occupied the upstairs.

Q. Did anybody else occupy the upstairs ?

A. No. Only my husband and myself. I had my meals downstairs.

Q. On 24.4.57, you wrote a letter to your mother, which you produce marked P2 ?

30 A. Yes.

(Shown P2.) This is a letter written by me. I have signed it. It is in Sinhalese.

Q. Did your mother come to Matara in March to see you ?

A. Yes. On that occasion, she went back on the same day.

Q. Who is P. P. referred to in this letter ?

A. The defendant. Those are his initials.

No. 22  
Plaintiff's  
Evidence—  
Continued

Q. After the second visit by you and the defendant to your parents' house, did the defendant go with you to your parents' house ?

A. No.

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Examination—  
Continued

Q. Did you at any time want to move from the house in which you were living ?

A. Yes.

Q. What did you do about it ?

A. I asked the defendant to take a separate house. At first he expressed his willingness, but after some time he said he had no money to take a separate house. 10

Q. Is it true that these matters were discussed with outsiders in your presence ?

A. Yes, with the defendant's relatives and even with the servants in the house.

Q. Who was it who said " you beggar girl you work in the kitchen and eat " ?

A. The defendant and his mother.

I remember the Wesak day of 1957. On that day my father, mother and my brother, G. D. Samarasuriya, came to see me.

Q. When they came to see you did any discussion take place ? 20

A. Yes. There was a discussion regarding the dowry. I wanted my father to tell the defendant's parents in my presence the dowry given to me. My father mentioned that in my presence to the defendant's parents.

(Mr. de Silva produces an envelope marked P2A.)

(Shown P2A.) This is in my handwriting.

Q. How were you able to post these letters ?

A. Through a woman who was living close by.

Q. What did you say about the dowry ?

A. I wanted my father to tell the defendant's parents about 30 the dowry that was given to me and he said so. I asked my father whether he promised to give 40 acres of paddy lands to the defendant and he said " no ". The defendant's father also said that no such promise was made by my father. My father said that what was promised was given. Thereafter, my parents went away. The defendant was not present on that occasion. He purposely kept away.

Q. Where had he gone ?

A. He had gone to Buttala. When my parents came on that occasion it was about 10 o'clock. 40

Q. On 2.6.57, did you come to Gampaha with the defendant ?

A. Yes. I came to see my parents. On that occasion, I stayed with my parents and the defendant stayed in the Resthouse. The defendant came up to my father's house, left me there and went away. I asked my father and mother about the paddy lands which the defendant alleges were promised to be given to him. My father said that no such promise was ever made, and added that he would write to the defendant and his father about it. I went back to Matara on the same day with the defendant.

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Examination—  
Continued

10 Q. Did the defendant go to your parents' house before he left for Matara ?

A. No.

Later I came to know that my father had written to the defendant.

Q. During this period, that is from about June, 1957, was there any difference in the treatment you got from the treatment you had received before ?

A. Yes.

Q. In what way was it different ?

A. They began to ill-treat me more severely than before because  
20 I failed to get my father to transfer the paddy lands. I was not properly cared for. They did not allow me to take the necessary food I wanted. The defendant took me to Haputala, Koslanda, Colombo and Galle during my pregnancy. During this time, once or twice a week, I was getting my meals from a hotel. The defendant's mother asked the defendant not to get meals for me from hotels.

Q. Did you write some of these things to your parents ?

A. Yes.

On 16.8.1957, my father wrote to me a letter, which I produce marked P3. It was sent by registered post. I produce the envelope  
30 marked P3A.

Q. Was there any need at that time to send letters to you by registered post ?

A. Yes. All the letters that were sent by me to my parents and the letters which were sent to me by my parents were opened by the defendant and his parents.

(Shown P3.)

Q. Did you say anything about this letter to your husband ?

A. No.

After that, as I was not allowed to visit my parents, my mother  
40 came to see me several times. I had wanted to go home for my

No. 22  
Plaintiff's  
Evidence—  
Continued

confinement. Sometime in August, both my father and mother came to see me.

Q. What happened that day ?

A. The defendant was not present at the time they came.

Ultimately he met them. My father spoke to the defendant and asked him why he was angry with him. Then he shouted " You know it " and went away.

Q. What did your parents do ?

A. They spoke to the defendant's parents and asked them to fix a date to remove me for my confinement. They said they had 10 nothing to do about it. Thereafter, my parents went away.

Q. Did you continue to lead the same kind of life in the defendant's house ?

A. Yes. Even then I did not get the type of food I have been wanting. In September, 1957, I accompanied the defendant to Colombo where he had a case. I accompanied him on that occasion because I wanted to consult Dr. Caldera. I saw the Doctor and he examined me.

Q. What happened after that ?

A. The defendant took me back to Matara on the same day. 20

Q. Did you protest to the defendant about your going back on the same day ?

A. Yes. The Doctor asked the defendant to take me to Matara on the following day as the position of the child I was expecting was bad. On arrival at Matara, I was feeling very tired and sleepy.

On 25.9.57, I sent a letter to my mother, which I produce marked P4. I produce the envelope marked P4A. (Shown P4.) This was the letter I sent to my mother. (Shown P4A.) This is in my handwriting. The defendant's mother scolded me and the servant girl for trying to get the " meneriya " and " polpala " prepared. 30

Q. What are the places you went to in September, with the defendant ?

A. I went to Galle, Koslanda and Haputala. He took me to those places by car on three separate occasions. We went to Galle to see an aunt of the defendant and to Koslanda also to see an aunt of the defendant. The trip to Haputala was for no real purpose. On the occasion we went to Haputala we returned to Matara on the same day.

Q. Who called you Pissi and Goni ?

A. The defendant's mother. In order to insult me she called 40 me Pissi and Goni.

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Examination—  
Continued

What I have said in P4 and in the other letters is quite true. I am quite sure about that. I have not mentioned anything imaginary.

*Q.* After September, 1957, did your mother again visit you ?

*A.* Yes. She visited me on 3.10.57, as I had asked her to take me home.

When she came, the defendant and I were not at home. We had gone to Galle to attend a wedding. When we returned to Matara after the wedding, my mother was in the house. As soon as we returned, the defendant went back again saying that he had to attend  
10 another wedding. He did not speak to my mother. He did not meet my mother when he came back. I had no time to ask the defendant for permission to go with my mother, and my mother went back without me.

*Q.* Why was it that you were wanting to go to your parents' house all this time ?

*A.* Because I was frightened to stay in the defendant's parents' house.

*Q.* Did you, at this time, find it more and more difficult as your condition advanced ?

20 *A.* Yes.

On 7th October, 1957, I again wrote a letter to my mother. I produce that letter marked P5, and the envelope marked P5a. (Shown P5.) This is the letter I wrote to my mother. (Shown P5a.) I have addressed this envelope.

*Q.* In response to this final appeal you made to your mother, did she come ?

*A.* Yes. She came on 10th October, 1957, with my younger brother Ananda.

At the time she came, the defendant was not in the house. He  
30 had gone to Courts. I wanted my mother to ask the defendant's parents for permission for me to go home. That was done by my mother, but they refused to let me go. The defendant's father was not there at the time, and he came about 15 minutes later and began to scold my mother. Ultimately, the defendant came. He also refused to let me go. Defendant's father scolded my mother saying that he would get his son to divorce me. He also said that he was known as " polonga ".

*Q.* What did your husband say ?

*A.* My mother spoke to him, but he refused to let me go. When  
40 he refused I said I was going. The defendant then asked me to take

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Plaintiff's  
Evidence—  
*Continued*

Evidence of  
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Continued

all my things if I was going. I worshipped the defendant by holding my hands together and bending down, and requested him to let me go.

Evidence of  
Mrs. S. L. S. R.  
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suriya  
Examination—  
Continued

Q. Then did he melt ?

A. Still he refused.

Q. Then what did your mother do ?

A. She went near the car. Then I ran and got into the car, and went home with her.

Q. At that time did you take any clothes of yours or any money with you ?

10

A. No.

Q. Except the cloths you were wearing, did you take any clothes?

A. No.

The chain and the ear-studs I am now wearing were the only things I had with me at the time I left the defendant's parents' house. I did not take any of my jewellery, which were with the defendant's mother.

Q. What was the necessity to leave your jewellery with the defendant's mother ?

A. She had an iron safe and for safe-keeping they were kept in 20 that safe. My clothes were in my almirah.

Q. Up to date did you recover anything of your jewellery which you had left behind ?

A. No.

Q. Up to date had you recovered your clothes which you had left behind ?

A. No. They were in my almirah and the key of that almirah was in the key-hole. I also had about Rs. 100/- or Rs. 200/- in cash, and I left that money also in a drawer in my almirah.

Q. Did you come straight to Gampaha on that occasion ?

30

A. That day we left Matara at about 1.30 or 2 in the afternoon. That evening I stayed at Moratuwa in my uncle's house as I wanted to consult Dr. Caldera. The following day I went to see Dr. Caldera. Thereafter, I kept on consulting him. On 14.10.1957, I wrote a letter to the defendant. I produce a copy of it marked P6. The original is with the defendant.

Q. In this letter you make no references to the way in which you left ?

A. Yes.

Q. Why ?

A. Because I did not want to hurt his feelings.

Q. With regard to the statement you had made in this letter about the Gampaha Police, did anybody come and question you ?

A. Yes, a Sergeant and two constables came to my father's house and questioned me on 10th October at about 6 in the evening about a theft of some jewellery and cash. I said I did not know anything about it. I had never stolen any cash or jewels.

Q. Did the defendant send you a reply to this letter, P6 ?

10 A. No.

He never sent me a single letter. I wrote to him again on 24.10.57. I produce a copy of that letter marked P7.

(Mr. Panditha Gunewardena says that this letter is substantially the same as the letter which his client received.)

(Shown P7.) This is in my handwriting.

(Further hearing tomorrow, 26.5.1959.)

(Sgd.) F. CONRAD PERERA,

*D.J.*

25.5.1959.

20

26.5.1959.

Appearances as on last date.

Mrs. S. L. S. R. SAMARASURIYA, affirmed, recalled.

(*Examination-in-Chief continued*).

(Shown P6.) This is a copy of the letter I wrote to the defendant on the 14th of October, 1957. Feelings had become bitter by this time and I therefore kept a copy of the letter with me and also because the defendant had approached the Matara Police and complained to them that I had stolen jewellery worth Rs. 40,000/-. (Shown P7.) P7 is also a copy of the letter I sent to the defendant which I kept  
30 with me for similar reasons. I wrote P7 to the defendant because I wanted to show him that I was innocent of the allegation by him against me and because of the ill-treatment of me. I did not receive any reply either to P6 or P7. On the 19th of November, 1957, I entered the De Soysa Lying-in-Home for my confinement. I did not suggest to the defendant that I should enter the De Soysa Lying-in-Home. The defendant told me that he would take me to a private hospital in Colombo. I entered the De Soysa Lying-in-Home because it was a paying hospital and because in case of an operation it would be better. The arrangement to enter the hospital, that is the De

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Plaintiff's  
Evidence—  
*Continued*

Evidence of  
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Plaintiff's  
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*Continued*

Evidence of  
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Soysa Lying-in-Home, was made by my father. The defendant did not, after I came home, make any arrangements to ward me in any hospital. My child was born on the 26th of November, 1957. The name of the child is Ravindra Rohan. The defendant was informed of the birth of the child by my father. The defendant came to see the child four days after the birth of the child. That is on the 30th of November. He was accompanied by one of his aunts. That is Mrs. K. Wijesuriya. They stayed there for about 15 minutes and went away. The defendant spoke to me on that occasion. The defendant told me on that occasion that he would be coming on the 10 following and get me admitted to a hospital. He came on the following day. He came with his mother, his brother and an uncle of his. On that occasion he wanted me to sign some forms in respect of the tea shares. I and the defendant had tea shares. The shares were owned separately in our names. I had about 500 shares. There were shares in three companies. I provided the money for the shares in my name and my father also contributed for the shares. I provided about Rs. 1,000/-. I did not sign the forms which the defendant asked me to sign. I refused to sign them because I was not feeling quite well at that time. I was still in bed at that time. As a result 20 of that the defendant shouted and said "You do not know what will happen." Then I signed one form. My brother had come and seen this. He asked me not to sign the forms. The name of my brother is Gamini. Thereafter I did not sign the other forms. After that the defendant threatened my brother that he would kill him. The defendant's mother tried to run away with the baby. She was having the baby in her arms and she said "Let us go away with the child." My brother then went to see a doctor. When the doctor came the defendant and his mother had gone away. There were others on that occasion. The defendant went away and came back 30 again. The defendant's mother also went away on the same occasion. The defendant came back and saw me at the hospital. He scolded me. He mentioned about the 40 acres of paddy land. He said that my father had promised to give him those 40 acres of paddy land and that he never received them. I had nothing to say about that. His mother was not there on that occasion. Before the defendant went away I spoke to him. I asked him for some money and he gave me Rs. 2/-. I asked him money for expenses. That is hospital expenses. I did not take the Rs. 2/- which he offered to me. The sum of Rs. 2/- was not sufficient for me to pay any part of the hospital expenses. 40 After that the defendant did not see me at all in the hospital. On the 4th of December, 1957, a police constable came to see me while I was on bed. The Police constable questioned me and told me that my husband was desirous to know whether I would go back to Matara and stay there. I gave him a reply. I told him that I can't say anything without consulting the doctor. On that day itself I left

the hospital. I left the hospital because I was afraid of him. I went to my parents' house on leaving the hospital. Thereafter the defendant did not see me in my parents' house. He sent me a telegram. He did not see me before he sent the telegram. On the 28th of December, 1957, he sent me the telegram marked P8. It was from Matara. It was a reply-paid telegram addressed to me C/o. my father Charles Samarasuriya. The telegram reads as follows :  
 "Anxiously expecting baby and you inform whether coming and when. Shall bring car. Reply. Piyasena." I sent a reply to it on the same  
 10 day. On the face of the bottom of the telegram the reply I sent was :  
 "Telegram received late. Under medical treatment." As a matter of fact I was under medical treatment at that time.

Q. You were suffering from shocks right up to the time you were in the hospital ?

A. Yes. When the telegram was handed over to me it gave me a shock and I was afraid of the defendant's father.

Thereafter on the 10th of January, 1958, I sent a telegram to the defendant. I know that my proctor had issued summons on the defendant to produce letters and telegrams sent by me and I understand that summons had not been served up to now. I produce  
 20 marked P10 copy of the telegram sent to the defendant on the 10th of January, 1958. The telegram reads as follows :—" Now much better. Come week end discuss our residence and future plans See our baby. Srimathie." That is the message I sent to the defendant. I did not get a reply to that telegram. On the 14th of January, 1958, I sent another telegram to the defendant a copy of which I produce marked P11. It reads as follows :—" Expected your arrival till this evening. Note with regret your failure to come or reply. Srimathie." I sent that message to the defendant. On the 16th  
 30 of January, 1958, I received a telegram which I produce marked P12 from the defendant. It is from Matara. It reads as follows :—" Saturday you refused to return. You deserted me 3 months ago. You are welcome here at any time. Piyasena." There was no refusal by me on the Saturday referred to to return. I never saw him on that day. He did not come to my house. He did not make any kind of request that I should return. I sent a reply a copy of which I produce marked P13 on the same day. That is on the 16th of January. The reply was " Your wire a fiction. Never expected such deliberate lies from my husband. Srimathie". I sent this  
 40 message to the defendant. On the 15th of January, 1958, the plaint in this action was filed by my proctor. In my plaint I have made certain particular allegations against the defendant amongst which I have stated that he had frequently intercepted letters written to me by my parents. I had also noticed that a letter sent to my sister

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 Plaintiff's  
 Evidence—  
*Continued*

Evidence of  
 Mrs. S. L. S. R.  
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Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Examination—  
Continued

by my father had been intercepted. I got that letter from the defendant. That was a registered letter. (Shown P3.) This is that letter. There were also other letters which had been intercepted. Some of the letters sent by my parents were not received. I knew that they intercepted letters because one day I saw the defendant's mother reading one of my letters. The defendant is an Advocate. Apart from the defendant getting an income as Advocate he has other sources of income. He has shares in various companies. He told me that he had a share in an estate in Batticaloa. Apart from these he was interested in politics. He contested the Hakmana seat during the last general elections. He did not succeed in that. He was also interested in local politics. The defendant told me what his income was. He told me before the marriage about his income. In my 10  
plaint I have stated that the defendant has an income of Rs. 2,000/- a month. He told me that he was getting that income. I am in a position to vouch for the accuracy of that figure. He spent most of his money on elections and he gave money to people. He gave money to the people for the elections. He got income from the tea shares apart from the income he got from his profession. In the event of my being granted a divorce I have prayed in my 20  
plaint for alimony at the rate of Rs. 400/- a month for myself. At the present moment I am living with my parents. I claim also the custody of the child. The child is with me. I am not possessed of any property myself. I have no kind of employment giving any kind of income. In the event of the child being given to me I have prayed for the maintenance of the child a sum of Rs. 250/- a month. I have had to provide for the maintenance of the child up to now. The child is being looked after by me. The defendant saw the child on two occasions, that is on the 30th November, 1957, and the next day. After that the defendant saw the child on the 16th of June, 1958, which was the 30  
day on which the Court made an order for alimony pending the action and for maintenance. On that occasion I knew how much the defendant was willing to pay. That is Rs. 25/- for the child and Rs. 100/- for myself. The Court made an order for Rs. 100/- in favour of the child and Rs. 75/- in my favour. On the 16th of June, 1958, the defendant saw the child at the Gampaha resthouse. That was in July or August, since then he had seen the child in September, 1958. After that the defendant did not see the child. The defendant did not bring anything for the child when he came to see the child. Even the costs which were ordered to be paid by the Court were paid only on the 20th of 40  
this month. The alimony and the maintenance had been paid from time to time and the last payment was made on the 20th of this month to my proctor for the month of March. No payment was made to me for April. The charges at the hospital during my confinement were met by my father. I was in a paying ward at the De Soysa Lying-in-Home.

*Cross-examined.*

I can't exactly remember how much I paid a day at the De Soysa Lying-in-Home. I stayed in the paying ward at the De Soya Lying-in-Home, for about two weeks. I think I paid Rs. 4/- a day. I said in the examination-in-chief that I was a teacher at one time. I was not teaching in 1951. That was in 1954. I left school in 1954. That is my father's school. It is in the same garden where my father was. I was not a registered teacher. I had got through the Senior School Leaving Certificate Examination. I was not taking several classes at the school. After I came back home I did not go to teach. I was teaching for about 1½ years before I left. My father was an Inspector of schools. He retired as Headmaster of a school. I do not know how long he was in service. My father has come to Court. For some years my father was an Inspector of Schools. I cannot say why he came back as a Headmaster. I do not know whether he had any trouble with the Department. I did not get any salary when I was teaching. I am the only daughter in the family and I have brothers. The Engineer I referred to is Gamini. He is one of my brothers. There are two other brothers. Ananda is one brother.

20 At the time of the marriage he was in Jaffna attending a school. He was a playful boy. My father had sent him to study there. My father applied for money from the Government under the Land Development Ordinance for the purchase of 40 to 50 acres of land. I did not know then that he was expecting to get money from the Government for the development of that land. I did not know the land then but I know it now. I know now that he was expecting to get about Rs. 50,000/- from the Government. I did not know that he gave me a part of it as dowry but I know it now. This matter of the marriage was introduced by a person called George Samarasuriya.

30 He is a close relation of my father. He is a nephew of my father. He was a Sanitary Inspector. In 1956 he was stationed at Ratmalana. He had come to know the defendant's father. He is the person who introduced the question of the marriage. I know the first visit of the defendant. He came with his parents to my house. That was somewhere in October, 1956. I saw him on that day. I did not speak to him. On that day the question of dowry was not discussed. Thereafter my parents went down to Matara, and the question of dowry was settled after that. My father had boarders in his house. There were several of them. There was at one time one Mr. Gunaratne who was boarded in our house. But at that time I was in

40 Matara. He was a boarder who came after the marriage and not before the marriage. There were several boarders in the house but they were all school boys. That was before I got married. There were about ten of them as boarders. I say that Gunaratne was not boarded in the house before the marriage. When the defendant came to see me I did not get friendly with him at once because I did not

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*Continued*Evidence of  
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Plaintiff's  
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Continued

Evidence of  
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suriya  
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Continued

want to get married. My parents went down to Matara and had discussions with the defendant's parents. I knew that the defendant's father was a wealthy man. He was a man worth several lakhs. It was George Samarasuriya who told me that the proposal was a good one. I know that there was correspondence between my father and the defendant's father. On one occasion my brother Gamini took me along to the defendant's house. That was before the notice of marriage. The defendant and his parents were living in a large house. I came back on the same day. The defendat was not quite well on that day. Thereafter notice of marriage was given by each party. My father gave the notice of marriage on my side and the father of the defendant gave the notice of marriage on the defendant's side. That day I was willing for the marriage. After I went down to Matara I was agreeable to this marriage. After the notice of marriage there was the engagement. The defendant and his parents came to our house with their close relations. George Samarasuriya was also there. The question of dowry was discussed and my father said that he would give Rs. 50,000/- in cash as dowry. There was no discord whatsoever at that time. As a matter of fact even the question with regard to the dowry was not raised on the defendant's side, neither by the defendant nor by his parents. They did not expect a dowry from us. After that the defendant was visiting me. He visited me on several occasions before the date of the marriage. I went for pictures with the defendant on some of these occasions. I have been going with the defendant to see pictures on several occasions. The civil ceremony was arranged to take place at the Grand Oriental Hotel. The poruwa ceremony was to take place in my parents' home at Gampaha. I did not know that about a fortnight before the wedding was to take place my father found difficulty in getting the money. I came to know it subsequently. I did not know that my father was expecting Rs. 50,000/- from the Government. I did not know that attempts were made by my father to get money from some source. I do not know that my father had suggested that the money would be forthcoming afterwards when he gets the money from the Government. It is not correct that my father said that the money would be given after the marriage had taken place, after he was able to get it. I did not know the difficulty of his getting the money but I know now that he had difficulty in getting the money for the occasion of the civil ceremony. I came to know that subsequently. At that time I was not aware what was taking place regarding the question of dowry. I have admitted in my evidence that Rs. 35,000/- was raised by my father on the mortgage of his residing property to the defendant's father out of which Rs. 30,000/- was part of the dowry. The expenses for the wedding was more or less Rs. 5,000/-. My father did not take another sum of Rs. 20,000/- from the defendant. The defendant's father gave Rs. 20,000/- to my father. He said that

he wanted to make up the sum of Rs. 50,000/- and provided the balance Rs. 20,000/-, to be given to his son. The Rs. 20,000/- was given to my father in the first instance. On the occasion of the civil ceremony the sum of Rs. 50,000/- was given to me. That was after the poruwa ceremony. (Shown letter dated 14th November, 1957.) This is the letter that was referred to in the course of my evidence-in-chief as a letter that was sent by me to the defendant. (Mr. Pandita Gunawardena marks the letter of the 14th November, 1957, as D1.) I said that I returned on the 10th of October, 1957. I cannot  
 10 remember that I sent the letter which I have referred to in the Examination-in-chief on the 14th of October, 1957. (Shown P6.) This is a copy of the letter that I sent to the defendant a few days after I came. I sent another letter a month later, that is the letter of the 14th November. I was not badly disposed at the time I wrote this letter. I told some of the difficulties to the defendant when I was at Matara.

*Q.* You have stated in that letter that for various reasons you have not so far told him of certain difficulties which you had to face when you were at Matara and that you have to blame yourself for not taking courage to tell him there ?

20 *A.* His parents were there.

*Q.* Your main grievance was against his mother ?

*A.* Both the defendant and his mother.

I have stated that I had to blame myself for not taking courage to tell him that. I was reluctant to tell the defendant because I was afraid of the defendant's parents. My life there was not happy because of the defendant and his parents. When I wrote the letter I did not refer to the fact that it was due to the defendant and his parents. The defendant's house is an upstairs house. It is a large upstairs house. There are several rooms. There are bath-rooms and  
 30 lavatories attached to it. It is a self-contained flat. His house is also situated in a spacious garden. It is a healthy place. I told the defendant of the ill-treatment of me by his mother. My father is not a rich man. This money Rs. 30,000/- was provided with much difficulty. In that letter the words " he insists " refer to my father. " George " referred to in that letter is George Samarasuriya.

*Q.* You state in that letter " I am surprised why your father put in Rs. 20,000/- to make Rs. 50,000/- which amount was presented to you at the poruwa ceremony in the presence of all relations " ?

*A.* According to that letter Rs. 50,000/- was presented to me  
 40 by the defendant's father at the Poruwa ceremony.

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 Plaintiff's  
 Evidence—  
*Continued*

Evidence of  
 Mrs. S. L. S. R.  
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 Cross-  
 examination—  
*Continued*

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Continued

*Q.* You say “ I am surprised why your father put in Rs. 20,000/- to make Rs. 50,000/- which amount was presented to you at the poruwa ceremony in the presence of all relations ” ? Is that statement in D1 correct ?

*A.* It is not correct.

(Sgd.) F. C. PERERA,  
*D.J.*  
26.5.1959.

26.5.1959.

*Resumed after the Interval*

10

Mrs. S. L. S. R. WICKRAMASURIYA, Affirmed, recalled.

*Cross-examination (Contd.)*

*Q.* At the time of the Poruwa ceremony the money was given to the defendant ?

*A.* It was given to me.

*Q.* I put it to you that you are making up this bit of evidence in order to support your defence in the mortgage bond case ?

*A.* I deny that.

(*To Court* : I took the dowry money and gave it to the defendant's father.)

20

(Shown D1.)

*Q.* Can you point out any other incorrect statement in this letter ?

*A.* I cannot. I have perused D1, and as far as I can see there are no other incorrect statements.

*Q.* According to you, this letter was written after a full consideration of facts ?

*A.* Yes.

I showed this letter to my father before I sent it. I did not discuss the matters which I wrote in this letter to my father, before I sent it. (Shown D1.) The address and the date on this were written by me.

After the civil ceremony and the reception at the Grand Oriental Hotel, we went on our honeymoon. We spent our honeymoon at the Mount Lavinia Hotel. We were in that hotel for 3 days, and then came to Matara.

*Q.* Your first visit after your marriage to your parents' house had to be on an auspicious day ?

A. I do not know.

After my marriage, I first visited my parents on Sunday, the 10th of February. Defendant's mother also came along with us on that occasion, but his father did not come. Some relatives of the defendant also came with us.

Q. Why didn't the defendant's father come ?

A. He said he was ill.

Q. There was no outward displeasure at that time ?

A. Yes.

10 On our first visit to my parents' house after my marriage, we were there for about 2 or 3 hours, and thereafter all of us came back. On week days my husband used to attend Courts. For the next weekend he again took me to Gampaha. That was on a Friday evening. On that occasion, I deny that my husband and I spent a few days in my parents' house. During that visit we visited a number of friends in Gampaha, and returned to Matara on Sunday. We visited three houses. I visited the house of one Mr. Dissanayake. I know a Post Master named Perera. He is a friend of my father. Perera family were known to me and my father. We also paid a visit to the parents  
20 of Dr. Jayawardena. At that time, Dr. Jayawardena was attached to the Lying-in-Home. My parents and I have known the Jayawardena family for a long time. That visit was made at the instance of myself and of my parents. A sister of Dr. Jayawardena was a teacher in the school run by my father. We also visited the house of Surveyor M. S. Perera. We visited these various houses in the afternoons. We visited the Jayawardenas on Sunday. There is an old lady known as the "Daily News" known to my family. That Sunday, on our way back to Matara, we did not visit the house of Mr. George Samarasuriya. We visited him on the 10th.

30 I gave instructions to my Proctor to draft the plaint.

Q. According to your plaint, in June, the defendant brought you to Gampaha and then sent you to your parents to ask for the transfer of the 40 acres of paddy lands ?

A. Yes. That averment in my plaint is correct. Towards the latter part of February, I was not quite well. No, I was not quite well in March. At Matara, I was seen by Dr. Mrs. Kulatunga. She is the wife of Proctor Kulatunga of Matara. She was known to us. I was first taken to her because I complained of some haemorrhage.

Q. That was towards the end of February ?

40 A. No. That was on 20th March.

Q. You are fixing the date as the 20th of March, because that was the time you missed your periods ?

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Plaintiff's  
Evidence—  
Continued

Evidence of  
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Plaintiff's  
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Evidence of  
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examination—  
Continued

A. Yes. This happened about two days earlier. For my pregnancy also, I was seen by Dr. Kulatunga. I deny that I was first seen by Dr. Kulatunga two weeks before I was seen by her on the 20th. I was taken to Dr. Kulatunga only once, and not twice, and that was, I think, after the 20th of March. Dr. Kulatunga advised me not to go about. She gave me some pills and advised me to refrain from cohabitation for a period of two months. She also asked me not to climb stairs.

Q. Those things were carefully followed ?

A. No. During those two months, the defendant took me to 10  
Koslanda and Haputale. He took me to Haputale and Koslanda in  
April or in the beginning of May. I was taken to Koslanda on two  
occasions. The first occasion was in April or in May. We went to  
Koslanda to pay a visit to an aunt of the defendant named Mrs. K.  
Wijesuriya. In April, we spent two nights at Koslanda. In August  
also we went to Koslanda. On that occasion we stayed there only  
one day. We spent the night there and returned to Matara on the  
following day. On the following morning, we went to Haputale.  
That was in August. I do not know whether the Courts were in  
vacation at this time. In April we went to Koslanda, and from there 20  
we went to Haputale, where there is a Sunday Fair. We went to the  
Sunday Fair. Defendant's aunt wanted to go to the Sunday Fair.  
I did not want to go. I was opposed to going to Haputale as I was  
tired. I was also not willing to go to Koslanda.

Q. Against your wishes, the defendant took you to these places ?

A. Yes.

From Koslanda we went to the Sunday Fair at Haputale, and  
then came back to Koslanda the same day, had lunch there and  
returned to Matara the same day.

Q. The real position is this. It was really a journey to Koslanda, 30  
from where you went to see the Fair at Haputale ? You stayed one  
night at Koslanda ?

A. Yes.

Q. Did you tell your Lawyers that you went to Koslanda in  
April also ?

A. Yes.

Q. You are now depending upon your memory ?

A. Yes.

I went to Koslanda on the day I received a registered letter from  
my father.

(Shown P3.) This is the registered letter I referred to.

Q. When did you receive P3 ?

A. I cannot remember.

(To Court :

P3 was under the pillow of the defendant's mother. I got it subsequently. When I got P3 I saw the date on it. I cannot remember how many days after my father sent P3 I received it.)

Q. I put it to you that you went to Koslanda only in August ?

A. No.

10 Q. Is there anything by which you can fix the date on which you went to Koslanda in April ?

A. The defendant wanted me to go to Koslanda after the Sinhalese New Year.

Q. Was there any special reason to go there after the Sinhalese New Year ?

A. He wanted to take presents for his aunt.

Q. Had this aunt been visiting you ?

A. Yes.

Q. When you say after the Sinhalese New Year, it may be in  
20 April or May ?

A. Yes.

In May, my father visited me. Sometimes, I had lunch with the defendant together.

Q. The usual habit was to have lunch together ?

A. Sometimes.

Q. Generally when he came back you had lunch together ?

A. Yes. On some days I had to wait till 2 or 3 p.m. When visitors came the defendant had his lunch earlier. He comes from the Courts for his lunch, and he had to get back to Courts. The  
30 defendant and I visited a number of people at Matara. I know Proctor S. P. A. Gunewardena. We visited him very often. We also paid a visit to Advocate Nelson Karunaratne once, and they also visited us. We also visited Abey Suriya family. The defendant took me to the houses of his friends and relatives. We also visited the Akbar family. At Matara, I went to see films. I was fond of seeing Sinhalese pictures. I went to see Sinhalese pictures on 3 or 4 occasions. I also went to see English pictures. Whenever there was a good picture, I went to see it. I saw the Sinhalese picture called the "Jeevitha Satana". I was more fond of going to pictures than the

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

defendant. The defendant is a vegetarian. At Matara, there is a bakery called the Galle Oriental Bakery. It is a well-known Bakery. The defendant often brought for me meals prepared at the Galle Oriental Bakery. Defendant's brother is also a vegetarian. The defendant does not take eggs. He was not addicted to liquor. He does not smoke. I wanted him to bring eggs and he brought eggs for me. He also brought for me meals prepared in Mr. S. P. A. Gunewardena's house. The defendant's parents were angry with S. P. A. Gunewardena family, but not the defendant. Therefore they did not visit the defendant's house. In the evening the defendant used 10 to take me out for drives.

Q. In all matters the defendant looked after you well at that time ?

A. No. The Doctor advised me not to climb stairs, but I had to come down for my meals. I told my husband that the Doctor had advised me not to climb stairs, but still he wanted me to come down for my meals.

Q. You were helped upstairs by the defendant once or twice ?

A. No.

In the upstairs I had my own almirah. I had the key of that 20 almirah. My clothes were in it. The defendant had a separate almirah upstairs. Only my clothes and my money were in my almirah. When the defendant returns from Court, sometimes he used to give me money. I used to keep the money and give it to him whenever he wanted.

Before the Sinhalese New Year, I went to purchase presents for my relatives and parents. We went to make those purchases about 3 or 4 days before the Sinhalese New Year. Always I had a few hundred rupees in my almirah. Whenever the defendant gave me any money, I used to keep it in my almirah. When I went shopping 30 in April, I did not buy any presents for my father. The defendant bought a sarong for his uncle and a saree for his mother. I bought a saree for my mother. The defendant also bought two shirts for his uncle. Those were the only articles that were purchased on that occasion. I did not buy anything for my father. I paid the money for the things that were bought. We visited two shops to make those purchases. I selected my mother's saree. There was no interference by the defendant. I did not want to buy any present for my father because the defendant used to scold my father.

Q. If you wanted to, you could have bought a present for your 40 father ?

A. Yes.

(To Court :

I bought two sarees, one for the defendant's mother and one for my mother. I did not buy a saree for me.)

The defendant was with me when I made these purchases. I also went shopping soon after the marriage. On that occasion I only bought a saree and nothing else. At the time I got married I had about 30 to 40 sarees. I got my almirah about a month after the marriage. My husband and I lived happily only for about a week. My brother Gamini bought the almirah for me, and sent it to me. 10 Gamini visited me at Matara on the Wesak day. On that occasion, my father also came. Gamini did not visit me before that, but he wrote to me. He did not want any help from me. My brother qualified as an Engineer in England.

Q. Didn't your brother make a request for a loan of Rs. 15,000/- ?

A. No. He asked me for Rs. 500/-. I did not give it.

Q. Was that before or after the almirah was given to you ?

A. I cannot remember.

The almirah which my brother bought for me was a modern almirah. Of my jewellery, only my chain and my wristlet were in 20 my almirah. On the occasion of my wedding, a throatlet was given to me by the defendant's mother. I wore that for the wedding. It was a valuable one. During the time I was at Matara, I attended a number of weddings and for those weddings I wore the throatlet. That throatlet was not kept in my almirah. After wearing it I had to return it to the defendant's mother. She wanted me to return it to her. I wore that throatlet when I visited my parents on the first occasion after the marriage. Before the marriage, the defendant's mother also gave me a gold necklace.

Q. Between the period you got married and you paid your first 30 visit to your parents, you kept the throatlet with you ?

A. No. Whenever I wanted it the defendant's mother used to give it to me. When I give it back to her she used to keep it in the iron safe.

The throatlet was worth about Rs. 30,000/- or Rs. 40,000/-.

I felt very tired after I visited Koslanda in August and the position of the child I was carrying became incorrect. After my return from Koslanda in August, I was examined by Dr. Karunaratne. That was in October. I was not examined by a Doctor in Matara in August or September. The defendant brought me to Colombo to 40 be examined by Dr. Caldera in September. That was about 3 weeks after I returned from Koslanda. I wanted to consult Dr. Caldera.

No. 22

Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
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Continued

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. S. L. S. R.  
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suriya  
Cross-  
examination—  
*Continued*

I was examined by Dr. Caldera. On that day, I deny that the defendant took me to a number of nursing homes in Colombo. Nor did he visit a number of nursing homes. He took me to the Private General Hospital. Once the defendant wanted to find out whether there was room available in the Private General Hospital, but I cannot say on which occasion it was. Again I was examined by Dr. Karunaratne at Matara. On the day I came to see Dr. Caldera, I did not want to go back to Matara on the same day, as the Doctor advised me not to travel on the same day, but the defendant took me to Matara on the same day. On that day I wanted to go to Gampaha 10 as it was close to Colombo. I fell ill while I was at Matara and Dr. Karunaratne was called in. The defendant was not at home at that time. That day I was vomiting from morning and I informed the defendant's parents about it, and they summoned Dr. Karunaratne at about 7 p.m. I had also a stomach trouble. This was not the usual vomiting which pregnant women have to undergo. Dr. Karunaratne came to see me before the defendant returned home that day. The defendant brought the medicines that were prescribed by the Doctor. On the following morning I felt much better, but I was given string hoppers and sambol for tea. I deny that I wanted 20 to take some solid food in the morning and therefore string hoppers and sambol were given. The defendant asked me to take string hoppers. Nothing happened as a result of taking string hoppers the following morning.

On 3rd October, my mother came to see me. She used to come to see me once in two weeks or so. Every time she came she spent a night or two in defendant's house. Defendant did not object to my mother visiting me. There is a telephone in my father's house at Gampaha and in defendant's house. It was possible for me to communicate with my parents in Gampaha over the telephone. My 30 parents communicated with me over the telephone, but I did not communicate with them over the telephone. I was not allowed to use the telephone. On 9th October, my parents did not give me a telephone message.

*Q.* Was there a message from your mother asking the defendant's mother to keep a hand-bag which your mother is supposed to have left behind by forgetfulness?

*A.* That was on the following day. That was about six days before the 10th of October.

*Q.* I put it to you that the telephone message was given on the 40 9th of October?

*A.* No.

My mother visited me on 3rd October. On that occasion, she wanted to take me to Gampaha for my confinement. I also insisted on going to Gampaha for my confinement.

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Plaintiff's  
Evidence—  
*Continued*

Q. Was it on the day following that occasion that a message was given over the telephone about your mother's hand-bag ?

A. Yes.

Q. Had she actually left behind her hand-bag ?

A. No.

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

My mother asked me to find out from the defendant's mother  
10 whether she (my mother) had left behind her hand-bag, and if it was there to keep it. My mother used to speak with the defendant's parents. The defendant did not speak with my mother. When she comes to see me she used to stay with me upstairs. When my mother visited me on 3rd October, the defendant and I had gone to Galle to attend a wedding, and my mother waited till we returned in the evening. On that occasion she went back the same day. If she wanted she could have stayed over the night in defendant's house. There were no obstacles to her staying, but she wanted to get back. I spoke to my mother on the 3rd without any interference.

20 Q. Did she at that time tell you that she was coming back to take you away ?

A. No.

I sent her a letter asking her to come and take me home. On 10th October, my brother Ananda and my mother came.

The feelings between my parents and Ananda are cordial. Ananda is staying with my other brother in Colombo. He visits me. He did not come to Court in connection with this case either yesterday or today. I do not know whether he is married or whether he has a child. He is employed. I do not know what his employment is.  
30 Ananda is not married. He does not have a child. He is not living with my parents. He is not a witness for me in this case.

When they came to see me on the 10th, the defendant had gone to Courts, and he returned a little later. I wanted to go back with my mother. I knew that my mother had come at my request to take me to Gampaha.

At first the defendant expressed his willingness to take me to the Private General Hospital for my confinement, but later his mother asked him not to take me there. She said that I could have my confinement at Matara. After that the defendant told me that he  
40 was not taking me to the Private General Hospital. I cannot remember when he said that. On the 10th, my father also had come with

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wiekrama-  
suriya  
Cross-  
examination—  
Continued

my mother and brother, but on the way he had fallen ill and had remained at Panadura. Two cars did not come to Matara on that day. Ananda did not leave my mother in defendant's house and then go back to Matara Town. The defendant refused to let me go, but I had already made up my mind to go.

The key of my almirah was in the keyhole. From upstairs, there are two side exits from which you could get straight to the garden. When I asked for permission from the defendant to go home, he refused. At that time the defendant was seated in the hall, and my mother was going to get into the car. Then I followed her and got into the car. 10 In fact, I ran up to the car because by that time my mother had already got into the car. I had a suit-case.

Q. That suit-case was brought to the car earlier by a side entrance ?

A. No.

Apart from the driver, only my brother and mother were in the car. I do not know the name of the driver. Up to date I do not know who drove me from Matara to Gampaha on that day.

Q. You went along the Hakmana road ?

A. No.

20

We went direct from Matara to Panadura, where my father joined us. Even then my father was not well-enough. We went to the Panadura Police Station, because I wanted to make an entry there. I did not want to do that until I met my father. After making the entry, we proceeded to Moratuwa, where we spent the night.

Q. On that day your father straightaway went to the Debt Conciliation Board ?

A. He may have gone on the 10th or the 11th. I cannot remember. We came to Moratuwa on the 10th. 30

Q. He wanted relief from that mortgage debt ?

A. I do not know what he wanted to do.

He informed me that he was going to the Debt Conciliation Board. From Moratuwa, I went to see Dr. Caldera. That was on the 11th. From there we returned to Gampaha.

(Further hearing on the 24th and 27th July, 1959.)

(Sgd.) F. C. PERERA,  
D.J.  
26.5.1959.

24.7.1959

No. 22

Plaintiff's  
Evidence—  
*Continued*

Trial resumed.

Same appearances for the plaintiff.

Mr. Advocate Panditha Gunawardena with Mr. Advocate Mohamed instructed by Mr. Dias for the defendant.

S. L. S. R. WICKRAMASURIYA, affirmed, recalled.

*Cross-examination (Contd.)*

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

On the first visit to my parents house there was no opportunity for us to stay over the day because it was a Sunday and we had to  
10 return to Matara on the same day, and also because my husband had to attend Courts on the following day. It was after I returned that my husband took the decision that the 40 acres of land that had been promised were not given and that I should go to my father and get him to transfer that 40 acres. I went again in June.

I gave instructions to my proctor to file the plaint in this case. I instructed him as to when I went and saw my father in respect of this 40 acres of land. (Paragraphs 4 and 5 of the amended plaint read.)

Q. According to this amended plaint your averment is that it  
20 was in June that the defendant brought you to Gampaha and asked you to get your father to transfer the 40 acres ?

A. Yes.

Q. There is no mention that on the second visit itself, that is a week after the wedding, you were asked by your husband to come to your parents and ask for the 40 acres of land ? You have not stated that in your plaint ?

A. Yes.

I left my husband and came home on the 10th of October, 1957. On that day I came directly from Matara to Moratuwa and stayed  
30 over the night at Moratuwa. On that day itself I went to the Panadura Police and made a complaint. I did not go to Tangalle and take the route *via* Ratnapura to come to Gampaha. I went to the Panadura Police Station at about 8 p.m. My mother first made a statement, and after her I made my statement.

Q. You made a statement to the effect that you had written to your father and mother that your mother-in-law had treated you with cruelty and that your husband had neglected you ?

A. Yes.

I further told the Police that the condition became worse after  
40 I became pregnant, and that when I returned to Matara after consulting Dr. Caldera I was made to climb upstairs several times a day.

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

On that occasion my husband never went with me to find out a nursing home for me. I came to know later that he had gone to find out a nursing home for me. I also complained to the Police that I was made to stay upstairs all alone as a prisoner. On the day after I left Matara, I saw Dr. Caldera before coming to Gampaha. The Doctor adjusted the position of the child that I was carrying. On the occasion the defendant brought me to Colombo to consult Dr. Caldera, he did not take me to any Nursing Homes or to any Hospital.

Q. In your evidence at page 30, you have stated this, "On that day I deny that the defendant took me to a number of Nursing Homes 10 in Colombo. Nor did he visit a number of nursing homes" ?

A. Yes.

Q. You have stated "He took me to the Private General Hospital" ?

A. He did not take me there.

I was never taken to the Private General Hospital.

Q. You have also made these statements in your evidence: "He took me to the Private General Hospital. Once the defendant wanted to find out whether there was room available in the Private General Hospital, but I cannot say on which occasion it was" ? 20

A. The first statement is incorrect. The 2nd statement is correct.

He did not take me to the Private General Hospital. There was a telephone in my husband's bungalow at Matara and a telephone in my father's residence at Gampaha. While I was at Matara, I got telephone messages from my parents in Gampaha. My parents also received telephone messages from Matara. I got letters posted to my parents through a woman who used to come to my husband's bungalow. I did that as they were intercepting my letters.

Before I got married, the defendant took me to see pictures in 30 Gampaha. After the marriage also, the defendant took me to Cinemas at Matara. I left the defendant's house on the 10th of October, and arrived at Gampaha on the following day.

Q. You have stated that on the 9th of October your parents did not give you a telephone message to your residence at Matara ?

A. That was not on the 9th but before that. That was about a day or two after my mother visited me on the 3rd. That was about 4 or 5 days before the 9th of October.

I did not get a telephone message from Gampaha on the 9th. At the time I was in the defendant's house at Matara, the telephone 40 messages I got from Gampaha were from my parents, and not from anybody else.

Q. Whenever a telephone message comes, somebody comes upstairs and tells you that there is a telephone message for you ?

A. Yes.

Then I come and attend to the message.

Q. If on the previous day there had been a telephone message from Gampaha, there was no reason for anybody not to inform you ?

A. Yes, there was a reason. I was ill on the previous day.

I was ill from the 5th of October. When my mother came on the 3rd of October I was all right. When I wrote back to my mother 10 subsequently, I was not quite well. I was all right on the 9th of October.

Q. Therefore there was no reason why you should not have been informed if there was a telephone message from Gampaha ?

A. If there was a telephone message I would have been informed. The number of the telephone installed in my father's residence is 265.

Q. A telephone call has been made from your father's house in Gampaha to the defendant's residence at Matara on the 9th of October, 1957 ?

20 A. I remember it as the 4th of October.

(Adjourned.)

(Sgd.) F. C. PERERA,  
D.J.  
24.7.1959.

(Resumed.)

S. L. S. R. WICKRAMASURIYA, affirmed, recalled.

*Cross-examination (Contd.)*

When I was at Matara, I used to chat with the defendant's parents, who were living in the same house. Defendant's father used 30 to address me as " Duwa " (daughter). The defendant's mother also addressed me in that way. I stated to the Panadura Police in general the main grievances I had and the real cause why I left Matara. I distinguished the way I was treated by my mother-in-law and by my husband. By pre-natal treatment I meant the care and attention that should be paid to a pregnant woman. I was taken to Dr. Kulatunga by the defendant. I consulted Dr. Kulatunge on a number of occasions. Somewhere in September the Doctor had advised me to have walks in the beach, and my husband took me for walks in the beach. It was my husband who took me to Dr. Kulatunge on the 40 occasion referred to in the complaint to the Panadura Police. My

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Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
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Cross-  
examination—  
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Plaintiff's  
Evidence—  
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Evidence of  
Mrs. S. L. S. R.  
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Cross-  
examination—  
Continued

mother urged the defendant to take me to a Doctor. The defendant carried out some of the instructions given by the Doctor, but not all. At that time both the defendant and his mother were unkind to me. I wanted to go back to the defendant after my confinement.

Q. You made the focus of your complaint to the Panadura Police your mother-in-law ?

A. Yes.

Q. Even the defendant's conduct you attributed to his mother, namely, your mother-in-law ?

A. Yes.

10

All along I wanted to go back to my mother for the confinement. On the 10th of October, it was really at my instance that my mother came and took me home. In this complaint, the emphasis is on the conduct of the defendant's mother-in-law, and I did not make any serious accusations against the defendant as I wanted to go back to him. The real accusations were against my mother-in-law.

Q. The chief objection you had to be in Matara was that you were practically alone upstairs ?

A. Yes.

There were always some servants in the defendant's house. At 20 times the servants did not obey the instructions given by me. I did not mention that fact to the Police. When my husband's relations called in they talked to me and spent some time with me. The defendant's aunts did not address me as " Duwa ". On 9th October, 1957, I was fairly all right. A few days before that I had not been in the best of health. I had recovered by the 9th of October.

Q. You have told the Police that you were very ill at the time you left the defendant's house ?

A. I had a stomach trouble about 2 or 3 days earlier.

Q. It is not correct to say that you were very ill at the moment 30 you left the defendant's house on the 10th of October ?

A. No Answer.

On 11th October, I went to consult Dr. Caldera, but there was no particular reason for me to be examined by him.

(Mr. Panditha Gunawardena produces marked D2 the complaint made by this witness to the Panadura Police dated 10.10.57.)

On 14th November, 57, I sent the letter D1 to the defendant. Just a few days after I returned to Gampaha, I sent another letter to the defendant.

(Shown a letter dated 14th October, 1957, marked D3.) I wrote this letter to the defendant. When I left the defendant's house on 10th October, I had a grievance against him. My case is that the defendant neglected and ill-treated me. (Shown D3.) In this letter I have addressed the defendant as "My darling". Up to the 14th of October, I did not write to the defendant because I had several visitors. My mother was very strict about carrying out the instructions given by the Doctor regarding my diet, etc. In D3, I did not inform the defendant that the position of the child was adjusted by  
 10 the Doctor. D3 is an affectionate letter. After leaving the defendant, I returned to Gampaha on a Thursday. I left him in spite of his asking me not to go. I disobeyed him on that occasion. In D3, I did not want to express my sorrow for disobeying him.

After I returned to Gampaha, the Police came and questioned me whether a throatlet and jewellery worth about Rs. 40,000/- had been removed by me. The throatlet itself would have been worth about Rs. 40,000/-. I kept a copy of D3 with me. It is not my normal habit to keep copies of letters I address to friends and relations. In D3, I have not mentioned of any cruelty or indifference shown by the  
 20 defendant.

(Shown D1.) I followed D3 with D1. I also kept with me a copy of D1. I kept copies of these letters because the defendant had made a complaint against me to the Police. I did not write the letter dated 14th November at the instigation of my father. I showed it to my father before I sent it. I entered the Lying-in-Home on the 19th of November. I made arrangements to enter the Lying-in-Home somewhere in November. I think I made arrangements somewhere on the 12th of November. Before that I had arranged to go to the Lying-in-Home in preference to a Private Nursing Home. On 11th October,  
 30 1957, when I was examined by Dr. Caldera, it was decided that I should enter the Lying-in-Home.

*Q.* Either in D1 or D3 you have not informed your husband of the fact that you had decided to enter the Lying-in-Home ?

*A.* Yes.

By the time D1 was written on 14th November, actual arrangements had been made to enter the Lying-in-Home. I did not want my husband to know that I was entering the Lying-in-Home for my confinement. (Second paragraph of D1 read.)

*Q.* Is that statement correct ?

40 *A.* Yes.

In D1 when I said certain difficulties I meant some difficulties.

*Q.* You had not taken the courage to tell your husband the manner in which your mother-in-law had treated you ?

No. 22  
 Plaintiff's  
 Evidence—  
*Continued*

Evidence of  
 Mrs. S. L. S. R.  
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*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
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examination—  
Continued

A. I told him several times.

Q. Then that statement in DI cannot be correct ?

A. No answer.

The defendant's parents only wanted a simple girl and they were not worried about a dowry.

Q. So far there was no dispute with regard to the dowry of Rs. 25,000/- ?

A. Yes.

The person named George referred to in this letter is my cousin. He was the person who first spoke about this marriage, and brought 10 the parties together. At the engagement, it was not my father who announced the dowry that was given. The dowry of Rs. 50,000/- was made up by the defendant's father giving Rs. 20,000/- to the Rs. 30,000/- given by my father. It was the defendant who told me how the sum of Rs. 50,000/- was made up. At that time I did not know that the defendant's father had given Rs. 20,000/-. After I went to Matara, the defendant told me that my father had promised to give Rs. 50,000/-, but actually gave only Rs. 30,000/-. He did not tell me that his father had given Rs. 20,000/-. When I went to Matara, I found that the defendant was angry over the fact that my 20 father had given only Rs. 30,000/-, after promising to give Rs. 50,000/- as dowry to him.

Q. In this letter you say " Your father had told my father just before the marriage that he would give Rs. 20,000/- to make it Rs. 50,000/-. This fact was to remain a confidential matter between the parties" ?

A. Yes. The fact that the defendant's father contributed Rs. 20,000/- towards the dowry was to remain a confidential matter. It was to be known only by his father and my father. After I went to Matara, I found out that out of the sum of Rs. 50,000/-, Rs. 20,000/- 30 had been given by the defendant's father. My father did not like my husband and I becoming aware of that confidential matter. According to all appearances, the full sum of Rs. 50,000/- was to be the dowry. I do not know whether my father was angry over the fact that what was to be treated as a confidential matter had been divulged.

Q. According to that statement in the letter, the defendant's father had promised to give Rs. 20,000/- with the rest of the dowry to the defendant ?

A. Yes.

That sum was actually given. After the marriage, I do not know 40 what happened to that Rs. 20,000/- given by the defendant's father.

My father has about 40 or 50 acres of paddy lands at Minneriya. The defendant's parents had told the defendant that my father had 80 acres of paddy lands at Hingurakgoda. I do not know whether the defendant's parents went to Hingurakgoda to find out how much property my father had there.

*Q.* The question that half of your father's properties at Hingurakgoda would be given to you did not arise ?

*A.* Yes.

There was no talk about the paddy lands at any time.

10 *Q.* The defendant's parents did not say that half the property owned by your father at Minneriya would be given to the defendant ?

*A.* The defendant's father had said that my father had 80 acres there.

I do not know how the defendant's father had found out that my father owned 80 acres of paddy lands at Minneriya.

*Q.* You have stated in this letter that the defendant's father must be either a knave or a fool to say such a thing . . . ?

*A.* Yes.

20 *Q.* In this letter you directed your venom against the parents of the defendant ?

*A.* Yes.

The defendant had a good practice. He has been in practice for about 10 years. I do not know whether he is one of the leading Advocates at Matara. He used to go to Hambantota, Galle, Matara and other places for cases. He pays income tax. His income tax returns were shown to me when my alimony application was inquired into.

(Shown the details of income of the defendant, which is filed of record marked D4.) D4 is in my handwriting. In this I have put  
30 down the numbers of the cases in which he had appeared and the fees he had charged.

*Q.* You have stated this in that letter: " I was aware all the time that all the trouble was due to your mother's influence " ?

*A.* Yes. That is a correct statement.

One of the grievances I had was that I had to be alone upstairs. Another was that I was not allowed to visit my parents and my relations as often as I wished. When I was examined by the Doctor for the first time, he told me that it was bad for me to travel about for three months.

40 *Q.* The defendant's mother also had endorsed that ?

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

A. No. Whenever I told the defendant that I wanted to come home, his mother said that it was bad for me to travel about during pregnancy.

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

I have referred in this letter to the fact that I was taken to a number of funerals. There is a big temple at Kottagoda. I do not know whether the defendant and his father had interests in that temple. One of the funerals, which I have referred to in this letter, which I attended was visiting the temple on the occasion of the death of the Nayaka Priest of Kottagoda Temple. I also attended the funeral of one Kandappah and the funeral of Proctor Senevira's 10 mother. I was taken only to those three funerals. I went to the cemeteries when I attended the funerals of Kandappah and Proctor Senevira's mother.

Q. In this letter you attributed the difficulties you had to face to the defendant's mother's neglect ?

A. Yes. In this letter I did not want to bring the defendant into the picture.

Defendant's mother objected to the defendant bringing food for me from outside. All the inmates of the defendant's house were not vegetarians. I had to wait for the defendant to have my meals. As 20 a rule I took meals with my husband. Defendant did not take anything other than vegetables. I am not a vegetarian. Fish was prepared for others. I never ate any fish when I was in defendant's house as the fish that was prepared every day was the same variety and that kind of fish was bad for me. In that condition that fish was bad for my health. At no time did I take fish when I was at defendant's house. Every day the same kind of fish was laid on the table and I never took that kind of fish, as it was bad for my health. There was no compulsion on the part of anybody, and nobody compelled me to eat fish. The defendant's mother compelled me to eat the kind 30 of fish that was always prepared in defendant's house, in spite of the fact that it was bad for my health.

Q. You have mentioned in this letter about the throwing away of sweets and meneriya. You had not mentioned those facts to your husband before ?

A. Yes.

Q. All the grievances which you have set out in this letter were grievances which you had not told your husband earlier ?

A. Yes, but I had discussed with my husband earlier about the dowry question and that I was not allowed to visit my parents. The 40 rest of the allegations I have set out in this letter were allegations which I had not told my husband earlier.

Q. The position of the child you were carrying was abnormal on the occasion the defendant brought you to Colombo ?

A. On that occasion also the position of the child was abnormal, but there were two other occasions thereafter. After I went to Matara, Dr. Kulatunga corrected the position of the child. On 11th October also Dr. Caldera corrected the position of the child. The defendant took me to Dr. Kulatunga about 3 or 4 occasions when there were disturbances in my condition.

On 10th October, when I left Matara, I did not bring my suitcase along with me. I did not bring any package at all. I had a suitcase in my room. My mother gave me the saree she was wearing. I wore that when I left the defendant's house to come to Gampaha on the 10th of October. On that occasion I did not take with me a number of letters written to me by my father. My father sent a number of letters to me when I was at Matara. I had those letters with me. My father used to send me letters under registered cover. (Shown P3.) This letter was in my possession at Matara. I gave it to my mother when she came to see me subsequent to this letter. I sent it through her as the defendant's parents used to look at my letters. P3 was sent to me in August.

Q. I put it to you that you took this letter away with the other documents and things that belonged to you on the occasion you left the defendant's house on 10th October ?

A. No.

Q. Why did you send this letter through your mother back home ?

A. Because the defendant intercepted my letters.

Q. What made you to send this letter back home ?

A. No answer.

30 (Shown P2.) The date given on this is 24.4.57. A part of the seal in the envelope P2a is torn ?

A. Yes.

A date of a particular month is visible, but that portion in which the month appears is torn. These are some of the letters I received from my father.

Q. I put it to you that the letter P2 is not the letter that has been sent to you under the envelope, P2a ?

A. It is the same letter.

40 Q. This letter has been written on the 24th of April, but only the figure 9 appears in that portion of the seal which is left ?

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

A. I had no freedom to write letters. I used to write letters and post them afterwards.

I had posted this letter at Galle. My father visited me during the Wesak of 1957, and also in June and September. After May, 1957, every month he came and saw me. In P3, there is no allegation of any cruelty on the part of the defendant. After the letter of 14th November, I entered the Lying-in-Home, and my son was born on 26th November. I wanted a telegram to be sent to the defendant when the child was born. (Shown the telegram P5.) I did not want to inform the defendant where the child was born. 10

Q. You have not, in any communication previous to this, informed the defendant that you were in the Lying-in-Home ?

A. Yes.

I do not know from where this telegram has been sent. I do not know whether the defendant came to Gampaha in consequence of this telegram. The defendant had sent one of his aunts to my house in Gampaha. He never came to my house in Gampaha in consequence of the telegram sent by me. I deny that the defendant came to my house at Gampaha on the 27th itself. He came with his aunt to the Lying-in-Home on the 30th. On that occasion he brought some soap 20 and things for the baby. He came again on the 1st. When he came on the first he put certain documents before me for signature. I cannot remember what those documents were. They were documents relating to tea-shares. I filed an affidavit for the purpose of the alimony inquiry. (Mr. Panditha Gunawardena produces it marked D6.) I have stated in this affidavit that I have no income whatsoever and that I was not possessed of any property.

Q. In D6 you have referred to the fact that the defendant has shares in several companies ?

A. Yes. 30

Q. Those are the tea-shares that he owns ?

A. Yes.

(Shown a document marked D7.) I have signed this.

(Shown two other documents along with D7.)

Q. These three documents were put before you for signature ?

A. I do not know.

(Shown a document with the heading "Proposed New Issue Shares.")

Q. This document was there when you signed D7 ?

A. He gave all the papers like this (witness demonstrates) 40 and I do not know what the other documents were. I do not know

whether there was another document with the document that was given to me for signature.

*Q.* I put it to you that you were informed that there were some premium shares that were issued by this Company, and he wanted your signature to get some extra shares for you?

*A.* He never said such a thing.

I signed that document without reading it. I was not quite well at the time. I did not know what I was signing. At first I refused to sign it, and my brother saw it. The defendant forced me to sign  
10 it. My brother observed that, and he asked me not to sign any document if I did not want. The defendant then threatened to kill my brother.

(Further hearing on 27.7.1959.)

(Sgd.) F. CONRAD PERERA,

*D.J.*

24.7.1959.

27.7.1959.

Same appearances as before.

Trial resumed.

20 At this stage, Mr. L. W. de Silva suggests two further issues :—

14. Did the defendant fail to provide a home where the plaintiff could reasonably live?

15. If so, is the defendant guilty of constructive malicious desertion?

Mr. de Silva refers to Section 146 of the Civil Procedure Code, and cites 18 C. L. W. 18 ; 24 N. L. R. 97 and 23 N. L. R. 241.

Mr. Panditha Gunawardena objects to these issues on the ground he is not ready to meet them. He states he has not received full instructions on this point from his client, and if these issues are granted  
30 he will have to get instructions from his client to cross-examine this witness further and also to place before Court further evidence with regard to this matter.

Mr. de Silva says that we should proceed on with the case and if after this witness has finished her evidence, at a later stage, Mr. Panditha Gunawardena desires her to be called into the witness-box again, he is prepared to call her over again.

Mr. Panditha Gunawardena says it will prejudice his client if other witnesses are called before he could cross-examine this witness on this aspect of the case. He says he will cross-examine the plaintiff

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 21  
Issues  
Framed—  
*Continued*

No. 21  
Issues  
Framed—  
Continued

on all other points except with regard to the matters raised in these new issues. He says he must have fuller instructions from his client to cross-examine the plaintiff with regard to these new issues.

I accept the above issues.

No. 22  
Plaintiff's  
Evidence—  
Continued

S. L. S. R. SAMARASURIYA, affirmed, recalled, plaintiff.

*Cross-examination (Continued).*

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

On the 1st of December, at the Lying-in-Home, my brother came and asked me not to sign any document if I did not like to do so. The defendant then threatened my brother. There was an exchange of words between him and my brother. The defendant then went out and came back again. On that day, I was not in a fit condition to leave hospital. 10

Q. The custom is that your parents should bear the expenses of the first confinement ?

A. Yes.

Q. At that time there was no question of your asking any money from the defendant ?

A. As I did not have any money with me, I asked for some money from him.

Q. Did you specify any sum of money ?

20

A. No. I asked for the hospital expenses from the defendant.

Q. That is the entire hospital charges for the confinement?

A. Yes.

The defendant then gave me a Rs. 2/- note. This was on the 1st of December. On that day I signed a document. He gave me the Rs. 2/- before I signed that document. No, he gave the Rs. 2/- after I signed the document. Before that I was chatting with the defendant for about 5 or 6 minutes. Then I wanted him to pay the hospital charges. Then he gave a document, which I signed. When he put forward another document for me to sign, I refused to do so. 30 Then my brother also came in and there was an exchange of words between my brother and the defendant. The defendant then went away, and came back again. He gave me the Rs. 2/- note after he came back. He threw a Rs. 2/- note on my bed. On that day I had been in the hospital for about two weeks. After he came back he first scolded me about the dowry and then gave the Rs. 2/-. On the 4th a Constable came and questioned me whether I was prepared to go to Matara.

Q. Did the Constable read out to you a statement said to have been made by the defendant ?

40

A. No. He only asked me whether I was going to Matara. He came and told me that my husband wanted to know whether I was going to Matara that day.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Q. And that whether you were willing to go back and when you will be able to go back ?

A. No.

The Constable asked me whether I was willing to go to Matara that day. I was admitted to hospital by my mother.

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

Q. You said that you were unable to state on what day you  
10 would be discharged from hospital ?

A. Yes.

Q. I put it to you that you made that statement because the question was put to you when you would be able to go ?

A. I had to consult the Doctors.

Q. The question was put to you when you would be able to go back to Matara ?

A. No.

The Constable came in the morning of the 4th. My parents came and saw me in the evening. On that day itself I got discharged from  
20 the hospital and came home. I wanted to go home.

Q. On the 6th of December, the defendant came along with Mr. and Mrs. Wilson Silva ?

A. Only Mr. and Mrs. Wilson Silva came and saw me on the 6th. The defendant did not come.

I was not prepared to go back to Matara with them.

Q. You were not able to tell them when you would be able to go back to Matara ?

A. I could not travel such a long distance at that time, and I did not want to tell them.

30 Q. Is it your position that even if the defendant came you would still have not told him when you would be able to go to Matara ?

A. I would have told him.

(Shown the telegram P9.) I sent this to the defendant on the 29th of December.

(Shown a telegram sent by this witness to the defendant, which is marked D8, which is the same as P9.) This is the reply I sent to the telegram P8. This was a telegram I received on the 28th. (Mr. Panditha Gunawardena produces the original of P8 as D9.) On the

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

following day I sent a reply to this telegram. On 10th January, 1958, I sent another telegram to the defendant. (Mr. Panditha Gunawardena marks the telegram dated 10.1.1958 as D10.) D10 is the same as P10. D10 has been typed by my father.

Q. It was dictated by your father ?

A. No.

I deny that the defendant came to my house on the 11th of January.

Q. Do you know now that on the 11th of January the defendant has gone to the Police Station at Gampaha and made a complaint ? 10

A. I came to know it after the filing of this action. My father told me about it. I do not know whether my father inquired about it from the Police. My father told me that his complaint was to the effect that he had come to my house to take me and the child to Matara and that I had refused to go. He also had told the Police that a discharge of the mortgage was insisted by my father.

Q. And that your father had stipulated further that he should reside in Gampaha and practice in Gampaha ?

A. I do not know.

There was no discussion about our asking him to reside at 20 Gampaha and to practice at Gampaha or about the discharge of the mortgage. I followed up the telegram of the 10th by another telegram on the 14th of January.

Q. On the 4th of December, you had not made up your mind to go to Matara or not ?

A. I had made up my mind to go to Matara.

Q. But you did not intimate to him when you would be able to go ?

A. No.

I gave instructions to my Proctor. 30

Q. How long before the case was filed did you first give instructions to your Proctor ?

A. I cannot remember.

Before the case was filed, I went to see my Proctor on about two occasions.

Q. The two occasions were between an interval of how many days ?

A. No answer.

Q. Surely if you gave instructions to your Proctor you ought to know within an interval of how many days you went to see him ?

A. No answer.

On these occasions my father accompanied me. My plaint was settled by Counsel. I went to see my Counsel also. I cannot remember when I went to see the Advocate.

Q. Was it before or after you went to see your Proctor ?

A. I cannot remember.

Q. I put it to you that a week or 10 days before the plaint was  
10 filed you had seen your Lawyers ?

A. I cannot remember.

I went to see my Advocate on one of the days I came to see my Proctor. On the 14th of January, I sent the telegram marked P11 to the defendant. (Mr. Panditha Gunawardena produces it marked D11a.) (Shown D11a.) This is in the handwriting of my father. My father has signed as the sender.

Q. You sent this entirely at the instance of your father ?

A. I wanted him to send it.

I could have written out the telegram if I wanted to.

Q. The words that are used in this telegram are your father's  
20 words ?

A. I wanted him to send that telegram. I gave him the gist of the message. I told my father what message to send. In D11a, there is no writing of mine at all.

Q. I put it to you that this telegram was sent by your father after consulting Lawyers ?

A. I deny that.

I got a reply to that telegram from the defendant. It has been produced marked P12.

30 (Shown P12.)

Q. By the time this reply was received by you the action had already been filed ?

A. No. The action was filed after I received it.

Q. Now you will admit that by the time you received this reply the action had been filed ?

A. Yes.

I sent a telegram to the defendant on the 14th of January asking him to come.

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

No. 22  
Plaintiff's  
Evidence—  
Continued

Q. On the following day you instructed your Lawyers to file  
plaint ?

A. Not on that day.

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

Q. Do you say that before you sent that telegram you asked  
your Lawyers to file plaint ?

A. No.

Q. Then how many days after you sent that telegram did you  
instruct your Proctor to file plaint ?

A. I sent that telegram on the 10th.

After I sent the telegram I instructed my Proctor to file plaint. 10

Q. Even before you received a reply ?

A. Yes.

I did not come to Court on the day the plaint was filed.

Q. Your father independently of you went and saw your  
Lawyers ?

A. Yes. I had told my father to go.

Q. That was before the plaint was filed ?

A. After the plaint was filed.

Before the plaint was filed my father did not go to my Proctor  
without me for the purpose of giving instructions. After the plaint 20  
was filed I sent the telegram P13 to the defendant. I did not send  
it on the instructions of my Lawyers. I did not send any telegram  
to the defendant on the instructions of the Lawyers. The telegram  
of the 14th was not sent on the instructions of my Lawyers. I deny  
that I sent any letters to the defendant on the instructions of my  
Lawyers. (Shown P13.) The body of this telegram is in the hand-  
writing of my brother, Asoka. (Shown the original of P13 marked  
D12.) The body of this telegram is in the handwriting of my brother.  
The signature of the sender is in my handwriting.

I was sued by the defendant regarding certain shares, on the 30  
ground that those shares were held by me in trust for him. In that  
case I took up the position that those shares belonged to me and that  
I was receiving the income from them.

Q. That is not compatible with your affidavit in the alimony  
inquiry ?

A. Every month I did not get an income. I was having pro-  
perty at the time of the alimony inquiry. In connection with the case  
regarding the shares also, I went to give instructions to my Proctor  
along with my father.

(Mr. Panditha Gunawardena produces a certified copy of the answer in D. C. Gampaha Case No. 7109/M marked D13.)

(Shown D13.) I denied that the defendant was the owner of those shares.

(Mr. Panditha Gunawardena produces a copy of the plaint in District Court Gampaha Case No. 7109/M marked D14.) A settlement was arrived at in that case.

(Mr. Panditha Gunawardena marks the terms of settlement as D15.) I agreed to transfer those shares to my child.

10 Q. You did not carry out that order ?

A. The Company refused to transfer the shares in favour of the child.

(Mr. Panditha Gunawardena produces the order dated 25.2.59 and the relevant journal entries marked D16, and the two journal entries of 19.5.59 as D17.) I transferred those shares in favour of my child.

When I came back from Matara in October, there were no boarders in my house, except the school boys. I know one Mr. Guneratne. He came to reside in my house as a boarder after I went to Matara 20 after the marriage. He had left my house by the time I came back from Matara. I do not know when he had left my house.

Q. When were you fit enough to go about after your confinement ?

A. By about March. In February, I was fit enough to visit my friends in Gampaha. I know the Picture called Vanaliya. I went to see it with my second brother. Nobody else went with us. After January I did not meet Mr. Guneratne. I know him. He attended my wedding. Mr. Guneratne had been married. His wife died in 1957. I know Mr. and Mrs. Wimalasuriya. They 30 visited my husband's house while I was at Matara. Mr. and Mrs. Dissanayake also visited me at Matara. Mr. and Mrs. Wimalasuriya stayed over the day when they came to see me at Matara.

(At this stage, the trial has to be adjourned as Mr. Panditha Gunawardena is not ready to cross-examine this witness on the issues raised today. To give him an opportunity to cross-examine the witness on the issues raised today, I adjourn the trial for the 22nd, 23rd and 24th September, 1959.)

(Sgd.) F. C. PERERA,

D.J.

27.7.1959.

No. 22

22.9.1959.

Plaintiff's  
Evidence—  
Continued

Mr. Advocate L. W. de Silva instructed by Mr. L. Chandrasekera for the plaintiff.

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

Mr. Advocate Panditha Gunawardena with Mr. Advocate E. P. Wijetunge instructed by Mr. Valentine Dias for the defendant.

Mrs. S. L. S. R. WICKRAMASURIYA, affirmed, 26 years, wife of the defendant, Gampaha, recalled.

*Cross-examination (Contd.)*

On the last date I said my friends visited me while I was staying with my husband at Matara. Mr. and Mrs. Wimalasuriya visited me 10 at my husband's house while I was at Matara. I was staying in the upstairs-house of the defendant's parents. There are a number of rooms in the upstairs portion, a bed-room, a dressing-room where almirahs were kept, a study room where the defendant kept his books and three other rooms which were available to the visitors. I had my own almirah in the dressing-room and the defendant had his almirah which was also in the dressing-room. There were two bathrooms and lavatories in the upstairs portion, there was drainage, water service and there were also fans. There were all the amenities. I know Mr. Daluwatte who is an Assistant Secretary. He is related to 20 me. I had visited him. He was a witness to the marriage. At my marriage there were a number of my relations and friends. At one stage I said that the defendant's parents and his brothers lived in the downstairs portion. In the downstairs portion there were six rooms. The downstairs portion was equally spacious as the upstairs portion. The defendant did not wish me to come up and live with him with his parents. This house is one of the largest houses in Matara. It was self-contained and has a large garden. It was unhealthy inside the house and healthy outside.

I have told Court that I went to the lawyers before the plaint was 30 filed. I gave instructions to them. One of the grounds on which I have prayed for divorce is constructive malicious desertion. I gave that instruction to my lawyers. I gave that instruction to the lawyers myself. I have set out the reasons in my prayer for a divorce on the ground of malicious desertion. All the facts were placed by me before my lawyers. I know Mr. and Mrs. S. P. A. Gunawardena. They attended my wedding.

*Re-examined.*

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Re-examination

When I was living in my father's house I did not take any boarders myself. Mr. Gunaratne was a boarder in my father's house. I was 40 questioned about Mr. Gunaratne a proctor practising in this Court. At the time he was a boarder in my father's house I was at Matara. There were other boarders taken in by my father. That was one of

the ways in which my father had some income. I had known Mr. Gunaratne and his wife. Mr. Gunaratne's wife died in 1957. My home coming was on the 2nd of February, 1957, at Matara in the defendant's parents' house. My first visit to my father's house at Gampaha after the marriage was on 10th of February, 1957. On that occasion I was not able to speak to my father about the paddy fields. I was not able to speak about it at that time because there was no talk about the paddy fields. 13th of February was my second visit to my father's house. My first visit was on the 10th of February, 1957, and on that  
10 occasion I came to my father's house because it was the custom to do so after the marriage. There was no question or discussion of the dowry when I made the first visit. The second visit to my father's house I said was on the 13th of February. On the second visit I was not able to speak to my father about the dowry matter because my father was ill. On that occasion the defendant made a request to me to go to my father's house and speak about the paddy fields. He did not insist on it but he made a suggestion to me that I should go to my father's house and speak about it. On that occasion he also came to my father's house. I have made a reference to the June visit  
20 in my evidence. I made a mention of the June visit in my plaint but not of the February visit because my husband asked me to speak to my father about the paddy fields. On the second occasion the defendant brought me to Gampaha. On that occasion the defendant stayed at the Gampaha Resthouse and I went to my parents' place. I spoke about this matter to my father. I told my father that the defendant and his parents were quarrelling with me and harassing me and asked me to get the paddy fields. My father told me that he never made such a promise and that he would write to the defendant and his father. On that occasion my visit to my father's place lasted for  
30 about three hours. I remember at the time of my engagement to the defendant, the defendant and his parents and his relations came to Gampaha. A person called George Samarasuriya also came with them. He is listed as a witness by the defendant. No question of dowry was discussed by any one of them in my presence. The mortgage bond given by my father in respect of the residing property in favour of the defendant's father was shown to me by the defendant. That was just before the June visit to my father's house at Gampaha. The defendant showed me the mortgage bond. He showed it to me and told me that my father was a liar and that my father never gave  
40 a cent as dowry. Until it was shown to me by the defendant I had not seen the mortgage bond before. With regard to the entertainments I had by going to the pictures before my marriage and during the time of the engagement I went with the defendant to pictures several times. We went to Ja-ela and other places to see pictures. After my marriage and while I was staying with the defendant at Matara I went to pictures at Matara. I had gone with the defendant to see pictures at Matara about 7 or 8 times. That is I had gone with the

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Re-examina-  
tion—  
Continued

No. 22  
 Plaintiff's  
 Evidence—  
 Continued

Evidence of  
 Mrs. S. L. S. R.  
 Wickrama-  
 suriya  
 Re-examina-  
 tion—  
 Continued

defendant and seen 7 or 8 pictures at Matara. After the question of the paddy fields came up in June I went with the defendant to pictures about 3 times. That is I went with him to pictures at Matara. I also admit that I was taken for motor car drives by the defendant. Between 2nd June and 10th October I had been taken for driving about 4 or 5 times. During those pleasant occasions the defendant spoke to me. He spoke about the dowry, about the paddy fields. (Shown document marked D4.) This document is in my handwriting. It shows the details of income. I made these entries at the instance of the defendant. The defendant told me to write it. 10 He dictated to me what to write and I wrote it. The defendant dictated from his notes in his diary. This was not the only document with regard to details of income at the dictation of the defendant. There were two copies made on the same day. Those copies were made because he wanted to reduce the amounts. He reduced the amount on the other copies. The alterations in the document D4 were made in my handwriting. They are in pencil. The defendant had asked me to make those alterations and I made them. This document goes up from some time in 1955 to some period in March, 1956. I do not know whether any other document was prepared by me at the 20 defendant's instance for any later period with regard to his income. Some of the items showing the figures on page 2 of D4 have been scored off. They were scored off by me and there are fresh figures against those items. Those figures were also entered by me. I scored off those figures on my own. I know that a copy of this document was sent by the defendant to the Department of Income Tax. With regard to money given to me the largest sum of money that accumulated in my hands was Rs. 300/- or Rs. 400/- at a particular time. The defendant deposited the money in the savings bank. That is the Post Office Savings bank at Matara. I have said about the 30 throatlet which belonged to my mother-in-law. At the poruwa ceremony it was given to me. I had used that on important occasions. It was never given to me. I did not keep it in my custody. I did not keep it in my almirah, trunk or suit-case. I did not take the throatlet with me when I left Matara in 1957. Dr. Mrs. Kulatunge attended on me personally about four times. She attended on me first in March, 1957, and after that from time to time. The last occasion she attended on me was in September and that was for vomiting. On the other three occasions she advised me to take good food to get fresh blood. On all those occasions I went to her place. With 40 regard to my trips to Koslande and Haputale, in April, 1957, I went to Koslande and thereafter in August, 1957 also. That is I went to Koslande on two occasions, once in April, 1957, and once in August, 1957. On those occasions the defendant drove me in his car. From Koslande we went to Haputale, on both occasions. On both those occasions we stayed the night at Koslande. On the next day on my way back to Matara with the defendant I went to Monaragala and

then to Matara. (Shown P2a.) During the cross-examination the figure '9' appearing in P2a at the top was shown to me. That figure '9' is the time of posting. This letter was posted at Galle. I posted this letter P2 at Galle. I posted this letter P2 written to my mother because I had no other way of getting the letter posted. On that occasion I went to Galle with the defendant. He drove me in his car. I went with the defendant because he wanted to go to his aunt Mrs. Hewa who has also been listed as a witness by the defendant. I did not post this letter myself but I gave it to a servant girl to be  
10 posted. With regard to my meals at the defendant's parents' house at Matara during my pregnancy the earliest point of time at which I had my lunch was at 12.30 afternoon and on other occasions at about 1 o'clock or 2 o'clock in the afternoon. The defendant had asked me to wait till he returned from the Court and that was why the lunch had to be taken late. I did not have any control over the household matters. I did not know what I would be getting for my meals beforehand. In some of my letters I have referred to the difficulties I have had in living with the defendant in the house of the defendant's parents. (Shown P2.) One such letter is P2 dated 24th  
20 of April, 1957, which I wrote to my mother. I have stated in that letter that the defendant's parents were harassing me and to get rid of that I made a suggestion to the defendant to shift to a separate house. What I had written to my mother is the truth. With regard to the meals I had the fish given to me was 'tuna' fish. There was no other variety of fish given to me at any time. There was no meat of any kind given to me either at lunch or dinner. For dinner also I had the same kind of fish with rice and curries. There was no meat for dinner. Sometimes I got eggs. The defendant brought the eggs from the Galle Oriental Hotel on my asking for them. I wanted him  
30 to bring eggs and he brought eggs about twice a week. He did not continue to bring eggs right up to the 10th October. He brought eggs like that for about two months. After that he did not bring eggs. The defendant's mother scolded the defendant in my presence for bringing eggs to me. Eggs were also brought from Mrs. S. P. A. Gunawardena's place. The defendant brought the eggs from Mrs. S. P. A. Gunawardena's place for a few days. Mr. and Mrs. Gunawardena are listed as witnesses by the defendant a few days ago. I have relations at Matara. I have about 5 relations at Matara. They are Mrs. Basil Jayawickrema, Mrs. Denny Balasuriya, Mrs. Esmi  
40 Dias and Mrs. Abeyweera. I and the defendant did not go at any time to visit my relations but he took me to visit his relations. I had no friends at Matara. I had not known Mr. and Mrs. S. P. A. Gunawardena before my marriage. The defendant had taken me to their place on several occasions. The Gunawardenas had not visited me and the defendant at his father's place where I and the defendant lived. They never visited us. After the marriage I had attended three weddings. I have said that I had attended funerals with reluctance. That

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Re-examina-  
tion—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Re-examina-  
tion—  
Continued

reluctance was due to my nausea. (Shown letter P7 bearing date 24th October, 1957.) I say that I sent this letter to the defendant. This letter contains a statement of some of my grievances. I sent P7 to the house where the defendant stayed at Matara. Since I did not get a reply to P7 which I sent to the defendant's house at Matara I sent him a copy of the letter D1 on 14.11.1957 to the District Court of Matara. (Shown letter D1 dated 14.11.1957.) The contents in it are substantially the same. D1 was sent to the District Court, Matara. I did not get a reply to letter P7. I did not get a reply to D1 either. I cannot remember having enclosed a note along with D1. When I 10 sent the second letter I did not enclose any letter stating I sent the letter to the District Court, Matara. I said since I did not get a reply to P7 which I sent to the defendant's house at Matara I sent a copy of the letter D1 on 14.11.1957 to the District Court, Matara. In addressing the second letter to the District Court, Matara, I did not enclose any other letter. (Shown P7 as well as D1.) I have stated "for various reasons I had not so far told you certain difficulties which I have to face when I was at Matara." Those difficulties that I had not told the defendant were: the throwing away of the sweets by the defendant's mother which were brought by my mother, the 20 fight between the defendant's parents, the difficulties about my breakfast. The fight between the defendant's parents was a physical struggle. There were difficulties about my breakfast. If I asked the servant to prepare something for me the defendant's mother used to tell the servant girl not to prepare any food for me. I have heard her telling that. That is also a matter which I had not mentioned to the defendant. On a certain occasion I asked the servant girl to bring me some 'minnerihal' but the defendant's mother scolded the servant girl not to do that and told her that there was no one to prepare it for me. 'Minnerihal' was used for preparing 'kanji'. 30 These are difficulties I had not previously mentioned to the defendant. With regard to the house in which I lived at Matara with the defendant I agree that it was a spacious building with plenty of fresh air. At the time I stayed in the upstairs about three rooms were furnished. Two rooms were occupied by me and the defendant, that is the dressing-room and the bed-room. The only furniture in that room was one bed. My friends Mr. and Mrs. Wimalasuriya stayed in the house only for one night and my mother about 5 or 6 times. Only my mother and the Wimalasuriya of my friends and relations stayed there. There was no kitchen upstairs. The dining-room was in the 40 downstairs portion. I have had to take my meals downstairs. That is to say my breakfast, lunch, afternoon tea and dinner were to be had in the downstairs. With regard to looking for a room or accommodation in the Private General Hospital the defendant did not take me inside the Private Hospital. In fact he did not make any arrangements to admit me to any hospital at all. With regard to the telephone calls, I did not get a telephone call said to be from Gampaha

when I was at Matara on the 9th October, 1957. I have said that I got a telephone call on the 5th of October. I had subsequently learnt about a telephone message taken from Gampaha on the 9th of October. I am now aware for what it was. That telephone call was taken by my father on the 9th October from Gampaha. When I was at the Lying-in-Home I did not inform the defendant where I was because I was afraid of the defendant's parents. On the 10th of October the defendant's father threatened my mother that he would get the defendant to divorce me. It was for that reason that

10 I did not inform the defendant that the child was born and because he had not replied to any of my letters. The defendant came with his relation Mrs. Saram to see me when I was at the Lying-in-Home. That was on the 30th November, 1957. Some presents were brought for the baby by the defendant's aunt Saram. She brought some powder and soap. When I was at the Lying-in-Home I had to employ an attendant. I paid the attendant Rs. 4/- a day. My father paid that money to the attendant. I was at the Lying-in-Home for about two weeks. On the 10th October when I left the defendant and his

20 house at Matara and also his parents I did not take any kind of baggage with me. I did not take any suit-case with me. I had a suit-case and that suit-case was kept in the dressing-room upstairs at the Matara house. There were two suitcases in that room. When I left the Matara house I had some clothes on and I was wearing some jewellery. The jewelleries that I was wearing were the chain that I am now wearing and the two ear studs which also I am now wearing. The bangles that I am wearing now belong to my mother but I did not have them at the time I left. They were given to me by my mother. I had some jewellery of my own when I got married and when I went to reside with the defendant at Matara. Those jewelleries were kept

30 in the defendant's home. I did not get back the jewelleries when I left Matara on the 10th of October. On my way home on the 10th October I and my mother both made a statement to the Panadura Police at about 8 or 7 p.m. The statement was made on the 10th October. In that statement I had stated that I was very ill. I did not have an organic illness. I was pregnant at that time. (Shown D2.) I have stated that both my mother-in-law and my husband were at home at the time I left the house. I was very ill at the moment and asked my mother to take me and get me the necessary treatment and keep me with her for the duration of my

40 confinement. I left Matara on the 10th October at about 1.30 p.m. and arrived at Panadura at about 7.30 p.m. That night I stayed at my uncle Eddie Samarasuriya's place at Moratuwa with my father and mother. My father met me at Panadura. I produce a complaint dated 10th October, 1957, made at 3.15 p.m. on that date by the defendant at the Matara Police Station as P14. (Shown P14.) On that occasion on the 10th October, 1957, my mother and my brother Arnold came to pick me up. No others came. The reference

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Re-examina-  
tion—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. S. L. S. R.  
Wickrama-  
suriya  
Re-examina-  
tion—  
*Continued*

to another young man in P14 is not true. The defendant before I left or while I was leaving did not tell me that a journey of 120 miles would be injurious to my health. He had not shown any concern for my health on the previous occasions during my pregnancy when he drove me to various places. I also produce another complaint marked P15 made by the defendant on the same day to the same Police at 4.30 p.m. where he has stated that he found certain jewellery and the throatlet and cash missing. I had not taken any of the items that are mentioned in that complaint. As a result of those complaints made by the defendant against me of theft somebody from the 10 Police came to question me. A Police constable came and questioned me. The constable came at about 6 o'clock in the afternoon and after I was questioned a statement was taken from me by the Police constable. I produce that statement dated 11th October, 1957, as P16 and the time is given as 11.10 p.m. where I have stated I had left my husband's house at Matara with my mother for Gampaha. (Mr. Panditha Gunawardena objects to the production of this document on the ground it is not listed. Mr. de Silva says that this arises on to cross-examination where she was questioned about these matters. I allow the document to go in.) I have also stated I had 20 left the house owing to the ill-treatment I had from my husband and the defendant's mother and that I denied having brought any cash or jewellery and I had also indicated that I would be going to my husband after my confinement. Up to that time I was as a matter of fact hoping to go to the defendant and intending to do so. Thereafter I changed my mind. The reasons for changing my mind were the defendant never replied to any of my letters and when I was in the Lying-in-Home he came there and was questioning me about the tea shares and also for the reason that he went on speaking about the paddy fields and on the 4th December he sent a Police constable to 30 the Lying-in-Home to find out when I was leaving the Lying-in-Home. I was not prepared to stay with the defendant in the same house under the same conditions. I also came to know later that the defendant had made a complaint to the Gampaha Police, that is to say, I came to know that the defendant had stated that he came and asked me to go with him to Matara but it was not true. At the time of the inquiry in this Court before another Judge into my claim for alimony pending this action I had those tea shares in my own name. That was the only property I had. I was asked to transfer the shares about 5,000 in all. Since that time I undertook to 40 transfer the tea shares to my child. I have not taken any income from those tea shares since then. I am not possessed of any immovable property, no lands, no houses. During that inquiry into the question of alimony and costs before another Judge an order was made that I should receive Rs. 75/- a month as alimony pending this action and Rs. 100/- a month as maintenance for the child and costs fixed at Rs. 100/-. I produce a statement showing the dates and the

particulars of the payments made by the defendant to me. (The document is withdrawn an objection being taken.) I say that the defendant has been in arrears with regard to the payment of alimony. One of the cheques issued to me was dishonoured and returned to him. It was apparently for the reason that he had put a wrong date. The cheque that was dishonoured dated 28th of May, 1959, was for Rs. 175/-. That cheque was for alimony and maintenance for March, 1959. I am personally aware of that cheque. The cheque was shown to me. The defendant gave me another cheque in its place  
 10 about one or two months later.

*Q.* Do you know as a matter of fact it was about 3 months after that ?

*A.* I do not know that.

*Q.* The last cheque for Rs. 175/- issued on 4th August was for your alimony and maintenance for May ?

*A.* I cannot remember.

*To Court :*

Roughly the income of the defendant per month is about Rs. 2,000/- odd. I ask for alimony in a sum of Rs. 400/- a month and  
 20 I require Rs. 250/- as maintenance for my child.

(Sgd.) F. C. PERERA,  
*D.J.*  
 22.9.1959.

DON GEORGE DISSANAYAKE, affirmed, Revenue Inspector, 56 years, Urban Council, Gampaha.

The Gampaha Resthouse is under the control of the Urban Council of Gampaha and records are maintained pertaining to the Resthouse at the instance of the Gampaha Urban Council. There is a visitors' book maintained at the Gampaha Resthouse. Visitors  
 30 have to enter certain particulars in that book. I produce marked PI7 a certified copy of a visitor's entry dated 2.6.57 and the time of arrival is 1.30 p.m. and the time of departure on the same day is 5 p.m. and the name of the visitor is P. P. Wickremasuriya, address is given as Matara, for occupation Rs. 3/- and the total paid is also Rs. 3/-. This appears in the entry book and I have brought original to Court now.

*Cross-examined.* No questions.

(Sgd.) F. C. PERERA,  
*D.J.*  
 22.9.1959.

No. 22  
Plaintiff's  
Evidence—  
Continued

CHARLES SAMARASURIYA, affirmed, 71 years, Principal,  
Ananda Vidyalaya, Gampaha.

Evidence of  
C. Samara-  
suriya  
Examination

The plaintiff in this case is my daughter. I was in Government Service for about 45 years. I was a head teacher of a number of schools. The last school in which I served was at Udugampola. I retired in 1944. I am in receipt of a pension. Since then I am engaged in teaching. After I retired from Government Service I am engaged in teaching. I was in the habit of taking boarders from time to time. I took small children up to the age of 15 years as boarders. To some extent that too was to supplement my income. 10 There was a proctor Mr. Gunaratne at my place for about three months. He came as a boarder at my place, in May or June, 1957. That was after his wife died. I knew him well. There were proposals brought by various persons suggesting the defendant as a match for my daughter. One of them was George Samarasuriya. He is one of my nephews. His father was my cousin. He also brought this proposal. When he brought the proposal we did not want to accept it. We did not want to accept it for the following reasons: The defendant's place was too far from Gampaha and the defendant was too old and he was too rich a person. That is the defendant and his 20 father were rich. We did not want to accept the proposal for these reasons. But ultimately the proposal came to be accepted. There was no dowry demanded from me by the defendant and his parents but I decided to give a dowry to my daughter. I was going to give my daughter Rs. 25,000/- as dowry. That was at the start. Later on we promised to give Rs. 30,000/- as dowry. Before the wedding was fixed I had money to give as dowry. I had at my disposal about 30 or 40 thousand rupees and in the meantime I had applied for a loan from the Government, from the Land Commissioner. The Land Commissioner's Department stated that money would be 30 available for the development of the land. I had taken some lands from the Crown and I had made the application for a loan for the development of the land. But that money did not come to me. Ultimately a dowry of Rs. 30,000/- in cash was provided by me. The total amount of money handed as dowry on the occasion of the wedding was Rs. 50,000/- of which Rs. 20,000/- was provided by the father of the defendant as he the defendant's father wanted to make up the sum of Rs. 50,000/-. I told him that I would give Rs. 30,000/-. He wanted to make up the sum of Rs. 50,000/- and provided the Rs. 20,000/- towards that sum. I told him that I would give the 40 Rs. 50,000/-. The idea of the defendant's father in providing the money was to announce to the public the amount of the dowry and he contributed the Rs. 20,000/-. The total amount of cash was placed on a tray and I handed it to my wife and my wife handed it to her daughter the plaintiff. On that occasion the defendant's father came and took it from the plaintiff's hands. I had not known

the defendant or his parents before the marriage. The plaintiff and the defendant got married and went to reside at Matara in the defendant's parents' house. Before that during the early visits of the defendant and his parents I raised the question of where their residence was going to be. At the very commencement I said that they should have a separate house to live in, but that did not happen. My daughter lived with the defendant at the place which the defendant's parents provided. I had been to that house but I never stayed in that house. I had visited the defendant and my daughter

10 three times after they got married. I remember my daughter and her husband the defendant making their first visit to me at Gampaha and also I remember soon after that the defendant and my daughter came to my place. I was not in the best of health at that time. On both occasions I was ill. The defendant's father never visited my house after the marriage of the defendant and the plaintiff. After the second visit by my daughter and the defendant, the defendant did not visit my house. I remember my coming to know that the defendant had come to Gampaha on the 2nd June, 1957. On that occasion the defendant did not come to my house. My wife had

20 visited the plaintiff and the defendant at Matara more often than me. I first went to Matara after my daughter got married on the Wesak day of 1957. On that occasion I met the defendant's parents only. The defendant was not there. On that occasion my daughter made a request to me. She took me by my hand and asked me to say what was given as dowry for her. I told then that I gave a sum of Rs. 30,000/- in cash and about Rs. 30,000/- worth of jewellery and sarees worth about Rs. 5,000/- or Rs. 6,000/- and other equipment. On that occasion the defendant was not present. Although I rang him up saying that I would come on that day he did not turn up.

30 He kept away on that day. That is the Wesak day. (Mr. de Silva for the plaintiff asks the defendant's Counsel Mr. Gunawardena to hand over to him letter dated 4.6.1957 alleged to have been sent by the plaintiff's father to the defendant and referred to as item 11 in the list of witnesses filed on 7th May, 1959. Mr. Panditha Gunawardena says that he had not been served with a notice to produce that document and that Mr. de Silva is not entitled to ask to produce this document at this stage. Mr. Gunawardena says he has the document and intends to place it before Court at a certain stage. Mr. de Silva refers to Section 66, Sub. 2 of the Evidence Ordinance.

40 *Order.* I request Mr. Panditha Gunawardena to deliver the document to Mr. de Silva. The document is now given to Mr. de Silva.) I produce letter dated 4th June, 1957, marked P18. The letter-head is printed and the letter is typewritten. I wrote P18. (P18 read.) With regard to this letter P18 I did not promise to give paddy fields. In fact we did not promise anything at all as dowry. I gave a mortgage bond of my residing house to the defendant's

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Examination—  
Continued

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
C. Samara-  
suriya  
Examination—  
*Continued*

father for Rs. 35,000/-. That was on the 29th of January, 1957. That is two days before the wedding. I gave a cash of Rs. 5,000/- to the defendant's father and that was used as part of the dowry. That bond has not yet been discharged. The statements made in P18 are all correct except what is stated in the first paragraph. I am responsible for the statements made in this letter which is out of my personal knowledge and as a man of the world. The grant of Rs. 50,000/- which had been recommended by the Land Development Department for my use had not been made to me. I did not get that money. I got part of that, namely Rs. 16,500/-. I got it 10 as part of the grant. That was before the marriage. I got the Rs. 16,500/- on the 16th of January, 1957. I did not get a reply from the defendant to P18. I had never received any letter from the defendant or his father. I had received not even a postcard from the defendant. Since I had no reply to P18 I made a second visit to the defendant in July. Before I went I informed him by telephone that I would be coming. I went there about the 16th or 17th of July, 1957. My wife also came along with me. The defendant had avoided me even on that occasion but I met his parents. (Shown P3.) I sent the letter P3 to my daughter the plaintiff on the 16th of August, 20 1957, by registered cover. (Shown P3a.) This is that cover. I wrote on the cover "to be delivered only to the addressee". There was a special reason for me to give that direction to the postal authorities. I found that all the letters were intercepted by the defendant's people. My daughter had informed me of that. It was in fact the only letter I wrote to the plaintiff. I did not get a reply to it. The visit on the 28th August, 1957, was a surprise visit. It was a surprise visit in the sense that I went there without informing them. I met the desired people on that occasion. I met the defendant and his parents. I spoke to them. I spoke to the 30 defendant also. I had to wait till the defendant came from the Courts. I told the defendant "Putha, you appear to have some sort of displeasure with us. I do not know what it is. Will you kindly tell it to me?" The defendant shouted and began to shiver and said "You know it yourself."

(Sgd.) F. C. PERERA,  
*D.J.*  
22.9.1959.

Adjourned.

Resumed after the interval.

40

CHARLES SAMARASURIYA, re-called, affirmed.

*Examination-in-Chief (Continued).*

I mortgaged my property with the defendant's father for Rs. 35,000/- at 8 per cent. interest. At present that property is

worth about Rs. 150,000/- and is situated at Wijaya Road, Gampaha. There is a house and two school buildings on it. I pay 3 per cent. interest on the loan I had taken from the Land Development Board. Plaintiff is my only daughter. I have three sons. After the incident I referred to before the adjournment, I wrote a letter to the defendant on 5th September, 1957.

(Mr. Panditha Gunawardena says that the defendant has not with him the letter of 5.9.1957, sent by this witness to him.)

I have kept a copy of that letter with me. I produce that 10 copy marked P19.

(Mr. Panditha Gunawardena objects to the production of this document on the ground the defendant has not received it.

Mr. de Silva refers to Section 66 of the Evidence Ordinance.

I allow the document.)

The copy P19 was made by me. (P19) read. I think I sent P19 under registered cover.

*Q.* Is it the fact that neither the defendant nor his parents actually asked for any dowry from you ?

*A.* Yes.

20 I agreed to give the dowry I have mentioned in this letter. I did not get a reply to this letter. I am quite sure this letter was posted by me. I produce the Post Office Registration Receipt dated 6.9.1957 showing the registration of a letter, bearing the No. 6452 addressed to P. P. Wickremasuriya (defendant) by me marked P20. On 3rd October, 1957, my wife went to Matara to see my daughter. I also went along with her, but I did not go to the defendant's house. The purpose of that visit was to request the permission of the defendant and his parents for the plaintiff to come to her house at Gampaha for the confinement. My daughter was not allowed to come. A few 30 days after that I saw the letter P5 dated 7th October, 1957, sent by the plaintiff to my wife. After reading P5, my wife and I got alarmed. I thought in P5 she had expressed an intention of committing suicide. As a result of that, on 9th October, 1957, I gave a telephone call from my house. The number of my telephone is 265, Gampaha. I took the call to 276 Matara, which is the number of the telephone installed in defendant's house. I wanted to speak to my daughter over the telephone, but the defendant's mother spoke to me. I was not able to speak to my daughter. I was told that the plaintiff was not at home. I asked the defendant's mother where 40 she was. She said she did not know. Then I got more alarmed.

(Mr. Panditha-Gunawardena objects to this evidence.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
C. Samara-  
suriya  
Examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Examination—  
Continued

Mr. de Silva says that this evidence is placed under Section 60, Sub-section 2 of the Evidence Ordinance and he also refers to Woodrooffe and Amir Ali, Law of Evidence, 10th Edition, Volume 2, pages 780 and 781.

I allow the evidence to go in.)

I produce the statement of trunk calls I received for the month of October, marked P21. It shows that on 9th October, I had taken a trunk call, and the amount is put down as Rs. 1.80. That was the call I took to Matara. On P21, there is another trunk call taken on 5th October, where a charge of Rs. 1.80 has been made. I produce 10 the notice that was sent to me in the course of ordinary business, accompanying the statement of trunk calls marked P22.

On 10th October, I started with my wife and son, Ananda, for Matara. On the way I got an attack of Asthma, and I had to stay in my sister's house at Panadura. My wife and son proceeded to Matara. They returned the same day and met me at Panadura at about 7.30 p.m. They conveyed to me what had happened at Matara. I asked them whether they had made a complaint to the Matara Police. They said no. Then I asked them to go to the Panadura Police Station and make a statement, regarding the trouble they had 20 in defendant's house. (Shown D2.) This is the complaint which the plaintiff made to the Panadura Police. I was at the Police Station premises when they made their statements, but I was not near them. That night we all stayed in my brother's house at Moratuwa. I returned to Gampaha on 11.10.1957, with my wife and daughter. When I arrived at Gampaha, a Sergeant and two constables came to my house. I interviewed them. They said that a complaint had been made that the plaintiff had run away with a throatlet worth Rs. 40,000/- and other jewellery and cash and that they wanted to question her. I said I would allow them to question her and also 30 I would give them permission in writing to search my house without a search warrant.

I first went to the Debt Conciliation Board on 12th October, in connection with the Mortgage given to the defendant's father. I went there because the defendant's father had threatened my wife that he would do everything possible in case she removed the plaintiff home. He had also told her that he is called the 'Maha Polonga' and that he would sting each and every one of us.

Q. Were you afraid that he would sting you also ?

A. Yes.

40

I went to the Debt Conciliation Board, and ultimately I was given certain terms. They reduced the interest from 8 per cent to 6 per cent. I was asked to make periodical payments. I made the

first payment by cheque. I sent that cheque to the defendant's father on 14th September, 1959. I did not get an acknowledgement for that.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

It was my wife who admitted the plaintiff to the Lying-in-Home. I made the necessary payments on that account. I sent a telegram to the defendant when the child was born. That was on 26th November, 1957. The place was not mentioned in the telegram, because I wanted the defendant to come to me and ask me where the plaintiff was. I kept the information secret because I wanted the defendant  
10 to come to me as I was anxious to bring about a reconciliation. The defendant did not come. On 20th November, the defendant's aunt came. I met her. I told her where my daughter was. Even then the defendant never came.

Evidence of  
C. Samara-  
suriya  
Examination—  
*Continued*

*Q.* Is it correct to say that his last visit was on 15.2.1957 ?

*A.* Yes.

(Mr. Panditha Gunawardena hands over to Mr. de Silva a letter dated 14.10.1957. Mr. Panditha Gunawardena says that he is handing over this letter in consequence of the previous order made by me.) Mr. de Silva produces that letter marked P23. (Shown  
20 P23.) I sent this letter to the defendant. (P23 read.) Srma referred to in this letter is the plaintiff. Later on I came to know that it was not the defendant's father but the defendant himself who had made the complaint to the Matara Police regarding the plaintiff running away with some jewellery. The defendant did not come in consequence of this letter, nor did I get a reply from him. I did not get a reply to any of the letters I sent him. I am aware of certain telegrams which had passed between the plaintiff and the defendant. I think one of those telegrams was in my handwriting.

(The originals of D5, D8, D9, D10, D11a and D12 are handed to  
30 Court by an Officer of the Postal Department.) (Shown D11a.) The entirety of this telegram is in my handwriting. I sent this on plaintiff's instructions and not on my own initiative. In January, 1958, the defendant never came to my house and invited the plaintiff to come with him to Matara. I heard that he had come to my brother's place and from there gone straight to the Gampaha Police Station. That was in January, 1958. The name of my brother is Cyril Samarasuriya. He and I are not on the best of terms. He did not even attend the wedding of the plaintiff. Up to that time, I have been trying to the best of my ability, to settle the differences between the  
40 plaintiff and the defendant. Whenever I went to the defendant's house, he was very rude to me or avoided me. He never came to my house. Still I wanted to proceed on with the matter and bring about a reconciliation, but the plaintiff was adamant that an action should be filed, and ultimately this action was filed.

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination

*Cross-examined :*

For about 3 or 4 years I was an Inspector of schools.

*Q.* I think you had some trouble with the Education Department ?

*A.* I had no trouble.

When I was an Inspector of Schools, Mr. H. S. Perera was not the Director of Education. He was a Divisional Inspector. I was in his Division.

*Q.* You had no trouble with Mr. H. S. Perera for anything ?

*A.* We had certain differences. Apart from that we had no 10 quarrels.

*Q.* Owing to those differences you gave up your Inspectorate ?

*A.* Yes.

*Q.* Were you compelled to do so ?

*A.* There was trouble between Mr. Perera and myself in regard to certain matters. He wanted me to do certain things in a certain way and I disapproved of that. He wanted to report me to the Director of Education, and he did in fact report me. Then I resigned from Government Service, as I was offered a better post at Maris Stella College on a bigger salary. My wife, mother-in-law and others 20 objected to my taking up that post in Maris Stella College, as I was entitled to certain privileges as a Government Servant and in order to please them, I took up a teaching post at Induruwala.

*Q.* The Education Department placed you as a teacher thereafter ?

*A.* Yes. I resigned from the post of Inspector of Schools.

I know Mr. K. S. Arunalandi. He was a Divisional Inspector of Schools when I was Headmaster of Udugampola School. I had no quarrels with him.

*Q.* After you opened your private school, did you have any 30 differences with Mr. Arunalandi ?

*A.* No. By that time I think he had retired. After I left the Department I had nothing to do with him.

*Q.* While you were in the Department did you have anything to do with him ?

*A.* As a Divisional Inspector, he was my superior. I had no trouble with him.

I started my private school in 1946. I retired in 1945.

Q. After that you have had litigation with your neighbours ?

A. No.

Q. Didn't you have a case with Mr. Dissanayake, who is a neighbour of yours ?

A. Yes. I was the defendant in that case.

Q. Mr. Gunasekera is another neighbour of yours ?

A. Yes.

Mr. Dissanayake's garden is one side and Mr. Gunasekera's  
 10 garden is on the other side of my house. I had a land case with  
 Mr. Gunasekera. There was a water channel on my land, and in  
 order to protect the school building I put gravel on it. He objected  
 to it and came to Court. In that case also, Mr. Gunasekera was the  
 plaintiff. That case was about 3 or 4 years ago. The action which  
 Mr. Dissanayake filed against me was about 5 or 6 years ago. My  
 brother Cyril Samarasuriya is residing in Gampaha. I have been on  
 bad terms with him for a number of years. I had no litigation with  
 him. I filed an action in the Anuradhapura Court to eject a man  
 from a land of mine. I deny that that action was dismissed. I did not  
 20 lose that case. That man was ordered to go away, but the G. A.  
 asked me to give him time. That case was filed about 2 or 3 years  
 ago.

Q. You had always been a person who had been fighting with other people ?

A. No.

Q. While you were in the Education Department also you quarrelled with your superiors ?

A. No.

My brother Cyril has a son. He has only one child. Cyril's  
 30 son is not visiting us. I have another brother called Eddie. He  
 did not attend the wedding of the plaintiff, but he wrote to me later  
 expressing his regrets and stating that he could not do so because he  
 could not engage a car. He did not attend the engagement of the  
 plaintiff either. I invited him for the engagement.

The person who initiated the talk regarding the marriage between the plaintiff and the defendant was my nephew, George Samarasuriya.

Q. Are you on good terms with George Samarasuriya ?

A. I have not visited him after this trouble. That is because the defendant wanted 40 or 50 acres of paddy lands from me.

No. 22  
 Plaintiff's  
 Evidence—  
*Continued*

Evidence of  
 C. Samara-  
 suriya  
 Cross-  
 examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

I have not met George Samarasuriya. I am on good terms with some of my relations and on bad terms with others. After George Samarasuriya had initiated the marriage between the plaintiff and the defendant, my wife and I went to the defendant's father's house, and had a talk regarding the marriage. Defendant's father did not ask for any dowry. I felt I should say what I was able to give my daughter. My undertaking at that time was to give her a cash dowry. I stated that I would give Rs. 25,000/- as dowry. At Matara, there was no talk at all about the dowry. At that time, I knew that the defendant was staying with his parents. That house was a substantial house with a big garden. I did not know the defendant's family before. I went there to satisfy myself with regard to their position. I had been told that the defendant was a man of wealth. My native place is Tangalle. My mother's place is Kottegoda. I studied at Kottegoda up to the 5th standard. Thereafter, I made myself educated. Thereafter, I did not attend any school, except the Training College. I was only 17 years of age when I entered the Training College on a scholarship. Kottegoda is not very far from Matara. I was at Kottegoda up to my 17th year. Up to that time I had not heard of the Wickremasuriyas. From the Training College, I was appointed to various places. I was never stationed in the Matara District. I was told that the defendant's father was a Proprietor of a Bus Company. Defendant's parents visited us in Gampaha about 2 or 3 times. It was after that that we visited them. On the occasions in which the defendant's parents came to my house, there was no discussion about the dowry. On the day of the engagement I told them "this is what I am going to give the plaintiff. If you have no objection I am willing to give her Rs. 25,000/- as dowry". There were only a few relations at the engagement. I deny that about 100 relations were present on the occasion of the engagement of the plaintiff. On my side there were about 30 relations, and on the defendant's side there were about . . . I deny that about 50 to 60 relations came. Altogether there were only about 30 persons present at that function. If I had said earlier that there were about 30 persons present from my side at that function, it is not correct.

*Q.* You deny that you said a little while ago that there were about 30 persons on your side ?

*A.* I deny that.

*Q.* It was only at the engagement that you voluntarily stated for the first time that you were giving so much dowry in cash to your daughter ?

*A.* It was a talk between the defendant's father and mother on one side and myself and my wife on the other.

*Q.* Did this talk take place on the day of the engagement ?

A. Yes. That was the first occasion. Before the date of the engagement, the defendant's parents came to my house on 2 or 3 occasions. I also visited them at Matara twice. It was on the engagement day that I told the defendant's parents that I would give Rs. 25,000/- as dowry. I have no recollection of mentioning anything about the dowry before that.

Q. You said you wanted to know whether they had any objection to your offering Rs. 25,000/- as dowry ?

A. Yes.

10 Q. Up to the time of the engagement, you did not talk anything about the dowry ?

A. Yes.

Q. Between the engagement and the date of marriage, they did not raise the question of dowry ?

A. No.

After promising to give Rs. 25,000/- as dowry, I raised the amount to Rs. 30,000/- on the wedding day. On the bond, I borrowed Rs. 35,000/- from the defendant's father. Out of that money, I wanted to give the defendant a valuable ring, and for that purpose  
20 I kept aside Rs. 5,000/-, and I gave the balance as dowry.

Q. You had to ask for this Rs. 35,000/- from the defendant's father almost at the last moment ?

A. I never asked him for any money. I only asked that the date of the wedding be postponed, as I had no money. The wedding was to take place at the Grand Oriental Hotel. The hall was booked by the defendant's father. Defendant's father took me there. I do not know whether he booked the hall in my name.

Q. That was done several months before the date of the wedding ?

A. I cannot remember.

30 The hall must have been booked after the engagement. On the date of the engagement, I did not have any money to be given to the defendant, but I had been promised some money by the Government for the development of my land.

Q. At the time you were expecting the money from the Land Development Department ?

A. Yes.

I have a land in extent about 50 acres at Hingurakgoda. I applied for a loan of Rs. 50,000/- to develop that land.

Q. But you expected to give out that money, Rs. 25,000/- as  
40 dowry to your daughter ?

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

A. No. I had my own money. I utilised that money for developing the land, for which purpose I applied for a loan.

Q. Is it your position that you had already spent about Rs. 25,000/- in developing that land ?

A. I spent about Rs. 80,000/-.

Out of the Rs. 50,000/- I was expecting from Government, I wanted to give half of that as dowry to my daughter, and with the balance I wanted to buy a tractor and some other machinery. When I applied for the loan from the Land Development Department, I was engaged in developing the land. 10

Q. You said that out of that Rs. 50,000/-, you were giving Rs. 25,000/- as dowry to your daughter ?

A. Yes.

Q. You wanted to spend the balance Rs. 25,000/- for the further development of the land ?

A. I wanted to buy a tractor and other machinery in order to mechanise the cultivation. By that time the land had been partly developed.

Q. The balance Rs. 25,000/- was to be used for the purpose of further developing the land ? 20

A. My land had been partly developed. I wanted to go on with the full development of the land, and it was for that purpose that I applied for a loan. I never expected this marriage proposal to come up before I got the money. I could not stop the development of the land because of the wedding. I wanted to go on developing the land with the money I had reserved for the purpose, and I was expecting that the money would be paid to me. Before the wedding of my daughter I thought I could settle the whole thing. At the time the marriage proposal was made, I had already applied for the loan. I thought of utilising Rs. 25,000/- out of that money as dowry for 30 my daughter. In my application for the loan I said that there were certain developments to be done on the land. By the time the loan was recommended, I had completed the development work. At that time no further money was needed for further development of the land. The land was fully developed by December, 1956.

Q. Still you were expecting to get money on your application, part of which you wanted to appropriate for the dowry, which you wanted to give the plaintiff ?

A. Yes.

Q. This money was not given for further development ? 40

A. Yes.

I made that application for the loan on 5th October, 1956.

*Q.* By December you had exhausted all the ready cash you had with you in developing the land ?

*A.* No. I had some more money. I utilised all that money to get the necessary jewellery for my daughter. The engagement was in December. The wedding took place on 31st of January. The engagement was on the 28th of December.

*Q.* At that time you had no ready cash ?

*A.* I had. At that time I had the money required for my 10 daughter's jewellery, and also something more.

By the time of the engagement, the jewellery was not ready. I cannot say how much more money I had apart from the money required for the jewellery. I had sufficient money to meet the requirements. At the time of the engagement I had about Rs. 25,000/- to Rs. 30,000/-. I had more than Rs. 25,000/-.

*Q.* You expected to spend that whole amount on jewellery ?

*A.* That was my intention.

*Q.* There was no talk as to how much of jewellery you should give your daughter ?

20 *A.* No.

I had not even mentioned how much jewellery I was giving her.

*Q.* You wanted the postponement of the marriage because you did not have sufficient cash to give the promised sum ?

*A.* I had to get the jewellery, but I had no money to be given as dowry, and therefore I wanted the date of the marriage to be postponed.

*Q.* You also proposed to them that as soon as you got the money, the amount you promised to give them would be given to them ?

30 *A.* Actually there was no promise on my part.

*Q.* Just a few days before the 31st of January, you intimated to the defendant that the marriage may take place but the dowry you had promised would be given later ?

*A.* No. I never made such a statement.

No sooner I realised that the money was not forthcoming from the Land Development Department, I rang up the defendant's father and got him down. He came on the 10th of January or so—I am not quite sure of the date—about 3 weeks before the marriage. I asked him to postpone the date of the marriage.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

*Q.* I put it to you that it was when you wanted the wedding to take place and the money to be given later than the offer came from the defendant's father that the money could be advanced by him if you were not able to get it from somewhere else ?

*A.* No. I wanted a postponement of the marriage.

*Q.* The sole reason for the postponement of the marriage at that time was because you had no money to give, according to the offer ?

*A.* Yes, at that time.

*Q.* If not for that there was no other obstacle to the marriage taking place ? 10

*A.* Yes.

*Q.* You were prepared that if the money could be given later the marriage could take place ?

*A.* No.

*Q.* Your house and garden had been mortgaged earlier ?

*A.* Yes. It was mortgaged a number of times earlier.

*Q.* As a matter of fact, in December, 1956, your house and land was subject to a mortgage ?

*A.* Yes. That mortgage was in favour of Mr. D. L. Gunasekera of Makevita for a sum of Rs. 15,000/-. 20

I settled that mortgage on 16th January, 1957.

*Q.* As soon as you got the Rs. 16,000/-, which was given to you for the development of your land at Hingurakgoda, you utilised that to pay off the mortgage of your residing house and property ?

*A.* That is not correct. I applied for that sum to redeem the mortgage. I got that money for that purpose. I had to send those mortgage bonds to the Government Agent.

*Q.* You applied for that sum of Rs. 16,000/- for the purpose of redeeming the mortgage ?

*A.* Yes. 30

I got that money from the Land Development Department.

*Q.* It was not for the purpose of developing the land at Hingurakgoda ?

*A.* Yes.

I applied for Rs. 16,500/- for that purpose. At that time the mortgage was about 7 or 8 years old. There was no accumulation of interest. Rs. 16,000/- was the principal and Rs. 1,500/- was interest.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Q. A few days later you received this sum of Rs. 35,000/- from the defendant's father ?

A. Yes.

Out of that Rs. 35,000/-, I gave Rs. 30,000/- as dowry and I utilised the balance Rs. 5,000/- in purchasing a ring for the defendant.

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
*Continued*

Q. Immediately after the wedding you came to know that the  
10 plaintiff and the defendant were residing in the parental home along with the parents of the defendant ?

A. I knew they had gone there, but the understanding was not that.

I went to the defendant's house for the home-coming. On that occasion I was cordially treated.

Q. You knew at that stage that they were going to live in that house ?

A. No. The understanding was that as soon as they finished their home-coming activities, they should go into residence elsewhere,  
20 or that the defendant's parents would go to live elsewhere.

On the very first day the parents of the defendant came to my house with regard to the marriage-proposal, I told them that it was very dangerous for married parties to live with their mothers or mothers-in-law. I said that I myself had got into such trouble, and therefore I did not want such a thing to happen to my daughter. That was the only condition I attached to the acceptance of the proposal. Then the defendant's father said, " We are going to leave the house. We would come to live close to Colombo."

Q. Did you expect the plaintiff and the defendant to go and live  
30 elsewhere, or did you expect that the defendant's parents would go and live elsewhere ?

A. Yes.

On the day I went for the home-coming, there was no reason for me to suspect the defendant and his father regarding what they had earlier promised me, and I did not question them as to where they were going to live. At that time I did not raise any such question.

Q. On the 10th of February, the plaintiff and the defendant visited you ?

A. Yes.

Q. Even then no question was raised as to where they were  
40 going to live ?

A. Yes.

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

Again they came to my place on the following week. They came on Friday and left on Sunday. On that occasion they did not visit any relations at Gampaha. They visited some friends.

*Q.* On that occasion no trouble arose ?

*A.* Yes.

*Q.* You did not go to Matara in February or March ?

*A.* I went there only for the home-coming. Thereafter, till Wesak I did not go to the defendant's house in Matara.

*Q.* Why didn't you go ?

*A.* I was seriously ill in Gampaha. 10

*Q.* It was only on the 2nd of June that your daughter came and saw you at Gampaha ?

*A.* Yes.

Before that I went to Matara for the Wesak and met the defendant's father. I went in the morning and returned in the evening. There was no trouble on that occasion. My daughter had written to my wife asking her (my wife) to bring me to Matara somehow or other. Then when Wesak came, on my wife's suggestion, I went to Matara.

*Q.* Did you know, before you went to Matara for the Wesak, 20 the reason why you had been asked to come to Matara ?

*A.* I was not told.

*Q.* Up to the Wesak in May, 1957, you did not know of any trouble with regard to this matter ?

*A.* I heard from my wife that there was some trouble. I did not know what the trouble was.

*Q.* How many days before going to Matara, did you know about that ?

*A.* I cannot say.

I came to know about the nature of the trouble only after I went 30 to Matara for Wesak. On that occasion I spoke to the defendant's father.

*Q.* Up to the time of your talking to the defendant's father, did you make any protests to the defendant's father ?

*A.* I asked the defendant's father why he did not come to see me when I was seriously ill, in spite of my sending a letter to him. I told him that I heard he visited George Samarasuriya and also had come to Colombo a number of times during the period I was ill.

On that occasion we had lunch in defendant's house.

On 2nd June, the plaintiff visited me at Gampaha.

Q. On that occasion your daughter informed you that there had been some trouble over the alleged transfer of 40 acres of paddy lands ?

A. Yes. She cried and told me about it.

Q. In consequence of that, you sent the letter P18 dated 4.6.1957 ?

A. Yes.

(P18 read.) The difficulties I had to face were the field work, the finding of money for the wedding and providing jewellery for my daughter. The field work was not a particular reason for the post-  
10 ponement of the marriage. I was expecting money from the Government, but I did not get that money. I had utilised all the money I had for the development of the land. Those were my principal difficulties.

(P18 and P23, the originals which were provided by the defendant's Counsel, will remain with the plaintiff's Proctor until the conclusion of the trial.)

Further hearing tomorrow, 23.9.1959.

(Sgd.) F. C. PERERA,

*D.J.*

22.9.1959.

20

23.9.1959.

*Trial resumed*

Mr. Advocate L. W. de Silva with Mr. Advocate F. P. Perera and Mr. Advocate D. C. W. Wickremasuriya instructed by Mr. Chandrasekera for the plaintiff.

Mr. Advocate D. H. Panditha Gunewardena with Mr. Advocate Wijetunge instructed by Mr. V. Dias for the defendant.

30 CHARLES SAMARASURIYA, affirmed, recalled.

*Cross-examination (Continued).*

Ananda is one of my sons. He went down to Matara on the 10th of October, 1957, with us. I am not on good terms with him now. He is not staying with me. For about 2 months he has been living away from me.

Q. You have made a complaint against him to the Police ?

A. No.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

I have not prohibited him from coming to my house. I have another son called Asoka. Ananda is 22 years of age and Asoka is about 24 years of age.

*Q.* The two of them and Gunasekera were charged in the M.C. for assaulting a carter ?

*A.* They had a quarrel among themselves with a school boy named Ranasinghe some months ago. They were charged in the M.C. in that connection. The case was compounded and they were ordered to pay some money to charity.

I sent a letter on the 4th of June.

10

*Q.* At that time did you have a grievance against the defendant's father for mentioning about the mortgage to the defendant ?

*A.* I had no grievance. I drew his attention to the fact that it was not right for him to have made it public.

*Q.* It was only a dislike and nothing more than that ?

*A.* No.

*Q.* You did not consider that to be a matter of very great importance ?

*A.* I considered it to be a matter of importance, because a great deal of responsibility was attached to that.

20

*Q.* You considered it to be a matter over which you should take offence ?

*A.* I did not take any offence.

I stated in my letter that in case of people of another category there would have been a terrible upheaval over that.

*Q.* Did you think that by his giving this information to his son and daughter-in-law, he brought discredit to you ?

*A.* I thought it was a matter which brought discredit to both families. It was betrayal of a trust placed in the defendant and his parents.

30

*Q.* Did you feel it was a matter that humiliated you ?

*A.* Yes, I thought so. It was a matter of humiliation. I had no particular grievance against him over that, because it was a matter which concerned both parties. I read P18. On 4th June, I wrote the letter P18 to the defendant.

*Q.* The main purpose of that letter was to inform him that you were humiliated as a result of his father informing him about the loan you took from his father ?

*A.* I wrote it in the spirit of bringing about a reconciliation.

Q. The main purpose of that letter was you wanted him to inform his father that you had been humiliated as a result of that ?

A. No.

Q. The first para of P18 speaks of the esteem in which you have held the defendant ?

A. Yes.

Q. From the 2nd para of the letter, you have referred to the business part of the marriage ?

A. Yes.

10 Q. From then onwards the letter refers to the question of dowry and how the money was raised ?

A. Yes.

Q. The entirety of the rest of the letter is about that transaction ?

A. No, not the entirety.

I stated in that letter that that matter was understood to be a confidential transaction between the defendant's father and myself. It was the defendant's father who suggested that nobody should know about my getting that loan from him. I did not mind it. I borrowed some money on a mortgage bond and that was all. It  
20 was based on trust and when that trust was violated I felt it was some sort of humiliation. I was humiliated in the eyes of those with whom the defendant's father and mother had discussed about that transaction.

Q. You wanted to emphasise on the defendant in this letter that you had strong protests to make with regard to the defendant's father informing the defendant and your daughter about this transaction ?

A. Yes.

Q. You felt that you were made a cheat by that ?

30 A. Yes.

Q. So you had very strong feelings at that time against the defendant's father for having mentioned about the mortgage bond transaction to the defendant and the plaintiff ?

A. It was the defendant's mother who did all that. I had strong feelings against the defendant about it, but not in an antagonistic way.

Q. You felt very strongly against this ?

A. I felt.

Q. When you went to Matara for Wesak you felt that the  
40 defendant and his parents were pleasant towards you ?

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

A. I felt there was something wrong somewhere. I did not know what it was. I had no intimation about anything before that. On the Wesak day when I visited the defendant's house, I did not meet the defendant, in spite of my intimating to him that I was coming. I was greatly disappointed when I did not meet him on that day.

Q. You had not mentioned one word about your disappointment in P18 ?

A. Yes.

Q. Just before the wedding you had to raise this money from 10 the defendant's father as a last resort ?

A. No. It was an offer made to me by the defendant's father.

Q. Did you say this in this letter, " I told him that my plan was to raise a loan on my residential property as a last resort ?

A. Yes.

I never had an idea of asking for a loan from the defendant's father.

Q. You told him that in order to have the wedding in January, you had to raise the money as a last resort on your house and property ?

A. Yes.

20

Q. From your point of view it was not necessary that it should be a confidential matter ?

A. I thought it should have been a confidential matter, so far as our families were concerned. The defendant's father put to me that it should be a confidential matter, and I agreed to it. I felt it should be a confidential matter between the parties.

Q. You were so upset that this information had been conveyed to the defendant and the plaintiff you said in the letter " I will redeem this in a short time " ?

A. Yes.

30

I wanted to humour the defendant and bring him round in order to bring about a reconciliation.

Q. Your daughter had never told you that the defendant was sympathetic towards her and loved her ?

A. No.

Q. You tried to make him understand in this letter that your daughter had told him that he was sympathetic towards her and loved her ?

A. Yes, but that was not true. I had no esteem towards the defendant. He did not act up to the respects we extended him. 40

*Q.* What was that ?

*A.* I thought he was a very good, virtuous man. It was later that I came to know he was the son of a big bus thug and that he was a bully.

*Q.* In spite of that you wrote to him saying you have a great esteem towards him ?

*A.* No. That was not so. That was an attempt made by me to bring him to our side. At the very beginning we held him in high esteem, but as time went on we lost all the esteem we had towards  
10 him.

*Q.* According to you, up to the moment the information about the mortgage was given to him, you held him in high esteem ?

*A.* I cannot give the time limit. I cannot say when this esteem disappeared. The moment I heard he was harassing my daughter asking for 40 acres of paddy lands, I lost the esteem I had towards him. That was in May. Up to that time I held him in high esteem.

*Q.* With regard to the business transaction, the only point you had made out is the point of the mortgage bond having been referred by the defendant's father to the plaintiff and the defendant ?

20 *A.* Yes. There was no question of the transfer of 40 acres of paddy lands.

*Q.* Up to that time there was no question of the 40 acres at all ?

*A.* Yes.

*A.* Yes. I wrote a letter to the defendant on 14.10.1957. That was the last letter I wrote to him. This was immediately after my daughter returned home with her mother.

*Q.* She had made up her mind that nothing should shake her decision to come home ?

*A.* Yes, for her confinement.

30 *Q.* In that letter you refer to the fact that the defendant's father and mother had used threatening words ?

*A.* Yes.

*Q.* Apart from that you do not refer to any threat or unkindness on the part of the defendant ?

*A.* I purposely avoided mentioning anything about the defendant because I wanted to bring about a reconciliation.

*Q.* You have not found fault with the defendant on any account in this letter ?

*A.* Yes, because I did not want to create further ill-feeling.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Q. Both in P23 and D18, the grievances you had expressed are against the defendant's father and mother and not against the defendant ?

A. Yes.

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

Q. You had not mentioned in either of these letters that the defendant should live separately ?

A. Yes. I kept copies of all the letters I wrote to the defendant. On 6th September, I sent another letter to him.

(Shown letter dated 6th September marked D18.) I have with me a copy of a letter dated 5th September. 10

Q. In P19 there are certain statements which are not in D18 ?

A. There may be alterations. One is a fair copy. But the ideas expressed in both letters are the same, but the wording is different.

Q. P19 is not a correct copy of the letter you sent to the defendant ?

A. Yes. On 10th October, I stayed at Panadura, and I met my wife, daughter and son on their way back.

Q. Our position is you went to Matara and stayed at Matara, but did not go to the defendant's house ? 20

A. I deny that.

Q. The route you took was not *via* Galle, but *via* Ambalantota and Ratnapura ?

A. No.

Q. Before you returned to Gampaha you went to the Debt Conciliation Board ?

A. No. On the 12th, I made an application to the Debt Conciliation Board asking for relief from the mortgage debt. (Shown an application marked D19.) I went there on the 12th. The 11th October is a clerical error. I did not make that application on the 30 11th of October.

Q. On the 11th you wrote out this application ?

A. No. I made the application only on the 12th of October. On the 11th evening, when the Constables came to my house to question my daughter regarding the allegation that she had come away with jewellery and cash worth about Rs. 40,000/-, I thought the defendant's father would take me to Court and harass me, and therefore I took all precautions. That idea struck me after the Constables came.

Q. After the Constables came to your house on the 11th evening, you got the idea that there would be trouble with regard to the mortgage bond ?

No. 22  
Plaintiff's  
Evidence—  
*Continued*

A. Yes. On the following day I went to the office of the Debt Conciliation Board.

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
*Continued*

Q. On the 11th itself did you make up your mind to apply for a loan from the Debt Conciliation Board ?

A. I had no time.

On 11th October, no idea entered my mind that I should make  
10 an application to the Debt Conciliation Board for relief from the mortgage. On the 12th, when I went to the Debt Conciliation Board, I filled up the necessary forms. On the 14th the plaintiff wrote a letter to the defendant.

Q. It was you who asked the plaintiff to write to the defendant on the 14th ?

A. It may be.

Q. You told her what she should write to the defendant ?

A. No.

Q. Before your daughter wrote the letter D3, she showed it to  
20 you ?

A. I don't think. I asked her to write a conciliatory letter to the defendant, as marriage is a very sacred thing. I did not tell her what she should write.

Q. Before the letter was posted, you approved of the letter ?

A. I cannot remember. I do not know. If my daughter has said that she showed it to me and that I approved it, it may be correct.

Q. After she returned to your house on the 11th of October, all letters she wrote to the defendant were shown to you ?

30 A. May be. I cannot remember.

(Adjourned.)

(Sgd.) F. C. PERERA,  
D.J.  
23.9.1959.

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

(Resumed after the interval.)

CHARLES SAMARASURIYA, affirmed, recalled.

*Cross-examination (Contd.)*

(Shown D1.) This is a letter which my daughter had sent to the defendant after she came to Gampaha. She had also sent to him several telegrams. I think I wrote out only one of those telegrams.

Q. After you made your application to the Debt Conciliation Board, the matter came up for inquiry on 22.12.1958 ?

A. I cannot remember the date.

Q. When the matter came up for inquiry, an application was made by you that the inquiry be postponed till the conclusion of this action ?

A. Yes.

Q. The defendant's father did not consent to that application you made ?

A. Yes. That day the inquiry was postponed. On the second occasion when that matter came up for inquiry, again I asked for a postponement. It was objected to. Thereafter the matter proceeded to inquiry.

Q. You made two applications for postponements in order to delay payment of the debt ?

A. No.

Q. You took up that attitude because you were angry over the defendant's father disclosing the fact of your having raised a loan from him to his daughter-in-law and son ?

A. No.

I visited the defendant at Matara on the Wesak day. That day the defendant avoided me.

Q. Did you know of any reason at that time why he should avoid you ?

A. I did not know.

I got the impression that he had avoided me.

Q. On the 2nd of June also did you get the impression that the defednant was not coming to your house and was avoiding you ?

A. Yes.

Q. At that time you did not try to find out why he should avoid you ?

A. It was because of the trouble about the 40 acres of paddy. He sent my daughter asking her to tell me to transfer the 40 acres of paddy lands to him.

Q. That is the reason you can adduce for his avoiding you on the 2nd of June ?

A. That is what I thought.

Q. But when you wrote to the defendant on 4th June, you made  
10 no reference to that ?

A. I cannot remember. I have made no reference to the 40 acres in this letter. In this letter I did not ask him why he was avoiding me.

Q. At the time you wrote this letter, your impression that the defendant was avoiding you because of the 40 acres of paddy was foremost in your mind ?

A. Yes.

(Shown D18 and P23.) In these letters I have not asked him why he was avoiding me, nor have I asked him anything about the  
20 40 acres of paddy. At this time, my son Gamini was staying with me.

Q. At that time you did not expect the defendant to know about the transaction between yourself and the defendant's father ?

A. I expected him to know it. I had been told about it. I cannot be definite about it.

Q. To the best of your recollection you had not known that the defendant was aware of the transaction between you and the defendant's father ?

A. I cannot say.

30 Q. Did you expect in May for the defendant to know about the transaction between you and his father ?

A. No.

Q. In June also you did not expect him to know ?

A. Yes.

I do not know that my son made an application for a loan from the defendant through the plaintiff. I did not ask for a loan from the defendant through the plaintiff.

Q. Did you get the impression that he was avoiding you because he did not give the loan you asked from him ?

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

A. No. I never asked for a loan.

On 9th October, 1957, I gave a telephone call to my daughter, but I was not able to contact her over the telephone. On the 10th the plaintiff came back to me. Thereafter she had been with me. When she came I did not tell her that I tried to contact her over the telephone on the previous day but was not able to do so.

Q. You contacted her on the 9th October, 1957, because you wanted to give her a message that your wife was coming there on the 10th to bring her ?

A. Yes. No. Not for that purpose of bringing my daughter, 10 but just to make inquiries because she had written an alarming letter and I did not know what it was about.

Q. On the 9th the purpose of telephoning the plaintiff was to intimate to her that your wife was coming on the following day ?

A. I had no idea of the following day. I wanted to tell her not to be too hasty and that we would come to see her. I wanted to tell her not to be too hasty until we came. I left for Matara on the following morning.

Q. Is it not the fact that you really contacted your daughter on the 9th and warned her to get ready saying that you would be 20 coming on the following day to bring her home ?

A. No. I don't understand that.

Q. On the 9th you contacted your daughter in order to tell her that you would be coming on the 10th to remove her ?

A. I wanted to contact her and tell her that we could be coming and not to be too hasty till then. Defendant's mother answered the telephone. I told her that I wanted to speak to my daughter. She said the plaintiff was not at home. I then asked her whether she would be coming in the evening. She said she did not know. She said the plaintiff went with her husband and that she did not know when 30 they would return.

Q. You gave a message that you would be coming in the evening ?

A. I cannot understand.

Q. Apart from inquiring from the defendant's mother where the plaintiff was, did you give any message ?

A. No.

Q. When your daughter came back, you did not question her, " where did you go on that day when I tried to contact you " ?

A. No. Up to this moment I did not ask her about it.

Q. The plaintiff has stated that she never received a telephone message on the 9th ?

A. Yes. She did not know about it.

Q. Are you coming out with an explanation that you really telephoned the plaintiff on the 9th because of the document that the defendant has produced ?

A. I deny that.

At the instance of the defendant, the plaintiff was once examined by Dr. Caldera. Thereafter, all arrangements for her to go to the  
 10 Lying-in-Home were made by me. She entered the Lying-in-Home on the 19th of November. Lying-in-Home is a place where the visiting hours are restricted. I did not send any intimation to the defendant when I entered her to the Lying-in-Home. I was indifferent about it. I felt there was no reason for the defendant to be informed about it. The child was born on the 26th. I informed the defendant about the birth of the child by telegram. I did not tell the defendant where the child had been born, because I wanted the defendant to come to me first. The plaintiff had left the defendant against the wishes of the defendant. When the plaintiff came to my house, my sons were  
 20 living with me in my house. The defendant was displeased about the plaintiff coming to Gampaha against his wishes. After she came to my house, I did not go to meet the defendant.

Q. Did you not think it fit to send one of your sons to Matara to explain matters ?

A. I sent a number of people to the defendant's house to intervene in the matter. One of them was Mr. Daluwatta, who is a Civil Servant. I have not listed any one of those people.

Q. Did you think an explanation was necessary from your daughter when she flouted the wishes of the defendant and came to  
 30 you ?

A. I felt there was a need for it. That was why she wrote that letter. I did not think it necessary to send any member of my family for that purpose to Matara.

Q. Do you know that on the day following the day of the birth of the child, that is on the 27th, the defendant came to Gampaha with his aunt ?

A. No. It was on the 30th that the defendant's aunt came. I do not know whether the defendant came on that day. Thereafter, the defendant had found out that the child had been born at the  
 40 Lying-in-Home. The defendant went to the Lying-in-Home on the 30th. On the first of December, I do not know whether the defendant had come to the Lying-in-Home. I never met him at the Lying-in-Home either on the 30th of November or 1st December. On those

No. 22  
 Plaintiff's  
 Evidence—  
 Continued

Evidence of  
 C. Samara-  
 suriya  
 Cross-  
 examination—  
 Continued

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

dates I did not go to the Lying-in-Home because I was ill. On the 26th when I sent the telegram I was in Gampaha. On that day, I did not go to the Lying-in-Home. From the 26th I was not quite well. After my daughter entered the Lying-in-Home, I went there. I did not go there till the 1st week of December.

*Q.* The first visit you made to the Lying-in-Home after sending the telegram was on the 4th of December ?

*A.* I cannot remember.

I remember the day on which the plaintiff was brought home from the Lying-in-Home. On that day, I did not go to the Lying-in- 10 Home. After the 26th of November, I cannot remember whether I went to the Lying-in-Home. Before the birth of the child I visited her in the Lying-in-Home. She was there from the 19th. On the 26th I did not go there. After the 26th, I don't think I went to the Lying-in-Home, so far as my recollection goes, I don't think I saw the child until the child was brought home.

*Q.* I put it to you that you did not want to meet the defendant and that was why you did not go to the Lying-in-Home after sending the telegram ?

*A.* No. I was not in a fit state of health to go to the Lying-in- 20 Home.

*Q.* After your daughter came back on the 4th, the defendant sent a telegram inquiring when the plaintiff would be fit to come to Matara ?

*A.* Yes.

(Shown P8.) I saw this telegram.

*Q.* After that did you ask your daughter to send a reply to that ?

*A.* It was not necessary for me to tell that to her. I did not consider it necessary to ask her to send a reply to that. She ought to have known it. During this time the plaintiff was under my care. I know that she had sent a reply, and I know the reply that was sent. 30

(Shown P8.) I cannot remember whether the plaintiff got my approval before sending this telegram.

*Q.* As soon as the plaintiff received the telegram sent to her by the defendant, it was shown to you ?

*A.* I cannot remember.

*Q.* Is it your position that it was not shown to you on that day ?

*A.* It was shown to me. It may be about 1 or 2 days later or on the same day, or may be after about a week. I cannot remember.

*Q.* Is it your position that the reply D8 was sent without any reference to you ?

A. I cannot say whether it was referred to me or not.

Q. It may be that you were informed that a reply was sent ?

A. Yes.

I remember telling her to asking him to come to see the baby and discuss matters. I cannot remember advising her as to what sort of a reply she should send the defendant. (Shown P10.) This was sent on the 10th of January. It was sent after reference to me.

Q. That was sent because you had advised her at that stage to ask him to come because there was no intimation in the earlier telegram, 10 D8, of her willingness to go to Matara ?

A. At the time she sent this telegram she was not in a fit state to discuss matters.

Q. On the 29th of December, is it your position that she was not in a fit state to discuss her going to Matara ?

A. I personally thought she was not fit.

Q. On the following day, the defendant had come to Gampaha ?

A. At that time I did not know. I came to know it only a few days later.

Q. By the 14th you had come to know that the defendant had 20 come to Gampaha ?

A. I came to know about it somewhere on the 15th, as far as I remember.

Q. On the 11th, the defendant had come to Gampaha, and you came to know of it later ?

A. Yes.

Q. You deny that on the 11th, the defendant came to your house ?

A. Yes.

Q. On that day you deny you wanted the mortgage bond dis- 30 charged, and also asked him to come and live in Gampaha ?

A. No.

Q. It was because of that you wanted him to come to Gampaha to discuss matters ?

A. As the plaintiff came to Gampaha without obeying the defendant, I thought he was very angry with her, and I thought if he came to my place I would be able to reconcile the differences.

In fact, the defendant should not have any reason to be angry with the plaintiff.

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

No. 22  
Plaintiff's  
Evidence—  
Continued

Q. But you found out a few days later that the defendant had come to Gampaha ?

A. Yes.

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

Q. After discovering that on the 11th he had made an entry at the Police Station ?

A. I came to know of that entry only on the 15th.

Q. I say you knew about that entry on the 14th ?

A. No.

(Shown D11.)

This telegram was sent to the defendant on the 14th.

10

Q. This telegram was sent immediately after you discovered that an entry had been made by the defendant at the Police Station ?

A. I did not know about it at that time. I came to know about it on the 15th or a little later. It was only after the case was filed. I do not know when.

Q. I put it to you that it was on the 14th you discovered that he had made a record of his visit to you, and in order to fortify yourself you sent this telegram ?

A. No.

The plaintiff sent the telegram D11 on the 14th. (Shown P13.) 20  
Plaintiff sent this telegram to the defendant. I saw this telegram. I deny that P13 was sent on my instructions. I think she showed it to me.

Q. Did she send P13 on anybody's advice ?

A. I don't think.

Q. She sent it on her own accord, but she referred it to you before sending it ?

A. Yes. At that stage I did not want to give any advice.

Q. At that stage, had you instructed your Lawyers to file action ?

A. Action had already been filed.

30

Q. You went with your daughter and gave instructions to file action ?

A. I had to accompany my daughter.

Q. Before this reply was sent you had gone with the plaintiff and given instructions with regard to the filing of this action ?

A. Yes, I think.

*Q.* Before P13 was sent you did not want to make any intimation to him that the action had been filed ?

*A.* There was no time. Action had been filed on the 15th. This telegram was sent on the 16th.

*Q.* What do you mean when you say there was no time ?

*A.* I thought it was utterly useless to intervene in the matter because she had filed action.

*Q.* Still you did not want her to inform the defendant that an action had already been filed ?

10 *A.* No.

I cannot say how many days before the action was filed instructions were given to the Lawyers. (Shown P11a.) This is in my handwriting. I got the marriage certificate of the plaintiff for the purpose of filing this action. I applied for it. It did not take more than an hour for me to get it.

*Q.* From the time you came to know that the defendant's father had given information to the defendant and the plaintiff about the mortgage transaction, you did not want your daughter to stay with the defendant at Matara ?

20 *A.* That is not correct.

Plaintiff came home for her confinement.

*Q.* I put it to you that your wife and you wanted to get down the plaintiff to your house because you were angry over the defendant's father having disclosed the matter of the mortgage to her and the defendant ?

*A.* No.

*Q.* At that time there were a number of shares in tea Companies in plaintiff's name ?

30 *A.* I discovered that after she came. Before that I did not know that.

*Q.* I put it to you that thereafter these letters and telegrams had been sent on your advice ?

*A.* That is not correct.

*Q.* If the defendant was not willing to stay with you at Gampaha you wanted to see that the plaintiff divorced the defendant ?

*A.* No. There was no question of the defendant staying with me at Gampaha.

*Q.* In one of the telegrams she had sent to the defendant, she had asked him to come to Gampaha to discuss residence ?

40 *A.* Yes.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Cross-  
examination—  
Continued

Q. I put it to you that the words "future plans" in D10 meant that you wanted the defendant to come and live at Gampaha?

A. No.

I understood the words "future plans" to mean to live in a separate house. That telegram was sent by the plaintiff. I do not know what ideas she had. That telegram was referred to me. I did not ask her what she meant by the words "future plans". I had no idea what she meant by those words. My instructions to her were to send a telegram. I never said that she sent that telegram on my instructions. 10

Q. Did you see these words "and future plans" in this telegram?

A. Yes.

Those words have no reference to the question of the defendant coming and residing in Gampaha. I thought what she meant by those words was that a separate house should be taken as there was so much of trouble in defendant's parental home.

Q. In addition to the words "future plans" there are the words "discuss our residence"?

A. Yes.

Q. You say you did not dictate those words? 20

A. No. I did not.

Q. You say those words cannot have any reference to the defendant coming and living in Gampaha?

A. I came to know that the house in which they were living at Matara had been gifted to the defendant.

Q. In any one of those three letters you have not referred to the question of the residence of the plaintiff and the defendant?

A. No.

(Shown P18, P23 and D18.) These are not the only letters I wrote to the defendant. I wrote several other letters, but they have not been produced. 30

Q. Didn't you say before the adjournment that these were the only letters you sent to the defendant?

A. These were three letters I sent to him. I cannot be sure whether I said that these were the only three letters I sent to the defendant.

Q. Did you give instructions that the defendant should produce any other letters other than these three?

A. No answer.

*Re-examined :*

Having got my only daughter married to the defendant, I was not interested in securing a divorce also for her at any time. In the matter of money, I was never a match for the defendant or his parents. Kottegoda is in the Matara District. It is about 10 miles away from Medagama. When I was at Kottegoda in my 17th year, I did not dream that I would have a daughter who would one day marry a Wickremasuriya.

Q. Apart from any dream did you have any realities that you  
10 would have a daughter who would marry one of the Wickremasuriyas ?

A. No.

In my 17th year, I did not ask anybody whether there were any Wickremasuriyas at Matara. (Shown D10.) This reads " Now much better. Come week-end to discuss our residence and future plans. See our baby."

Q. When you saw this telegram, did you hold some sort of summary inquiry as to the meaning of these words ?

A. No.

Q. Did you in any way attempt to relate the meaning of the  
20 words " our residence " to " future plans " ?

A. No.

(Shown page 4 of P18.) This says, " there is nothing in the world like a child so far as the parents are concerned. That is why most couples live separately ". Why did you say in cross-examination that you made no reference in any one of the letters you wrote to the defendant as to their living in a separate house ?

A. I forgot about it.

With regard to the litigation I had with Dissanayake, I was the defendant and Dissanayake was the plaintiff.

30 Q. How did that case terminate ?

A. That case was settled.

With regard to the litigation I had with Gunasekera, I was the defendant in that case. That case was also settled.

Q. The suggestion that you had some litigation with Gunasekera and Dissanayake, is it correct ?

A. No.

Q. With regard to the suggestion that you had been a fighter, had you been fighting for certain principles which had been dear to you ?

40 A. Yes.

No. 22

Plaintiff's  
Evidence—  
*Continued*

Evidence of  
C. Samara-  
suriya  
Re-examination

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
C. Samara-  
suriya  
Re-examina-  
tion—  
Continued

As there was some difference of opinion in regard to certain matters between Mr. H. S. Perera, the Divisional Inspector, and myself, I resigned from the Post of Inspector of Schools. The immediate cause of my resignation was the disagreement over official matters.

Q. What was the direct result ?

A. I had an unpleasant conversation with him. At that time, I had been in Government Service for about 20 years, and as an Inspector of Schools for about 3 years. I continued to be a Government Servant even thereafter. I draw a pension still. My brother Eddie visited my house about 3 weeks ago. 10

Q. Is the suggestion made to you in cross-examination true that you had been using the money you obtained from Government on account of land development for your purely domestic purposes ?

A. No.

Q. You had made an application to the Land Development Board for a loan of Rs. 50,000/- ?

A. Yes.

Q. Before you had made that application had the land been given to you ?

A. Yes. 20

Q. Before you made that application for a loan, had any money been spent on the property ?

A. I spent about Rs. 80,000/-. It was my own money. It was thereafter that I made an application for a loan of Rs. 50,000/-.

Q. When did you first come to know from your daughter direct about the difficulties she had with her husband ?

A. On the occasion of my visit to them for Wesak. My daughter confided her difficulties in me.

Q. What did your daughter tell you on that occasion when you went to Matara to the defendant's house ? 30

A. She said she was being harassed and humiliated by the defendant's mother saying that she had come without a single cent.

It was thereafter that I spoke to the defendant's parents. On the way to Matara, my wife told me certain difficulties that my daughter was undergoing. That was the first occasion she told me about the difficulties of the plaintiff.

(Shown P18.)

Q. This letter refers to the correspondence you have had with the defendant's father as well ?

A. Yes. 40

Q. As a matter of fact did letters pass between you and the defendant's father ?

A. Yes.

(Shown P18.)

Q. In this letter you have referred to the fact of appearing a cheat in the eyes of others ?

A. Yes. That means in the presence of other people the defendant has been humiliating my daughter saying that I promised to give certain things as dowry but that I have failed to give even a single  
10 cent.

Q. You had also made reference in one of your letters to the loan as a last resort. What is the meaning of that ?

A. Yes. In case I failed to get the money from Government and in case I failed to get the money from any other source, I thought the only thing I had to do was to mortgage my house and property in order to comply with the request of the defendant's father to have the wedding in January.

I applied for the loan from the Land Development Board in December, 1956. It was only on the 9th of January, 1957, that I  
20 came to know I was not getting the loan. The wedding had been fixed for 31.1.1957, and therefore I was in want of funds. I communicated that fact to the defendant's father. As a result of that communication, the defendant's father came to my house, at my request, and I discussed the matter with him. The result of that discussion was that he offered to advance the money I required.

Q. In P18, have you made any suggestion that the defendant's father was going to be a last resort ?

A. No.

(Shown D18 and P19.) There are certain differences in these  
30 two documents. I typed P19. It was a draft. After reading it, I found that certain alterations were necessary and therefore I typed another copy. D18 is that copy. D18 was the one I actually sent to the defendant. The alterations are only verbal alterations. With regard to the phone call I took from my house in Gampaha to Matara on 9th October, 1957, I did not think it necessary to tell my daughter the next day that I had taken such a call to her. I was not in a pleasant frame of mind on 10th October, 1957.

Q. Was your daughter anxious to let the defendant know where the child was born ?

40 A. No.

Q. Do you know any reason why she was not anxious to let the defendant know of that fact ?

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
C. Samara-  
suriya  
Re-examina-  
tion—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
Continued

A. She was frightened about the defendant and his parents. I knew that as a fact.

(Shown page 4 of P18.)

Evidence of  
C. Samara-  
suriya  
Re-examina-  
tion—  
Continued

Q. 11 lines from the bottom the sentence, " My dear Putha, let by-gones be by-gones. Nothing of the misunderstandings should continue any longer." What misunderstandings were you referring to ?

A. The defendant had a misunderstanding that we made certain promises—that is to give paddy lands and various other things—which I never promised to give. (Shown D19.) This document 10 bears on the top of it the words " handed over today. Initialled Secretary, dated 12.10.1957 " ?

A. Yes. I handed this document to the Debt Conciliation Board on 12.10.1957. I prepared this application in the office of the Debt Conciliation Board in Colombo. I am quite sure that the date 11th October, 1957, is a clerical error. My affidavit contained in D19 refers to my application dated 12th October, 1957. It was a printed application which I got from that office. D19 is a certified copy and is a typed document. According to D19 I made my declaration at the same office only on 12.10.1957. My affidavit is also dated 20 12.10.57. The only date 11.10.1957, appears only once.

To Court :

My youngest son is 22 years of age, the next is 24 and the other is about 29 years of age. I have only the house and property in Gampaha and the 50-acre paddy field at Hingurakgoda. Apart from that I am not possessed of anything else.

I am on bad terms with my son, Ananda, because he is disobedient to me.

(Sgd.) F. C. PERERA,

D.J. 30  
23.9.1959.

At this stage, Mr. L. W. de Silva submits a petition and an affidavit with a motion asking that an Interlocutory Order be made under Section 377(b) of the Civil Procedure Code, appointing a day with regard to this application, for an order for payment of costs by the defendant.

I inform Mr. Panditha Gunewardena and the defendant the contents of the application.

Acting under Section 377 of the Civil Procedure Code, after reading the petition and affidavit, I am satisfied on the materials placed before 40 me that the plaintiff has established a *prima facie* case that she is

entitled to the relief asked for, and I order that an Interlocutory order be entered under Sub-section (b), appointing 15th October, 1959, as the day for the hearing of this matter.

No. 22  
Plaintiff's  
Evidence—  
Continued

Further hearing tomorrow, 24.9.1959.

(Sgd.) F. C. PERERA,  
*D.J.*  
23.9.1959.

24.9.1959.

Trial resumed.

10 Same appearances as before.

Mr. De Silva says with regard to the evidence recorded on page 72, the sentence " I gave a cash of Rs. 5,000/- to the defendant's father and that was used as part of the dowry " is an incorrect recording. With regard to the reference to the first paragraph, he states that the witness meant to refer to the paragraph where it is alleged that his daughter has given him assurances that the defendant was soft towards her and loved her.

Mr. de Silva calls :—

20 Mrs. DISLIN SAMARASURIYA, affirmed, 57 years, wife of Charles Samarasuriya, Gampaha.

Evidence of  
Mrs. D.  
Samarasuriya  
Examination

I am the wife of the last witness, Charles Samarasuriya. Plaintiff is my daughter. Defendant is the husband of the plaintiff. After the plaintiff and the defendant got married, they paid me a visit to my house at Gampaha. I remember the second visit made by them. On that occasion, the plaintiff told me that my husband had promised 40 acres of paddy lands and to give the paddy lands in her favour.

Q. Did she say why she made that request ?

A. She stated that the defendant wanted the 40 acres of paddy lands conveyed to him.

30 Q. Was your daughter able to speak to your husband about the matter on that occasion ?

A. No. My husband was ill at the time. I told her that her father was ill. I remember the first visit I made to see my daughter and son-in-law at Matara in March, 1957. My husband did not go with me on that occasion as he was ill. That night, I cannot remember whether I stayed in defendant's house at Matara. I made the second visit to see my daughter and her husband at Matara in April. On those occasions my daughter did not tell me anything about the paddy fields. (Shown P2, dated 24.4.1957.) My daughter's signature 40 appears on this. I received this letter. From this letter I came to

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. D.  
Samarasuriya  
Examination—  
Continued

know the kind of life my daughter was leading at Matara. I made the next visit to Matara to see my daughter and her husband on the Wesak day in May. I gave previous information to the plaintiff about my proposed visit. On that occasion my husband also accompanied me. When we arrived at his house in Matara, we did not meet the defendant. My daughter spoke to my husband.

*Q.* What did she tell your husband ?

*A.* She asked him to tell the parents of the defendant what and what things were given as dowry to her. In the presence of the defendant's parents, my husband stated the dowry that was given 10 to her.

Nothing was said about the 40 acres of paddy. After that we came to Gampaha on the same day. Before we left for Gampaha, we did not meet the defendant. I remember the 2nd of June, 1957. On that day, my daughter came to my house. On that visit, the defendant did not accompany her.

*Q.* Did your daughter have anything to say on that occasion ?

*A.* Yes. She stated it was alleged that my husband would give 40 acres of paddy lands and that she came to get that property conveyed. 20

My husband told her that he had made no such promise. After the second visit made by my daughter and her husband on 15th February, 1957, the defendant did not come to my house. After I visited my daughter during Wesak, I again went to see her and the defendant in June, as far as I remember. I am not quite sure of the month.

*Q.* Was that visit made after previous intimation or not ?

*A.* Previous intimation of our proposed visit was given to her. On that occasion, I met the parents of the defendant. I did not meet the defendant. 30

*Q.* Was there a visit you made on which you met the defendant also ?

*A.* Yes. I remember that day because on that occasion my husband questioned the defendant as to why he appeared to be displeased. When he said that, the defendant got up saying " you ought to know it " and went away.

(Shown P4, dated 25th September, 1957.) My daughter has signed this letter. I received this letter. I paid a visit to my daughter and son-in-law at Matara on the 3rd of October. My husband also accompanied me on that occasion, but he did not go to 40 the defendant's house. He stayed in Mr. Amarasena's house. On that occasion, I returned to Gampaha on the same day.

*Q.* What was the purpose of that visit ?

*A.* We went there with the intention of bringing my daughter home for the confinement. I was not able to bring her home. The defendant prevented us from bringing her. Within a day or two of our returning to Gampaha, I had occasion to take a telephone call to Matara. As far as I think, I telephoned to Matara on the 5th of October, as I had left my hand-bag at Matara. It was my son who telephoned on that occasion. I cannot remember whether he was able to speak to the plaintiff. I had left my hand-bag in my sister's  
10 house at Panadura.

*Q.* Over the telephone were you told anything about your hand-bag ?

*A.* They said my bag was not there.

In the statement of trunk calls, P21, there is an entry for 5th October, 1957, against my telephone No. 265. After that I went to see my daughter and the defendant on the 10th of October, 1957. (Shown P5, dated 7th October, 1957.) This is signed by my daughter. I received this letter.

*Q.* What was the reason for your making the trip to Matara on  
20 the 10th of October, 1957 ?

*A.* My daughter had sent a letter asking us to come to take her to Gampaha.

*Q.* What was your state of mind when you received that letter ?

*A.* I had a great fear.

On that occasion I went to Matara with my son and husband. Nobody else other than the car driver accompanied us. My husband did not go to Matara on that occasion. He fell ill and stayed in my sister's house at Panadura. My son and I went to the defendant's  
30 house at Matara at about 9.30 a.m. I did not find the defendant in his house. I met his parents. I told them the reason why I had come. I told them that my daughter was sick and that we wanted to take her to Gampaha for her confinement. Then the defendant's father threatened me saying, "I am called Maha Polanga. Don't take her. I will follow you wherever you take her. If you take her I will get the defendant to divorce her." A little while later; the defendant also came home. I told him the reason why we had come. He said he could not allow me to remove the plaintiff to Gampaha. Then my daughter requested his permission to let her go to Gampaha.  
40 She worshipped the defendant and almost begged of him to let her go to Gampaha, but he refused. Then I told my daughter, "if so I am going", and I went and got into the car. No sooner the car was started, then the plaintiff came running up to the car, got inside

No. 22

Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. D.  
Samarasuriya  
Examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
*Continued*

the car, hung on to my neck and started to weep. Then I brought her to Gampaha. She did not bring any baggage with her. Apart from the clothes she was wearing, she did not bring any other clothes. She had only her chain and the two ear-studs. Apart from those, she did not bring any other jewellery.

Evidence of  
Mrs. D.  
Samarasuriya  
Examination—  
*Continued*

*Q.* Did she bring with her a magnificent throatlet ?

*A.* No.

I then proceeded on my journey with my daughter and son, Ananda. I met my husband at Panadura. My daughter and I both made statements to the Panadura Police. 10

*Q.* Why were those statements made ?

*A.* We had to make those statements owing to the threats made by the defendant's father. On that day, I did not make any statement to the Matara Police.

Evidence of  
Mrs. D.  
Samarasuriya  
Cross-  
examination

*Cross-examined.* Immediately after the plaintiff got into the car, we left for Gampaha. On that occasion, I cannot remember how long I spent in defendant's house. We stayed there only for a short time. I visited my daughter and the defendant at Matara on that occasion, because I got alarmed when I received that letter from the plaintiff. 20

*Q.* You went with the idea of bringing her ?

*A.* No.

*Q.* Although you were alarmed after reading the letter you received from your daughter, after you went there you did not feel like bringing her ?

*A.* My intention was to go there, speak to them and after getting their permission to bring her home.

*Q.* If they were not willing to let her go, you did not want to bring her forcibly ?

*A.* If the defendant was not willing to let the plaintiff go home 30 I would not have done so. If the defendant was not willing I did not want to bring her to Gampaha forcibly. The defendant and his parents were not willing to let her go home. I did not want to bring her forcibly.

*Q.* You brought the plaintiff against the wishes of the defendant and his parents ?

*A.* Yes.

I visited the defendant's house on the 3rd of October also. On that day also I went there with the intention of bringing the plaintiff home. 40

Q. On that occasion also if the defendant and his parents were not willing to let the plaintiff go home, you did not want to bring her home ?

A. Yes. On that occasion I did not bring her home. When I visited my daughter at Matara on the 3rd of October, I met the defendant. I spoke to him. At the time I arrived in defendant's house, the defendant was not in his house. He came there later. On that occasion the defendant did not want the plaintiff to go with me. I came home. I cannot remember whether the defendant was  
10 in his house at the time I left for Gampaha.

Q. Do you say you went there on the 3rd in consequence of a letter you received from the plaintiff ?

A. I cannot remember.

The visit on the 3rd was an ordinary visit. My daughter had sent me a letter asking me to come to take her to Gampaha. Prior to the 3rd of October, I had no fear in the plaintiff staying in defendant's house.

Q. Prior to the 10th of October, did you have any such fear ?

A. I cannot say that.

20 On the 10th, the plaintiff suddenly rushed into the car and insisted on coming to Gampaha. That was why I brought her.

Q. And not because there was a great fear in your mind with regard to your daughter ?

A. At that moment I had a fear.

Q. You got the fear when your daughter got into the car ?

A. No. When the defendant's father threatened us. Prior to that I was not in a troubled state of mind regarding my daughter.

Q. You were afraid when the defendant's father made certain statements to you ?

30 A. Yes.

I expected the plaintiff to come home for her confinement. It is customary for her to come home for her first confinement. I cannot quite recollect whether the defendant got my daughter examined by Dr. Caldera. Before that I had been to the defendant's house on several occasions. On some of those occasions, I have stayed over the night in his house. Plaintiff and the defendant lived in upstairs. In the morning the defendant used to go to Courts.

Q. You had every opportunity and time to speak to your daughter on the occasions you visited her ?

40 A. I had no time to talk to her, nor did she have any time to tell me any of her troubles.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. D.  
Samarasuriya  
Cross-  
examination—  
*Continued*

No. 22  
 Plaintiff's  
 Evidence—  
*Continued*

Evidence of  
 Mrs. D.  
 Samarasuriya  
 Cross-  
 examination—  
*Continued*

I go upstairs after dinner only to sleep.

*Q.* On the occasions you visited your daughter at Matara, you had every opportunity to speak to your daughter in private without any hindrance ?

*A.* No such opportunity arose.

*Q.* If you wanted you could have spoken to her ?

*A.* When I get up early in the morning I used to come downstairs and stay there the whole time.

Plaintiff also used to come downstairs. During daytime, she used to spend her time downstairs. Whenever necessary she used 10 to go upstairs.

*Q.* Whenever she was upstairs, you could have gone and spoken to her ?

*A.* No such thought occurred to me.

*Q.* Is it your position that you did not want to speak to your daughter in private on the occasions you visited her ?

*A.* No such thoughts occurred to me.

*Q.* On none of those occasions was there any private talk between you and your daughter ?

*A.* Yes.

20

She told me that because of the paddy lands she was being troubled. She further stated that she did not get the desired attention. When she is downstairs, sometimes I used to speak to her in private for about 5 or 10 minutes. I was pained in mind when she stated that she did not get the required food and other necessary attention was not paid to her.

*Q.* From when did she say she did not get the desired treatment ?

*A.* I cannot say.

From the letter she sent to me in April, I gathered she had 30 troubles at Matara. I cannot remember the date on which for the first time she mentioned to me her troubles. On the first occasion I went to Matara in March, I returned home the same day. I again went there on the 9th of April—before the Sinhalese New Year. For the New Year, my daughter did not present me a saree. Nor did the defendant present me a saree. Even after the New Year I did not get a saree from my daughter as a present for the New Year.

*Q.* The plaintiff stated that she purchased a saree in order to present it to you for the New Year ?

40

*A.* I cannot remember.

In April also I went to Matara, and again in May. When I went there in May my husband also accompanied me. We did not meet the defendant on that occasion. On that occasion, we did not stay over the night.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

*Q.* On your visits after May, you have been staying in defendant's house for a couple of days ?

*A.* I cannot remember.

Evidence of  
Mrs. D.  
Samarasuriya  
Cross-  
examination—  
*Continued*

*Q.* Do you say that before the visit for Wesak in May you have not been staying in defendant's house for a day or so ?

10 *A.* I cannot be specific. Whenever I go there by train I used to stay in defendant's house for about a day or two and then return home. I visited the plaintiff and defendant at Matara in March, April and May. I cannot remember exactly whether in between I visited them at Matara. After May every month I visited her at Matara.

*Q.* After you returned from visiting the plaintiff in October, you took a telephone call to Matara ?

*A.* Yes. It was my son who got that call. I wanted to find out whether my hand-bag was there.

20 *Q.* On that occasion you wanted to contact your daughter to speak to her ?

*A.* My intention was to find out from the plaintiff whether my hand-bag was there or not.

*Q.* And not as a conspiracy to speak to your daughter and get her down ?

*A.* No.

*Q.* In consequence of that you again phoned her up on the 9th ?

*A.* No.

*Q.* Did anybody else telephone ?

30 *A.* My husband telephoned on the 9th.

I went to Matara on the 10th. That day I left Gampaha early morning. After arriving at the defendant's house, after I got down from the car, my son did not take the car and go to the town. Defendant's father threatened me on that occasion. That was the first time he threatened me. On the earlier occasions I went there I merely gave an answer to any question he put to me. On some occasions when I went there, none of the parents of the defendant spoke to me. On some occasions they spoke to me. It was very seldom that the defendant's father spoke to me. I cannot remember whether I went  
40 to Matara in September.

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. D.  
Samarasuriya  
Cross-  
examination—  
Continued

Q. Is it your position that you did not go there in September ?

A. If my husband was sick I would not have gone there.

Q. In September, you cannot remember making an oral complaint to the defendant ?

A. I cannot remember whether I went to Matara in September.

Q. The plaintiff stated that you visited her at Matara in September ?

A. I cannot remember.

I visited the plaintiff at Matara in August. On that occasion I went there with my husband. One day in August, I met the defend- 10  
ant. In August, I cannot remember whether I went alone to Matara. Apart from going with my husband to Matara in August, I cannot remember going there alone in August.

Q. There was no reason for you to make a mental note of any other visits you made in August ?

A. I cannot recollect.

On the occasion I went to Matara with my husband in August, I met the defendant's father. My husband spoke to him. I do not know what they spoke about. We had our meals there and returned home. After their marriage, the plaintiff and the defendant first 20  
visited me in Gampaha in February. I cannot remember the date. It may have been on the 10th of February. It was a formal visit they paid to us after the marriage. On that occasion, they left for Matara on the same day. My husband and I requested them to stay over, but they said they wanted to go and that they would come again on next Friday. They said they would come on a Friday, and not on the next Friday. On the following week they came to Gampaha, but I cannot remember whether it was on a Friday or on a Saturday. On that occasion they spent only one night in my house. On that occasion they visited 2 or 3 close friends in Gampaha. On 30  
the second occasion they came, my daughter told me that her husband had told her that my husband had promised to give him (defendant) some paddy lands. In fact, to my knowledge, no such promise was made by my husband. I told my daughter that no such promise had been made. At that time the defendant was asleep. That talk was not continued because my husband was ill. I knew no such promise had been made. It was not I who should have talked about this matter but my husband.

Q. If such a question had been raised by the defendant, didn't you think it fit to tell the defendant that no such promise had been 40  
made ?

A. It was not my duty to inform the defendant about such a matter. It was a matter left for my husband.

(Adjourned.)

(Sgd.) F. C. PERERA,  
D.J.  
24.9.1959.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. D.  
Samarasuriya  
Cross-  
examination—  
*Continued*

(Resumed after the interval)

Mrs. DISLIN SAMARASURIYA, recalled, affirmed.

*Cross-examination—(Continued).*

10 Q. When the plaintiff and the defendant left for Matara after visiting you, there was no unpleasantness between them ?

A. I cannot say.

George Samarasuriya was the person who arranged this marriage. Thereafter, my husband and I visited the defendant's house. Before the wedding, on one occasion when we went to the defendant's house at Matara, the defendant was ill. I did not speak to the defendant on that day. On that occasion my daughter also went with me. My daughter and I went to the room in which the defendant was, but we did not speak to him. Subsequently, the defendant's parents  
20 visited us in Gampaha on several occasions. The wedding was fixed for the 31st of January, 1957. The engagement took place before that.

Q. On that day was there any announcement with regard to the dowry ?

A. Yes. On the day the rings were exchanged.

On that day my husband told the defendant's parents that he would give Rs. 25,000/- and jewellery as dowry. He did not say that in the presence of all the relations. They went aside and spoke about it.

30 Q. Not within the hearing of anybody else ?

A. Yes.

It was not an announcement. On the wedding day there was a poruwa ceremony. The dowry was given on that day. On that day I handed over the dowry and the jewellery to my daughter.

Q. The plaintiff had written to the defendant (D1) saying that it was handed to the defendant ?

A. I placed the dowry in a tray and gave it to my daughter and she took it.

No. 22  
Plaintiff's  
Evidence—  
Continued

Evidence of  
Mrs. D.  
Samarasuriya  
Cross-  
examination—  
Continued

*Q.* Is the statement in D1 true that that amount was presented to the defendant ?

*A.* Though my daughter had said so my idea was this. As far as I recollect, I think I gave the dowry to my daughter.

*Q.* Is that statement in the letter D1 correct or not ?

*A.* I cannot say.

On the 2nd of June, the plaintiff came home. When she came my husband was in the house, but he was ill. He was ill for about 4 months. Till the end of April he was ill. He was getting attacks of Asthma from time to time. When I said that my husband was ill 10 till the end of April what I meant was that from time to time he was getting attacks of Asthma. Now also he gets such attacks. When he gets an attack of Asthma sometimes it prolongs for a month or two, and sometimes it disappears after about 2 or 3 hours. At the end of April he was convalescing. In June, he was ailing for some time. From time to time he was getting attacks of Asthma. In May he was somewhat better to go to Matara. He was in the same condition until June. In August also he went to Matara. During that month also he was in the same condition. In June, I cannot say how many times he got attacks of Asthma. When my daughter came home on 20 the 2nd of June, she spoke to me and also to my husband. On that occasion my daughter may have told me that the defendant was in the Gampaha Resthouse. This happened sometime ago. On that occasion the plaintiff told me that the defendant was asking for the transfer of the paddy lands. Then my husband asked her what else the defendant wanted. My husband asked her "will your husband want this house also". Apart from that I cannot remember whether he said anything else. Thereafter she went to Matara with her husband. Whenever I got an opportunity, I visited my daughter while she was at Matara. On a number of those occasions I met the 30 defendant. Defendant did not speak to me. Earlier he spoke to me, but subsequently he did not speak to me.

*Q.* When did he cease to speak to you ?

*A.* From the day the defendant spoke rather rudely to my husband. That was after August.

Up to August, the defendant casually spoke to me. Between June and August I went to Matara on a number of occasions. During one of those visits he did not speak to me. On some days he used to speak to me.

*Q.* On one of those occasions did you ask him what this talk 40 was about the 40 acres of paddy lands ?

*A.* No.

In the meantime I was receiving letters from the plaintiff.

Q. Who kept the letter P2 ?

A. I kept it with me as my husband was ill. After he recovered and when these troubles arose, I gave it to my husband.

I cannot say how long I kept it with me.

Q. How do you identify this letter as a letter you received from your daughter ?

A. I cannot say for how many months it was with me.

Q. I suggest to you that this letter was made up after this  
10 case ?

A. I deny that.

Q. Similarly with regard to P4 and P5 ?

A. No.

(Shown P4 and P5.) All the letters which my daughter sent me were with me. I cannot remember when I handed them over to my husband. I cannot remember how many months before today I handed them to him. On 10th October, when the plaintiff came to Gampaha, she did not bring anything with her. At the very beginning, I sent some letters to the plaintiff. I cannot remember. I  
20 think I sent the last letter in June. Thereafter, I did not write to her. Thereafter, whenever I got an opportunity, I visited her at Matara about once a month or so. Up to June I have been writing to my daughter. I never received a single reply from her to any one of my letters. I cannot remember whether I received any replies or not. I am aware that my husband sent some letters to the plaintiff. After my daughter came in June, my husband told me that he sent one or two letters to the defendant. I do not know what happened to those letters. I do not know whether my husband sent any letters to the plaintiff when she was at Matara. He did not tell me.

30 Q. Do you know that after your daughter's marriage, in March and April your husband was in want of money ?

A. During March and April he was ill.

I deny that my husband made a request for a loan from the defendant through my son, Gamini. Gamini never applied for a loan from the defendant through the plaintiff. I am not aware of any loan requested by them from the defendant.

After the plaintiff entered the Lying-in-Home, I did not go there very often. My son used to go there often. As my husband was ill, he could not go. She entered the Lying-in-Home in November.

40 Q. On that occasion you and your husband both went there ?

A. My husband did not go.

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. D.  
Samarasuriya  
Cross-  
examination—  
*Continued*

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. D.  
Samarasuriya  
Cross-  
examination—  
*Continued*

When she was in the hospital, my husband could not visit her as he was ill. I made all arrangements for her to enter the Lying-in-Home. It was I who entered her to hospital. Arrangements for her to enter the Lying-in-Home were made by me and my husband. My husband went to the Lying-in-Home earlier for that purpose. After she entered hospital, he did not go.

The defendant was informed of the birth of the child.

*Q.* On the following day he came to Gampaha ?

*A.* Not on the following day. As far as I remember, he came about 3 days later. I came to know that the defendant had gone to 10 see the baby subsequently. On the occasions I visited the plaintiff when she was at Matara, I did not bring anything belonging to her.

*Q.* You did not bring any documents ?

*A.* No.

Evidence of  
Mrs. D.  
Samarasuriya  
Re-examination

*Re-examined.*

*Q.* On the day on which rings were exchanged between your daughter and the defendant, did your husband speak about the cash dowry and the presents he was going to give to the defendant's parents in your hearing ?

*A.* Yes. I was present at the time. 20

*Q.* Apart from yourself, your husband and the defendant's parents, who else was present when your husband said that ?

*A.* I cannot remember whether there was anyone else. I know George Smarasuriya. He was also there. The defendant was not there.

George Samarasuriya also heard what my husband said. He was the person who suggested this proposal. (Page 3 of D1 read.) I was cross-examined on this letter, which was written to the defendant by my daughter on 14.11.1957.

*Q.* In D1 there is this statement, "I am surprised as to why 30 your father put in Rs. 20,000/- of his own money to make it Rs. 50,000/-, which amount was presented to you at the Poruwa ceremony." There is nothing here to show that the amount was presented by you to the defendant ?

*A.* Yes.

*Q.* You point that out to Court in view of the suggestion made to you in cross-examination ?

*A.* Yes.

*Q.* What ultimately happened to the tray which contained the dowry, which you ultimately handed over to your daughter ? 40

A. My daughter gave the tray along with the dowry to the defendant's father. He counted the money and took it.

Q. You stated in cross-examination that the defendant sometimes spoke to you up to the month of August, 1957 ?

A. Yes.

Q. What was it that he spoke to you ?

A. He used to ask me " when did you come ? " " did you have your meals ? " etc. Other than putting such questions to me, he did not talk to me much.

10 I sent letters to my daughter up to June, 1957.

Q. You point out to Court that in none of these letters—P2, P4 and P5—sent by your daughter to you is there any reference to any letters sent to her by you ?

A. Yes. There is no reference to any letters sent by me.

In P2 she says " P.P. and his mother see all letters written by me. These two see all letters sent to me."

I also point out that in the letter P4, my daughter has acknowledged the receipt of some ' meneri ' sent to her. I sent some ' meneri ' to her. There is no reference in it to any letters sent by  
20 me to her.

(Sgd.) F. C. PERERA,  
D.J.  
24.9.1959.

Plaintiff's case closed reading in evidence P1 to P23.

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**No. 23**

**Defendant's Evidence**

*Defendant's Case*

Mr. Panditha Gunewardena marks in evidence a letter No. S13336/57 dated 9.11.1957, sent by the Superintendent of Telecommunication  
30 Traffic marked D20, and another letter also sent by the Superintendent of Telecommunication Traffic dated 16.5.1959 marked D21.

Mr. Panditha Gunewardena calls :—

J. BODIMANNA, affirmed, 27 years, P.C. 2534, Borella Police.

I have brought with me the Information Book of the Borella Police. On 4.12.1957, I was attached to the Borella Police Station. On that day, in consequence of a message I received from the Matara

No. 22  
Plaintiff's  
Evidence—  
*Continued*

Evidence of  
Mrs. D.  
Samarasuriya  
Re-examina-  
tion—  
*Continued*

No. 23  
Defendant's  
Evidence

Evidence of  
J. Bodimanna  
Examination

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
J. Bodimanna  
Examination—  
*Continued*

Police, I visited Ward No. 16 of the Lying-in-Home, Colombo. I met the plaintiff there. I told the plaintiff that a message had been sent to me from the Matara Police, on behalf of the defendant, requesting me to ask her what date would be suitable to her to accompany her husband to Matara. She told me that her mother admitted her to the Hospital and that she could not say on which date she would be discharged from the Hospital. I recorded her statement. (Shown D22.) This is a true copy of her statement.

(This document is certified by the witness in the witness box.)

*Q.* On that day did you ask the plaintiff whether she was 10 willing to go ?

*A.* Yes. I have recorded her reply.

Evidence of  
J. Bodimanna  
Cross-  
examination

*Cross-examined.*

*Q.* Do you remember any of the questions you put to her apart from what you say from your document D22 ?

*A.* I cannot remember.

*Q.* You believe you asked such a question but you cannot remember ?

*A.* Yes.

*Q.* There is no record of such a question in D22 ?

20

*A.* I have not been asked to record her statement in the message sent from Matara. I was only asked to find out from her when she would be discharged from the Hospital. I recorded her answer to that question. She stated she was unable to state on what day she would be discharged and that she was unable to go till her mother's arrival.

Evidence of  
J. Bodimanna  
Re-examination

*Re-examined.*

On receipt of the message from the Matara Police, I went to the Lying-in-Home and questioned the plaintiff.

*Q.* We want to know exactly what you asked her ?

30

*A.* Defendant had wanted to find out when she could go.

*Q.* To go where ?

*A.* I do not know where. I told her that a telephone message was received by me from her husband in Matara. When I said so she made the statement D22.

*Q.* Tell the Court in full what the message you delivered to the plaintiff was ?

(Mr. de Silva objects to the question because it has been asked several times, the witness has answered it several times and also

because the witness says the answer has been recorded in his statement.)

(To Court :

Q. Can you remember word to word the question you asked the plaintiff ?

A. I told the plaintiff that Mr. Wickremasuriya of Matara had sent the following message : " If you are well tell me. The gentleman has said he is willing to come to take you away."

(Mr. de Silva wants to have it recorded that the defendant was 10 in Court when the last witness gave evidence.)

I inform the defendant that the application made by the plaintiff asking for an order for payment of costs will be inquired into on 15th October, 1959. I request the Proctor for the plaintiff to take out a certified copy of the Interlocutory Order and serve the Interlocutory Order with a copy of the petition through the Fiscal on the defendant as early as possible.

Inquiry into that application on 15.10.1959.

Further hearing on 6th November, 1959.

(Sgd.) F. C. PERERA,  
D.J.  
24.9.1959.

20

6.11.1959.

Trial resumed.

Same appearances as before.

Mr. V. Dias submits to Court objections of the defendant and an affidavit of which notice has been given to the other side

Mr. Panditha Gunewardena says he has no instructions with regard to the Interlocutory Order in respect of which objections have been filed today, and he asks for a date.

30 Of consent, I fix the inquiry for the 19th instant.

Defendant's case continued.

Mr. Panditha Gunewardena calls :—

A. A. RATNAYAKE, sworn, 45 years, Secretary, Debt Conciliation Board, Colombo.

I have brought the original application made by Mr. S. L. P. Charles Samarasuriya to the Debt Conciliation Board, a certified copy of which has been produced marked D19. The date on D19 is 11.10.1957. The application was entertained on 12.10.1957. The

No. 23  
Defendant's  
Evidence  
Continued

Evidence of  
J. Bodimanna  
Re-examina-  
tion—  
Continued

Evidence of  
A. A. Rat-  
nayake  
Examination

No. 23  
Defendant's  
Evidence—  
*Continued*

application and the affidavit were sent together. The affidavit is dated 12.10.1957. There appears an alteration of the date of the affidavit, and the alteration has been initialled by the J.P.

Evidence of  
A. A. Rat-  
nayake  
Cross-  
examination

*Cross-examined.* The date 11.10.57 in the document, which is an application for relief, appears only once. All the other dates in it are 12.10.1957. The certified copy D19 conforms to the original. I am not personally aware of any other matters connected with this application.

*Re-examined.* Nil.

(Sgd.) F. C. PERERA, 10  
D.J.  
6.11.1959.

Evidence of  
P. P.  
Wickrama-  
suriya  
Examination

P. P. WICKRAMASURIYA, affirmed, 38 years, Advocate, Matara.

I am the defendant. I have been practising as an Advocate at Matara for about 11 years. I married the plaintiff on 31st January, 1957. So far as I am aware, it was Mr. George Samarasuriya, a nephew of the plaintiff's father, who brought about this marriage. I do not know how this proposal came about. Somewhere in November, 1956, this matter was first brought to my notice, and 20 thereafter I visited the plaintiff's house at Gampaha. Before I made that visit, the plaintiff's father and mother came to my place at Matara with Mr. George Samarasuriya. I was present on the occasion when the plaintiff's parents came to my house at Matara. I understood that the horoscopes had been compared, but that was not done in my presence. Thereafter, I visited the plaintiff's house along with my parents on 8th November, 1956. Before that I had not seen the plaintiff. On that occasion, I was introduced to the plaintiff. I did not speak to her, nor did she speak to me. On those occasions the question of dowry was not discussed. After I returned home, one 30 day sometime before the engagement, the plaintiff, her mother and her brother Gamini, came to my house at Matara. On the day they came I was ill in bed. The plaintiff and her mother came to my room and saw me, and then they left for Gampaha. After I recovered, the next visit I paid to Gampaha was for the engagement. My parents, my aunts and uncles—in all about 40 people—came for the engagement from my side. I believe the engagement was on 20.12.1956. Rings were exchanged, and on that occasion the plaintiff's father announced in the presence of all that he was giving Rs. 50,000/- in cash as dowry. Apart from that there was no talk about any movable 40 or immovable property to be given as dowry. On the plaintiff's side also there were about 40 people present for the engagement. On that day the marriage was fixed for the 31st of January, 1957, and it was also decided to hold the reception at the Grand Oriental Hotel,

Colombo. On the day of the engagement, I think I signed a document to be sent to the Newspapers. That was an announcement of the marriage. The plaintiff also signed that document. On that day, notice of marriage was given on the plaintiff's side, and I gave notice of marriage at Matara a few days later. Between that date and the date of the marriage, I visited the plaintiff at Gampaha on 3 or 4 occasions. On those occasions I talked to the plaintiff and took her for pictures to Jaela and Negombo. The marriage took place on the 31st of January, 1957. On that day there was a poruwa ceremony  
 10 in the morning at Gampaha. At the Poruwa ceremony also rings were exchanged and the usual nuptial knot was tied. As dowry, the plaintiff's mother handed me a tray containing currency notes and a box of jewellery. There was no announcement as to how much of money was handed over to me as dowry. There was no counting of the money. I handed over the money and the box of jewellery to my mother. About 100 people were present at the poruwa ceremony. After the Poruwa ceremony, the reception was held at the Grand Oriental Hotel, Colombo, in the evening. About 500 people were present at the reception at the G.O.H. The registration took place  
 20 at the Hotel. The attesting witnesses were Mr. Daluwatta and the Hon. Mr. W. Dahanayake. After the reception was over, my wife and I went to the Mount Lavinia Hotel. We returned to Matara on the 2nd of February. On the 2nd of February, the plaintiff's parents, brothers and some relations joined us at the Mount Lavinia Hotel, and all of us went to Matara together. On the day of the home-coming, on the next day and the day after a reception was held at my residence, and address-papers were read. My wife and I took up residence in the upstairs portion of my house. The upstairs portion is  
 30 practically a separate unit, and access could be gained to the upstairs in three ways. On either side there is a staircase going up, and also one could gain access to the upstairs through the hall, which is the normal access. On either side of the house there is a verandah, and there are doors connecting the verandah. There are three rooms on either side in the upstairs and a hall in the middle. In all there are six rooms in the upstairs. There is an attached latrine in one room and a bath and a latrine in another room in the upstairs. But there was no kitchen. One can get to the verandah of my house from the upstairs without coming to the main hall downstairs. Right round the rooms in the upstairs there is a verandah and a balcony in front.  
 40 For sleeping purposes, the plaintiff and I occupied the last room on the left facing the road, the next room we used as our dressing-room, and the other room in the same wing I used as my office room. One of the other three rooms in the upstairs was meant for visitors. Nobody else other than my wife and I were occupying the upstairs. Before I got married, my brother also occupied a room upstairs. My mother, father, younger brother and the servants occupied the downstairs. Soon after I returned home after the marriage, the plaintiff did not

No. 23  
 Defendant's  
 Evidence—  
*Continued*

Evidence of  
 P. P.  
 Wickrama-  
 suriya  
 Examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Examination—  
*Continued*

raise the question of our taking a separate house to live in. Nor did her parents raise any such question. After the marriage I paid the first visit to the plaintiff's home in Gampaha on the 10th of February. On that occasion, we stayed in plaintiff's house for about 2 or 3 hours. On that occasion, I came to Gampaha with several of my relations. The party came in three cars. We came on a Sunday, and I had to go to Courts the next day. We came on the 10th of February, because it was supposed to be an auspicious day. It is known as the "mahagamana". We paid the next visit to Gampaha on the following Friday. On that occasion, we stayed in 10 plaintiff's house at Gampaha on Friday night and Saturday night, and on Sunday we left for Matara. During those two days we visited a friend of mine and also about six other houses. At that time the relations between me, my wife and her parents were very cordial. On that occasion no question arose regarding the dowry. There was no unpleasantness of any kind. After that the plaintiff's mother visited us at Matara. She used to come to Matara practically once in 10 days or two weeks. When she came sometimes she spent a day and a night, and sometimes she went back on the same day. Very often she was accompanied by her son Ananda or one of their 20 boarders. The person who accompanied her also stayed in the upstairs, whenever the plaintiff's mother stayed over. Several relations of the plaintiff called on us. One Mr. and Mrs. Wimalasuriya—some friends of the plaintiff—visited us on their way to Kataragama. Plaintiff's next door neighbour, Mr. Dissanayake and his family also called at my place. They had lunch with us. Mr. George Samarasuriya also dropped in now and then. Mr. Daluwatta also called on us and had lunch with us. Plaintiff's relations were always welcome at my place. My mother used to address the plaintiff as 'Duwa'. I go to Courts at about 9 in the morning and return for lunch between 30 12.30 and 1 p.m. Very often, my wife and I had our morning tea together. For the morning tea, very often we used to go downstairs, but after she conceived sometimes her tea was sent upstairs. Lunch was taken downstairs. The usual practice was for the plaintiff and myself to have lunch together. She stayed till I came to have her lunch. The distance from the Courts to my house is about 1½ or 2 miles. Her period took place on the 20th of February, and about 10 days later she had a slight haemorrhage. When that happened, I did not know what it was, and I took her to Dr. Mrs. Kulatunga. After that visit to Dr. Mrs. Kulatunga, I came to know that the 40 plaintiff had conceived. The Doctor prescribed some tablets and some calcium tablets. There was no trouble regarding her womb. But after that, after consulting my parents, I suggested to her that we should live downstairs. My parents agreed to come and live in the upstairs. The plaintiff preferred to live in the upstairs, as it was healthier and pleasant. In the upstairs there were fans in two rooms and in the hall. There was electricity, water service and

drainage in my bungalow. There is no drainage facilities in Matara, and I had to have a separate unit for my house. While at Matara, we visited Mr. Karunaratne, Advocate, and Mrs. Karunaratne, Proctor Shelton Dias and Proctor Abeyesuriya, Mr. and Mrs. S. P. A. Gunewardena and several other friends of mine. We also visited Mr. and Mrs. A. D. J. Gunewardena. Very often we visited Mr. and Mrs. S. P. A. Gunewardena. My wife did not want to have any particular type of food as such, but after she became pregnant I brought extras for her from the town. It is a lie when she says that she was served  
 10 with the same type of fish every day. It is not possible to get the same kind of fish every day anywhere in the Island. I used to get eggs for her from the Grand Oriental Bakery, from Mr. S. P. A. Gunewardena's house and sometimes from the Resthouse. I also got aerated waters for her from the Elephant House Branch at Matara. There was no objection to any of these things from my mother. I am a vegetarian and a teetotaler. I also don't smoke. Mrs. A. D. J. Gunewardena was a distant relation of the plaintiff. From the plaintiff I came to understand that Mr. and Mrs. Basil Jayawickrema, D. Balasuriya and D. Dias were distant relatives of  
 20 her. Out of them only Mr. Dias attended our wedding. I asked Mrs. Dias why she did not attend the plaintiff's wedding if she was a relation of the plaintiff. Then she told me that she was not on good terms with her parents. We used to take milk powder every day. We never had a cow. Before the marriage we used to get milk from the vendors, but that milk was found to be highly adulterated, and thereafter we used milk powder. No distinction was made between the food the plaintiff took and the food I took, except that the plaintiff took extras like fish, eggs, etc. We also used to get down curd from a Farm. On the day of the engagement, my mother gave the  
 30 plaintiff a necklace and other jewellery worth about Rs. 5,000/-. We exchanged four rings. All these jewellery were kept in a strong box inside the plaintiff's almirah. The plaintiff did not bring an almirah with her, but about a week later her brother sent an almirah and it was placed in our dressing-room in the upstairs. Plaintiff's jewellery were in the strong-box, which was kept in her almirah. The key of the almirah was with the plaintiff. Her clothes were also in her almirah. I had a separate almirah for me to keep my clothes in the same room. The key of my almirah was kept in the drawer of the almirah itself.

40 For the Sinhalese New Year, my wife and I went shopping. I asked her to buy a sarong for her father, a saree for her mother, a saree for my mother and a saree for herself. She chose the sarees and paid for them. The money was in her purse. Whatever money I got I gave it to the plaintiff, keeping about Rs. 10/- in my pocket. The money that I gave to the plaintiff was also kept in the same strong-box. The plaintiff and I went to pictures at Matara several

Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Examination—  
Continued

times at plaintiff's instance. Before I got married I used to go to see pictures about once a year, but after the marriage as the plaintiff was fond of seeing pictures, I took her to the cinema for every change of programme. Between January and April, I did not go out of Matara with the plaintiff, except going to Kottegoda Temple to see the lying-in-state of a priest. Kottegoda Temple is the chief place of worship in that area, and we are Dayakayas of that temple. For the actual cremation of that priest, I did not take the plaintiff, but I went with another gentleman. In April, I did not go anywhere with the plaintiff. We once went to Kamburupitiya to attend the 10 funeral of a friend of mine. Kamburupitiya is about 15 miles away from Matara. My mother also went with us on that occasion. There is a telephone in my bungalow at Matara and also there is a telephone in plaintiff's house at Gampaha. Plaintiff used to get telephone calls now and then from her parents at Gampaha, and she also telephoned them from Matara. There was no interception of any of her letters by anyone. It is incorrect to say that her letters were intercepted by me or by my parents. She had every opportunity to post letters to her parents. I remember on one occasion I posted a letter for her. Between February and April there was no unpleasantness between 20 me and the plaintiff. Plaintiff's mother had free access to her daughter. Sometimes when her mother came and stayed over, there was no interference whatsoever from anybody, I was away in Courts, and they were together.

Somewhere in April, the plaintiff told me that her brother wanted a loan of Rs. 15,000/- from me. At first I did not take much notice of that request, but later she kept on insisting about it. As she insisted on it, I thought at first of obliging her, and I consulted my parents. As a result of the conversation I had with my parents, I came to know that the dowry has been given as a result of a mortgage transaction. 30 I came to know that the plaintiff's father had raised a loan by mortgaging their property with my father. I told the plaintiff about it, but she did not believe it. When she did not believe it I showed her the mortgage bond, and then she believed it. Even thereafter there was no difference in the relationship between me and the plaintiff. Somewhere about May, 1957, plaintiff's parents visited us at Matara. I think her brother also came along on that occasion. I met them. I was not informed earlier of their coming. Prior to the marriage they used to inform us of their visits, but not after the marriage. When they visited us in May, I talked to them. No question about 40 the dowry was raised on that occasion. Nor was any question raised about the mortgage. It is not correct to say that I avoided them and went out of Matara when they visited me in May. During the first week of June, the plaintiff wanted to go to Gampaha to see her parents, and I took her to Gampaha. On that occasion, I came to the Rest-house and stayed there, and I sent the plaintiff to her house along

with my aunt Hewa's children and the driver. I did not go to her house after I became aware of this mortgage transaction. I made certain inquiries from my mother and I came to know that the plaintiff was a troublesome man who was fond of litigation. I wanted to avoid him. I did not want to get entangled with him in these loan transactions. On that occasion I returned to Matara on the same day. On the way we dropped in at Mr. George Samarasuriya's place at Ratmalana. During the August Court vacation, my wife and I went to Koslanda and were there for about 2 or three days. There is  
 10 an aunt of mine at Koslanda, who is married to the Post Master there. It is incorrect to say that I went to Koslanda in April. I went to Koslanda with the plaintiff only once. From Koslanda, on a Sunday we went to Haputale. My aunt wanted to go to the fair at Haputale, and the plaintiff also was anxious to go there. The plaintiff, at any time, did not protest about the trip to Koslanda or Haputale. In fact, she enjoyed those trips. In August, 1957, the plaintiff's father came to Matara. I met him on that occasion. There was nothing unusual between me and the plaintiff's father. We sat together for dinner. My mother also had dinner with us on that occasion. He  
 20 went back on the same day. I took the plaintiff to Dr. Mrs. Kulatunga for consultation about 6 or 7 times. One day when I was away from home, the plaintiff had vomited several times, and my parents had got down Dr. Karunaratne to examine her. In September I took her for walks in the beach on the advice of the Doctor. In September, I had a case before the Industrial Court, and I came to Colombo for that matter with the plaintiff. I took that opportunity to have her examined by Dr. Caldera, and in fact Dr. Caldera was consulted. After consulting Dr. Caldera I came to know of the probable date of delivery. Thereafter, I went to two or three nursing homes. Both  
 30 the plaintiff and I went together to the Private General Hospital and inquired whether there were rooms and when they would be available. I also went alone to two or three other private nursing homes in Ward Place. I took her to the Private General Hospital because it is almost adjoining the road. I made up my mind to take her to the Private General Hospital for her confinement.

After the marriage, in September, I bought tea shares worth about Rs. 9,500/- in plaintiff's name. At the time of the marriage, I had an account in the Bank of Ceylon. I might have had about Rs. 2,000/- in the Bank. I also had some money in the Savings Bank.  
 40 My Savings Bank account was opened about 25 years ago, when I was a small boy. It was opened for me by my mother. I negotiated for the tea shares I spoke of in August, and bought them in September. At that time there were no differences between me and the plaintiff. If there were any differences I would not have bought shares in her name.

No. 23  
 Defendant's  
 Evidence—  
*Continued*

Evidence of  
 P. P.  
 Wickrama-  
 suriya  
 Examination—  
*Continued*

No. 23  
 Defendant's  
 Evidence—  
*Continued*

Evidence of  
 P. P.  
 Wickrama-  
 suriya  
 Examination—  
*Continued*

On 3rd October, the plaintiff's mother and her brother, Ananda, had come to my place at about 8.30 in the night. That day we had gone to attend a wedding at Galle, and they were in the house when we returned. We had gone that day to attend the wedding of my mother's sister's daughter. Apart from the necklace I mentioned earlier, my mother gave a diamond throatlet worth Rs. 35,000/- to Rs. 40,000/- to the plaintiff. My mother had got it from my father as a present. When the plaintiff's mother and brother came to my house on 3rd October, I asked them to have dinner. They said they had come to attend a wedding at Ambalangoda and that they wanted 10 to get back soon. It is incorrect to say that I avoided them and went away saying that I had to attend another wedding. There was no unpleasantness between us on that occasion. On 10th October, when I returned from Courts, I found the plaintiff's mother, brother and another person in my house. They had come at about 9.30 in the morning, and when I came home for lunch at 12.30 they were there. The plaintiff told me that she wanted to go home for sometime. I told her that I had decided to take her to Colombo for her confinement, and that it was premature for her to go for her confinement. She did not listen to me. Finally, to all purposes, she accepted what 20 I said. Then at about 2.15 when I was in the hall reading the Newspaper, I saw the plaintiff going to the verandah to see her mother and brother off. Then suddenly I heard the servants shouting and I saw the car tearing past the gate. I found that the plaintiff also had gone in that car. It is incorrect to say that she asked permission from me to go. Immediately after she left I thought for a while. The car was going at a terrible speed, and I thought to myself and then went to meet the A. S. P. I knew the A. S. P. and I told him what happened. Thereafter, I went to the Matara Police Station and lodged an entry and came home. Then I had my tea and went upstairs. 30 I went to my wife's dressing-room. I searched for the key of the almirah. I found the key on the top of the almirah. I opened the almirah. The strong-box was inside the almirah, and the key was on it. I opened the strong-box and found the gold rings given on the wedding day, the two diamond rings given on the engagement-day, two gold sovereigns which we had got as presents, the diamond throatlet and the rest of plaintiff's jewellery and the money missing. Then I went to the Police Station and made a second complaint. Before she actually left on that day, I did not have any suspicions that she was trying to go home. On the 10th of October, plaintiff's 40 mother, her brother Ananda and another young man in trousers, who was the driver of the car came to my place. Before that she did not express any desire to go home for her confinement. My idea was to take her to the Private General Hospital for her confinement. I did not like her going to Gampaha for her confinement, because their house at Gampaha had only three rooms. There were about 10 or 15 over-grown school boys living there as boarders, and also a young

widowed Proctor of this Court. When I subsequently visited the plaintiff's house I found those facts. It is possible for a person to take a suit-case from my room in the upstairs to a vehicle halted outside, when I am in the drawing room without being seen by me. A suit-case could be taken from my room in the upstairs through the staircase on the side. Thereafter, on the 26th night I received a telegram that a baby son was born to her. This was the first intimation I had about her. Then on the next day I came to Gampaha with my aunt, Mrs. Hewa. There was a servant woman in the plaintiff's house, and from her we came to understand that the plaintiff was in the Lying-in-home. We went to the Lying-in-home and went away. On the following Saturday, I again came to the Lying-in-home with another aunt of mine named Mrs. Wijesuriya and her son and daughter. On the first occasion I visited her at the Lying-in-home I spoke to her. I had a look at my son. On the 30th also I spoke to the plaintiff. I also brought a baby-set. On that occasion I did not question her with regard to her movements. Then I came again on the following day with my mother. I spoke to the plaintiff. In the meantime I had received some share forms from the Ceylon Provincials, Ltd., and they were issuing premium shares. For every 10 shares one share was being issued by them at a premium, and those premium shares had to be bought before the 18th of December, and the plaintiff had to sign certain forms for that purpose. I wanted to purchase those extra shares also in her name. I showed her the forms. She read them. She signed one form. (Shown D7.) This is the form that she signed. There was another form in red attached to D7. (Shown another form.) This is the form in red, attached to which was a printed letter dated 22.11.1957. I produce a document called " a memorandum to shareholders " marked D23, and the form attached to it as D23a. When she was about to sign the other form, which was to the same effect, her brother came from somewhere and scolded me. He prevented her from signing the other form. Then I put those papers in my pocket. Her brother left after a few minutes, but I did not want to proceed on with those forms. I told her that I wanted to take her home straight from hospital, and requested her to let me know the date on which she would be discharged. I asked her to telephone me or send a telegram. She was not aware at that time when she would be discharged. Thereafter I left for home. Before I went on the 1st I had a feeling that pressure was being brought to bear on her by her parents. After I went to Matara I thought to myself and then went to the Police Station and asked the Police to inquire from my wife when she would be leaving the hospital and whether she was willing to come with me. I produce that complaint dated 3.12.1957 marked D24. As a result of my complaint I now know that a Constable of the Borella Police had come to the Lying-in-home and questioned the plaintiff. On Saturday, I came to the Lying-in-home with my aunt Dayawathie and her husband, Mr. Wilson Silva.

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Examination—  
*Continued*

Then I found that she had left the Lying-in-home about two days earlier. Then I came with my uncle and aunt to the plaintiff's house at Gampaha and told the plaintiff that I wanted to take her to Matara. She said she was not quite well at that time, and I left it at that. That was on the 6th of December. On the 28th I sent a telegram to the plaintiff. I got a reply to that telegram on the next day. I produce the telegram which was sent to me informing me that a son had been born, dated 26th November, 1957, marked D25. I received D8 on the 29th of December. I received another telegram on the 10th of January, asking me to come to "discuss future plans". That 10 telegram is produced marked D10. I got another telegram on the 14th of January, 1958, which is produced marked D11. After I got D11, I sent a telegram on the next day.

(Adjourned.)

(Sgd.) F. CONRAD PERERA,  
*D.J.*  
6.11.1959.

*(Resumed after the Interval)*

P. P. WICKREMASURIYA, recalled, affirmed.

*Examination-in-chief—Contd.* : I got the telegram D10 on 10.1.1958. 20 After I got D10, on the next day I came to Gampaha to the plaintiff's house and told the plaintiff that I had come to take her away. Then my father-in-law also came and took part in the conversation. He asked me to persuade my father and get a free discharge of the mortgage bond. He also asked me to reside in Gampaha and practise at Gampaha. I did not agree to that. Then on the way back to Matara, I went to the Police Station and made a complaint. I produce an extract from the Information Book of the Gampaha Police Station dated 11.1.1958 marked D25. Thereafter, I got the telegram dated 14.1.1958, from the plaintiff. I thought it was a false telegram because 30 I had gone to the plaintiff's house on the 11th and the plaintiff had refused to come with me. My impression was that later on they had come to know that I had made a complaint to the Police and they had just sent that telegram. Thereafter, I sent another telegram. On the 17th, I got another telegram from Gampaha purporting to be from the plaintiff. Some days later I got summons in a divorce case. I now know that this action had been filed on 15.1.1958. I came to know that only after summons was served on me.

The plaintiff did not insist on coming to Gampaha for her confinement. Until her mother came and took her away, I knew nothing 40 about it. There was no inconvenience whatsoever for the plaintiff to live in the upstairs of my house. She did not inform me at any time that she found it difficult to live there. Apart from my house,

there is only one other house at Matara where you find all the conveniences found in my house. Apart from the fact that the plaintiff's father was subject to asthma, I did not know that he was ill at any time. It is incorrect to say that I refused to let the plaintiff go and see her father when he was ill. The question of my residing at Gampaha did not arise at any time. During the visit of the 15th of February, I stayed at Gampaha for two days. Thereafter, in June, I took the plaintiff to Gampaha. On that occasion I stayed at the Resthouse. On any of those visits, the plaintiff did not insist on my

10 staying at Gampaha. I never intercepted any letters of the plaintiff. I deny that I neglected her and failed to give her the necessary care and attention during her pregnancy. I did everything that was possible. I did everything I felt was necessary under the circumstances. Far from refusing to pay the Lying-in-home charges, I made a complaint to the Matara Police asking them to find out whether the plaintiff was prepared to come back to me. When I went to the Lying-in-home on the 6th, I found she had already left the place. I deny that I insulted and humiliated her while she was in the Lying-in-home.

Q. Were there any occasions for her to say that you treated her

20 with cruelty or that you neglected her ?

A. No. Never.

I ask for the custody of the child, Ravindra Rohan. My mother is in my house to look after the child. If necessary I will get my parents to obtain the services of a governess to look after the child. I propose to send the child to school somewhere in the 3rd year or early 4th year. Approximately I get an income of about Rs. 300/- a month. I bought certain shares in my name after my wife left me. From those shares I get an income of about Rs. 80/- a month. At the time of the alimony inquiry, I got an income of about Rs. 60/- from

30 the shares. Apart from the income from those shares and the professional income, I have no other income. (Shown D1.) I received this letter from the plaintiff on the 14th of November, 1957. Apart from one instance where she says that I scolded her several times about the dowry, she has not made any other allegation against me in D1. I received D1 four days after she left me. At the alimony inquiry, the plaintiff took up the position that I was in receipt of an income of about Rs. 2,000/- a month. The matter was discussed by Counsel on either side, and my Counsel submitted to Court a

40 document. That document was written by her in her own handwriting at my instance. I received D18 on 6.9.1957. I have produced D20 and D21 to show that a telephone call has been made to my residence from Gampaha on 9.10.1957. After she left me on the 10th of October, I got information that she had received a telephone call on the day before she left. Then I wrote to the Telecommunication authorities and obtained D20 and D21. D20 is addressed to my

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Examination—  
Continued

father because the telephone installed at my residence is in my father's name. I wrote to the Telecommunication Department, and on 16.5. 1959, I got a letter saying that all the documents referred to in the summons had been destroyed. On 10th October, when the plaintiff left me, I made a complaint to the Matara Police. That day I made my first complaint at 3.15 p.m., and it is produced marked D26. I again made a complaint at 4.30 p.m. and I produce it marked D27.

On 10th October, 1957, the plaintiff maliciously deserted me, and I ask for a dissolution of the marriage on the ground of malicious desertion. I also ask for the custody of the child of the marriage, 10 Ravindra Rohan.

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination

*Cross-examined.*

*Q.* One of the witnesses on whose evidence you rely is George Samarasuriya ?

*A.* I have filed a list of witnesses and it is left to my Counsel to call anybody he likes.

*Q.* Are you relying on his evidence ?

*A.* I have filed a list of witnesses and I rely on the evidence of the witnesses whom my Counsel would call.

*Q.* Is it correct to say that George Samarasuriya has been listed 20 as a witness on your instructions ?

*A.* Yes.

*Q.* Is he being called ?

*A.* It is left to my Counsel. I do not know.

*Q.* Is he one of the persons who took this proposal to the plaintiff's father ?

*A.* Yes. I do not know. As far as I am aware he is the person who brought this proposal to us.

*Q.* What you wish to suggest to the Court is that the party who was keen on this marriage was not you but the plaintiff's father ? 30

*A.* I don't say that. This marriage proposal was brought to us by George Samarasuriya.

*Q.* Your father had known George Samarasuriya for sometime ?

*A.* I do not know that personally.

*Q.* Did you know George Samarasuriya before this proposal of marriage was brought to you ?

*A.* No.

*Q.* Did your parents and you visit the plaintiff's parents' house at Gampaha on 30.9.1956 ?

*A.* I cannot remember the date.

*Q.* Do you agree that sometime towards the latter part of 1956, your parents and you visited the plaintiff's parents' house at Gampaha ?

*A.* Yes.

*Q.* On that occasion did George Samarasuriya also go there ?

*A.* Yes.

*Q.* Was that the first occasion on which you and your parents visited the plaintiff's parents' house at Gampaha ?

*A.* Yes.

10 *Q.* Is it correct to say that after that the plaintiff's parents visited your house at Matara ?

*A.* No. Prior to that they visited us.

*Q.* Is it your position that it was the plaintiff's parents who made the first visit ?

*A.* I do not know whether my parents had gone to Gampaha before that without my knowledge.

*Q.* Can you tell us about when that was that the plaintiff's parents came to Matara ?

*A.* I cannot remember.

20 *Q.* Can you tell us how long before you and your parents visited the plaintiff's parents at Gampaha that they visited you at Matara ?

*A.* Within a period of three months.

*Q.* Are you suggesting that the proposal that you and the plaintiff should get married had been made about three months before you and your parents visited the plaintiff's house at Gampaha ?

*A.* What I said was that I am not quite certain about the exact date.

30 *Q.* Are you suggesting that this proposal that you and the plaintiff should get married was made at least three months before the visit made by you and your parents to the plaintiff's house at Gampaha ?

*A.* I cannot say.

*Q.* About when in 1956 this proposal was first made you cannot say ?

*A.* It was after April, 1956. I can fix the month because I contested the Hakmana elections for a parliamentary seat in April. During that month no proposals came to me.

*Q.* It was some considerable time after April ?

*A.* It was after April.

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

Q. Were you successful at that contest ?

A. No.

Q. Dr. Mrs. Kulatunga is one of your witnesses ?

A. Yes.

Q. Do you know whether she is being called as a witness ?

A. It is a matter entirely left to my Counsel.

Q. Did Dr. Mrs. Kulatunge start attending on your wife from about March, 1957 ?

A. In late February.

Q. Do you agree that the conception had taken place sometime 10 in March, 1957 ?

A. No. She missed her first date on the 20th of February and thereafter she did not have her menses. I cannot say when she conceived.

Q. On how many occasions did Dr. Mrs. Kulatunge attend on your wife ?

A. On 6 or 7 occasions.

Q. You have no note of the dates ?

A. No.

Q. Did you try to find out from Dr. Mrs. Kulatunge whether 20 she had made a note of the dates on which she attended on your wife ?

A. I do not know. As a rule she does not do private practice, and it was to oblige us that she attended on my wife.

Q. Have you any note of the prescriptions she gave ?

A. No.

Q. Have you kept her prescriptions ?

A. She prescribed certain drugs, and we bought them from the Chemist.

Q. Do you know the pills that she prescribed ?

A. One is pre-natal tablets. I do not know the names of the 30 other tablets. There were some latin names I think.

Q. Has your father got an unfortunate reputation in the Matara District ?

A. No.

Q. Was there any matter in 1954 where he was concerned and where the Police had to intervene ?

A. I cannot remember.

Q. Has your father been having a gun ?

A. Yes, he has in the estates.

Q. Did the Police make some inquiries into a matter of a shooting ?

A. No.

Q. Do you deny that you also sought to intervene in that matter ?

A. I know nothing.

Q. You have listed both your parents as your witnesses ?

A. Yes.

10 Q. You do not know whether they would be giving evidence ?

A. My mother has come. The question of calling witnesses, as I said before, is a matter entirely left for my Counsel.

Yasawathie Hewa is an aunt of mine. She can speak of our family life. That is between me and my wife.

Q. Has she been a frequent visitor to your house ?

A. Since we married she has been visiting us at Matara practically about twice a month. We also have called on them very often.

Q. What is the material on which Yasawathie Hewa is going to speak ?

20 A. She can speak about the family relationship between me and the plaintiff. She also can speak regarding all other family matters.

Q. Has she stayed in your house ?

A. Yes, once after the home-coming. For the home-coming all of them came and stayed in my house.

Q. That was soon after your marriage ?

A. Mrs. Hewa stayed in my house in early February, 1957. Thereafter also she came and stayed in my house somewhere close to Sinhalese New Year. Dayawathie de Silva is also an aunt of mine. She also can speak about the family relationship. Baby Singho of  
30 Dondra has been visiting us frequently. He is a person who is in our house practically every week.

Q. What does he know about this case ?

A. He can speak about the marriage, if necessary.

Q. What precise thing does he know about the two of you ?

A. He knows how we were getting on.

Q. That is you and your wife did not have any quarrels ?

A. No.

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

*Q.* Is it correct to say that you do not know what specific material Baby Singho is going to speak about ?

*A.* I did not question him.

*Q.* Before you gave instructions to your Proctor, you did not give your mind to the problem as to the material on which he was going to speak ?

*A.* Baby Singho would have spoken about that, and also regarding another matter.

*Q.* Question repeated.

*A.* He can speak about our family life. He can give evidence **10** on another matter. By family life I mean to some extent my life with the plaintiff. In February, 1958, the plaintiff's mother had made a false complaint against me to the effect that I went to the plaintiff's house after the filing of this action and tried to take the baby away. She had made that false complaint to the Gampaha Police. The Police questioned me, and I gave an account of my movements to the Police. Baby Singho can speak about my movements on that day.

*Q.* Was that statement alleged to have been made by the plaintiff's mother to Baby Singho ? **20**

*A.* No.

Plaintiff's mother has made a false complaint against me that in February, after the filing of this action, I had come to her place in Gampaha and tried to take the baby away. Baby Singho can speak to my movements on that particular day. I made a statement immediately to the Matara Police and asked them to check my movements. I wanted Baby Singho to confirm an alibi. Baby Singho is a 'kattandiya' (charmer).

*Q.* What is W. Sirisena of Galle, who is a witness for you, going to say ? **30**

*A.* I was going to call him to prove my movements on that day.

I did not obtain a certified copy of the complaint made by the plaintiff's mother against me. Mr. R. G. de Silva, Proctor, of Colombo, is a witness for me. I wanted to call him to speak about the mortgage bond transaction. He is the Notary who attested the mortgage bond. L. H. Wilson Silva is an uncle of mine. He is the husband of Dayawathie I spoke of.

*Q.* Did Mr. and Mrs. Wilson Silva come on the 11th of December, 1957, to the plaintiff's house at Gampaha ?

*A.* As far as I am aware, they did not come. **40**

*Q.* Did they come sometime in December, 1957, to the plaintiff's house at Gampaha ?

*A.* Yes. They came with me on the 6th of December, and not on the 11th.

*Q.* Was that for the purpose of seeing your new born child ?

*A.* Yes.

*Q.* They went to the plaintiff's house at Gampaha ?

*A.* Yes, with me.

*Q.* Did they come by car with you from Matara ?

10 *A.* Yes.

*Q.* As a matter of fact are you sure that you also accompanied them to the plaintiff's house at Gampaha on that occasion ?

*A.* Yes.

*Q.* After this trial began, you listed Mr. and Mrs. S. P. A. Gunewardena ?

*A.* We visited their house very often. About twice a week we used to visit them. Mrs. Gunewardena was the lady who prepared eatables for the plaintiff.

20 *Q.* Mrs. Gunewardena is going to say that eggs were brought from her house by you ?

*A.* I think so.

*Q.* Even before you got married, you have been a frequent visitor to the house of Mr. and Mrs. S. P. A. Gunewardena ?

*A.* Yes, once or twice a week I used to go there. Mr. Gunewardena is a Proctor practising at Matara.

*Q.* When you were wanted by anybody at home and when you were not at home messages have come to Mr. S. P. A. Gunewardena's house in search of you ?

*A.* No.

30 *Q.* Do Mr. and Mrs. Gunewardena know anything about the question of you and the plaintiff living in a separate house ?

*A.* I have not subjected them to such searching questions. I thought they would be necessary witnesses.

*Q.* Do you know anything about the problem whether the question was raised at some time or other that you and your wife should live in a separate house ?

*A.* I do not know. I did not ask them.

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

Q. What is the evidence you expect them to give ?

A. She can speak as to how we got on. There were occasions in which I kept the plaintiff in her house. She was a family friend.

Q. Your wife had not known either Mr. Gunewardena or Mrs. Gunewardena until she came to Matara ?

A. No.

Q. What is the other evidence you expect them to give ?

A. Actually their evidence will go to show that I have treated the plaintiff extremely well. There is no cause for this action to be filed against me. 10

Q. Did Mr. and Mrs. Gunewardena or either of them stay in your house at Matara while you were living there ?

A. No.

Q. They came to know your wife by reason of the visits you and your wife made to them ?

A. Yes. They also attended our wedding and the home-coming.

Q. Is it not a fact that Mr. and Mrs. S. P. A. Gunewardena have not visited your house ?

A. They have.

Q. Is it not correct to say that rightly or wrongly for some 20 reason which your mother considered good and sufficient, she did not like their coming to your house ?

A. No.

Q. The first time that Mr. and Mrs. S. P. A. Gunewardena had called on you and your wife at Matara was for the home-coming ?

A. Yes.

Q. On a second visit that they had made they had missed you because neither of you was at home ?

A. Yes.

Q. After that there had been no other visits by Mr. and Mrs. 30 S. P. A. Gunewardena ?

A. Yes.

Q. Is there any reason why the Gunewardenas, who had been very friendly with you should not call on you after that ?

A. They called on us and they missed us, and thereafter they might not have considered it necessary to come because we used to go to their place about twice a week, and in the evenings we are never at home.

I used to take out the plaintiff for drives practically every evening.

Q. Since your wife left you on 10th October, 1957, also I take it that your ordinary professional life has gone on just the same ?

A. My professional work has suffered after this case was filed.

Q. In spite of the fact that no account of this case has appeared in any of our democratic newspapers ?

A. I do not know.

Q. You know that not one word has appeared in the Newspapers about this case ?

10 A. Yes.

Q. You saw to it that not a word appeared in the Newspapers ?

A. I deny that.

Q. How has your practice suffered as a result of this case ?

A. I have to come here in connection with this case, and also I have to come to Gampaha very often to see my Proctor.

Q. What is your income from the Bar per month since your practice suffered ?

A. It must be less than Rs. 300/-. Between Rs. 250/- to Rs. 300/-.

20 Q. You got your Counsel to make some suggestions to your wife about some boarders who were in her father's house. What was the purpose of that suggestion ?

A. It was a crowded house. Apart from the overgrown school boys who crowded that house, there was a Proctor of this Bar who was occupying the front room.

Q. Before you married the plaintiff, the plaintiff's father had boarders in that house ?

A. They were school boys.

30 Q. The only reason for suggesting that there were overgrown school boys in the house as boarders was merely to show that a greater part of the house had been taken up by the boarders ?

A. I did not want my wife to come and have her confinement in that atmosphere.

Q. Your objection to Mr. Guneratne is that he was a young widower ?

A. And a boarder.

Q. Both those circumstances coincided with the time of your wife's confinement ?

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

A. I came to know that after his wife died Mr. Guneratne had been a boarder there.

Q. Was there an objection on your part to his being there about the time that your wife came to her father's house for the confinement ?

A. That was not the life we were accustomed to. We have never had boarders in our house. Our house was a big house and a healthy place.

Q. Did you have any special objection to Mr. Guneratne as such ?

A. He was occupying the front room and there were only two other rooms in the house. 10

Q. The fact that he was a young widower was not a serious thing for you to take any objection ?

A. Yes.

Q. It was in June, 1957, that you made inquiries about your wife's father as to what type of a man he was and so on ?

A. Somewhere in April, 1957.

Q. From whom did you make those inquiries ?

A. From several people. Anybody who knows him and has heard of him would come out with stories about him.

I came to know about the mortgage bond transaction after the 20 plaintiff requested a loan for her brother from me. I thought it was a novel way of giving dowry.

Q. At that time you did not know that your father himself had agreed to this novel way of giving dowry ?

A. I know that my father had been helpful to them.

Q. You know that your father had also contributed some money as dowry ?

A. Yes. A sum of Rs. 20,000/- belonging to my father was utilised for the dowry.

Q. That amount of money was given to your wife's father with- 30 out any sort of writing from him ?

A. Yes. That was given just about a day before the marriage.

Q. That loan had been given without any writing ?

A. Yes.

Q. Is it correct to say that a sum of Rs. 50,000/- in cash was handed to you as dowry at the time of the Poruwa ceremony ?

A. Yes.

- Q. Was that amount placed on a tray and handed to the plaintiff ?
- A. No.
- Q. Was it handed at the time of the wedding ?
- A. No.
- Q. That money was never handed to the plaintiff on a tray or otherwise ?
- A. No. It was presented to me by the plaintiff's mother on a tray.
- 10 Q. What did you do with that ?
- A. I handed it over to my mother. It also included some jewellery.
- Q. That jewellery was jewellery belonging to whom ?
- A. That was jewellery that was given as dowry to the plaintiff. One set of jewellery that was given by my mother to the plaintiff was worn by the plaintiff at the Poruwa ceremony.
- Q. Was it your mother's jewellery that was handed to you on a tray ?
- A. No. That jewellery was provided by the plaintiff's parents.
- 20 Q. You say your mother provided the plaintiff with a necklace ?
- A. Yes, prior to the engagement. At the reception at the G. O. H. she put on the throatlet worth about Rs. 40,000/-.
- Q. That throatlet had not been given to your wife before that ?
- A. It could not have been given.
- Q. You found out from various persons that the plaintiff's father had trouble in the Education Department ?
- A. Everybody who spoke about him said he was a troublesome man.
- 30 Q. You did not find out whether he had any trouble when he was in the Education Department ?
- A. He had some troubles there.
- Q. You also found out from various people that he was a very quarrelsome man ?
- A. I did not find out from various people. Ever since the marriage, when anyone who knew my father-in-law came to my house, he used to speak about him and his ways. That may be after April, 1957. I cannot remember the period. I did not go hunting for information. Anybody who spoke about the plaintiff's father used to say that he was a troublesome man.

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

Q. Did you speak to the people who told you that the plaintiff's father was a troublesome man ?

A. People in this area as well as in that area referred to him in that way.

Q. As you passed by they were speaking all this stuff ?

A. No. Some people whom I met and some people who came to my house had spoken in this way about my father-in-law.

Q. What was your opinion of your father-in-law after you had found out these facts ?

A. I thought I should avoid getting involved with him ? 10

Q. In what way ?

A. Over this mortgage bond transaction.

Q. You wanted to refrain from discussing the question of the mortgage bond transaction with your father-in-law ?

A. I did not discuss with him at any stage the question of the mortgage bond transaction.

Q. Was it your desire that you did not want to discuss this matter of the mortgage bond with your father-in-law ?

A. Yes, because I did not want to get involved in it.

Q. Had he at any time promised or undertaken to give some 20 acres of paddy as dowry to you ?

A. Never.

Q. Had you told anybody that your father-in-law had promised to give some 40 acres of paddy ?

A. No.

Q. Or some paddy lands as dowry ?

A. No.

Q. The story of your wife that you wanted her to get the promised 40 acres of paddy lands has no foundation at all ?

A. It is an utter lie. 30

Q. One of the bad qualities of your father-in-law is that he had litigation ?

A. Owing to that temperament I did not want to get involved with him.

Q. What is the meaning of the suggestion you caused to be made about the plaintiff's brother, Ananda ?

A. I came to know that Ananda is not living there. He is not a desirable type of man.

- Q. What was the purpose of asking the plaintiff about it ?  
 A. I gave all those instructions to my Counsel.
- Q. You got the suggestion made that Ananda, without being married, is the father of a child ?  
 A. I cannot remember.
- Q. Did you get any information to that effect ?  
 A. No.
- Q. Are you aware whether anybody at all gave any such instructions ?  
 10 A. My father has also given instructions to my Lawyers.
- Q. Are you suggesting that the person who could possibly have given such instructions was your father ?  
 A. Anybody could have given instructions. I cannot say whether my Proctor has given instructions. My Proctor could have given that instruction.
- Q. You said that you did not give that instruction. But you suggested that your Proctor might have given that instruction ?  
 A. No. My Counsel could have got instructions from several persons.
- 20 Q. Your Proctor could have or might have given this piece of instruction ?  
 A. I do not know.
- Q. Are you saying that your Proctor gave any instructions on a question of fact not given by you ?  
 A. I do not know. My Proctor knows many facts about Gampaha than I.
- Q. You have always been attached to your parents ?  
 A. I suppose so.
- Q. Apart from that supposition I wish to know whether it is a  
 30 fact that you had been attached to your parents ?  
 A. Yes.
- Q. For that reason you never wished to go against your parents' wishes ?  
 A. It is not correct to say that. If my parents wanted me to do a wrong thing I would certainly go against their wishes.
- Q. You decide over your parents what is right and wrong ?  
 A. If my parents tell me to do a certain thing and if I think it is an incorrect thing, I will not agree to it.

No. 23  
 Defendant's  
 Evidence—  
*Continued*

Evidence of  
 P. P.  
 Wickrama-  
 suriya  
 Cross-  
 examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
*Continued*

Q. Has the house at Matara, in which you are staying, been conveyed to you ?

A. No.

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

Q. It has not been gifted to you or made over to you in any form ?

A. No.

Q. Had your parents after you got married or shortly before been desirous that you and your wife should stay in that house without them ?

A. No.

10

Q. Did your father try to make some arrangement to live elsewhere, leaving you and the plaintiff to live in this house ?

A. I am not aware. I never got any such information from my father or my mother.

Q. Are there no houses to let at Matara ?

A. There may be.

Q. Did you at any time make any attempts to live in a house separate from your parents ?

A. No. The plaintiff was well-satisfied with staying in that house.

20

Q. At the time that this marriage proposal was made were you satisfied that the plaintiff came from a social position equal to yours' ?

A. I did not look it in that way.

Q. Do you agree that the plaintiff and you are socially well matched ?

A. Fairly.

Q. With some superiority in you ?

A. I don't say so.

Q. Then with some superiority in her ?

30

A. I don't say that either.

Q. How long did your engagement last before you got married ?

A. About one month.

Q. Was it before the engagement that the question of dowry was discussed ?

A. Not in my presence.

Q. Before your marriage you knew nothing whatsoever about any dowry ?

A. I did not know. I was not interested in any dowry.

Q. You came to know about the dowry after you got married ?

A. On the day of the engagement, the plaintiff's father announced that he was giving Rs. 50,000/- in cash as dowry. He said that in the presence of George Samarasuriya and several others.

Q. One of the presents you got from the plaintiff's father or the plaintiff was a brilliant ring ?

10 A. Yes.

Q. Worth about Rs. 4,000/- ?

A. I do not know.

Q. What actually happened to the cash dowry ?

A. At the Poruwa ceremony I gave it over to my mother, and she had taken it home. Ultimately I took Rs. 30,000/- from that Rs. 50,000/-. After I became aware of this mortgage transaction I asked for only Rs. 30,000/-. I think I got that money somewhere between April and August.

Q. That sum of Rs. 30,000/- had been given to you by your 20 father ?

A. Yes.

Q. Was it by cheque ?

A. Yes.

Q. Did you credit that cheque to your account ?

A. Yes, in the Bank of Ceylon. That amount was deposited between April and August.

Q. What did you do with that money ?

A. I bought shares.

I bought shares worth Rs. 9,500/- in the name of the plaintiff, 30 and I bought Rs. 12,000/- to Rs. 15,000/- worth of shares in my name after the plaintiff left me.

Q. Did you make payment for the purchase of those shares by cheque ?

A. Yes.

Q. That is for the Rs. 12,000/- and also for the Rs. 9,500/- ?

A. Yes.

Q. From where did you get those shares ?

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

A. Through the brokers, Jones Thomson & Co.

Q. You made out the cheques in their favour ?

A. Yes.

Q. What happened to the balance ?

A. I have been paying about 15 instalments of alimony and maintenance at Rs. 175/- a month.

Q. The costs in this case also came out of the same fund ?

A. May be.

I had no separate account. I had only one account. I have paid almost every instalment of alimony and maintenance by cheque. 10

Q. You paid the sum of Rs. 100/- you paid as costs also by cheque ?

A. Yes.

Q. That sum of Rs. 100/- you paid as costs also came from the balance left over after you paid for the tea shares ?

A. At the time I got married there was an account in my Bank.

I cannot specifically say whether that amount came out of that money or the other money.

Q. About how much money, if at all, is left over from that received by you as dowry ? 20

A. I cannot say.

Q. Tell us about how much money you received as dowry is left over with you ?

A. My present bank balance must be about Rs. 1,500/-.

Q. Do you say that that Rs. 1,500/- represent the balance amount of the dowry money ?

A. I have invested the dowry money.

Q. About how much of the dowry money is left over with you ?

A. There is about Rs. 1,500/- left now. I have bought about Rs. 10,000/- worth of shares in plaintiff's name and about Rs. 12,000/- 30 to Rs. 15,000/- shares in my name.

Q. There is no other money in your bank account other than the dowry money ?

A. That is practically the same amount I had in the bank before I got the dowry money.

Q. The balance left with you of the dowry money is only about Rs. 1,500/- ?

A. Yes.

Q. Do you deposit your income from the Bar at the Bank ?

A. I cannot remember.

I have only one current account in the Bank of Ceylon main branch. I have no other current account with any other Bank in this country or abroad.

Q. Do you deposit your income from the Bar in that Bank ?

10 A. Sometimes I may have deposited. I am not in the habit of coming to Colombo and depositing money in the Bank. Now and then I may have cashed a cheque. It is very rarely that I get fees by cheque. I may have deposited my income from the Bar at the Bank.

Q. Do I understand you to say that you deposited in the Bank only cheques you received by way of fees ?

A. No.

Q. Do you also deposit cash received by you as fees ?

A. Sometimes I convert it into cheques and deposit.

20 Q. Soon after you married you found your wife to be a docile person ?

A. I found that she and I could get on well. I found that she was an easily manageable wife.

Q. She was not a girl with any show of temper ?

A. No.

Q. She speaks also very softly ?

A. Yes.

Q. She has been educated up to the S.S.C. ?

A. Yes.

30 Q. You found her never disobedient to you in any matter ?

A. Yes, until she finally left me.

Q. Right from the 31st of January, 1957, to 10th October, 1957, she was the kind of wife you expected her to be ?

A. Yes.

Q. It was a great surprise to you that on 10.10.57 she should have flouted your wishes and run away ?

A. I did not expect her to do any such thing. I was not at all happy about it.

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

No.23  
 Defendant's  
 Evidence—  
 Continued

Evidence of  
 P. P.  
 Wickrama-  
 suriya  
 Cross-  
 examination—  
 Continued

Q. It was not a surprise to you ?

A. No. It was a surprise to me. I found that her parents had a tremendous influence over her. She was greatly attached to her mother.

Q. When did you first find out that her mother had a great influence over her ?

A. A few days after the marriage.

Q. That influence you regard as an evil influence ?

A. No. She was extremely fond of her mother.

Q. You were also correspondingly fond of your mother ? 10

A. Yes.

Q. When you found that your wife was extremely fond of her mother, was there any cause for disappointment ?

A. No.

Q. You knew that your wife was a person who was fond of her mother ?

A. Yes. She was the only girl and she was their pet.

Q. Whenever her mother visited your house at Matara, she never made herself objectionable in any way ?

A. No. 20

Plaintiff's father came to my house on three occasions, and I met him on all those three occasions. He first came to my place for the home-coming in February, 1957. Then he came for Wesak in 1957 and then in August, 1957.

Q. Are you quite certain that on all those occasions you were present ?

A. Yes.

Q. On Wesak day hadn't you gone to Buttala ?

A. No. I had no connection with Buttala.

Q. On the occasion of the home-coming in February, 57, there 30 was no difference between you and the plaintiff's father or the plaintiff or her mother ?

A. No.

Q. Your first visit to the plaintiff's house at Gampaha after the marriage was on 10.2.1957 ?

A. I think so.

Q. Your father did not accompany you on that occasion ?

A. He was not well.

Q. From that time he has had an unfortunate period of long illness ?

A. There was no occasion for him to come to Gampaha. As far as I am aware he has not come.

Q. Can you suggest any reason why he should not have gone to the plaintiff's house at Gampaha ?

A. There is no reason.

Q. What was the matter with him on that occasion ?

A. After the strain of the wedding he was indisposed. He 10 was tired. He was having a headache and a slight temperature.

Q. What was it that fatigued him ?

A. On the 2nd, 3rd and 4th of February, there was a reception in my house.

On the 10th of February he was laid with fatigue. On the next visit of ours to Gampaha on 15.2.1957, there was no necessity for my father to go with us to Gampaha. By the 15th of February, my father may have been quite well. I cannot remember.

Q. Was there any special reason why the second visit should come within five days of the first ?

A. On the first occasion we came they asked us to stay over. 20

I could not stay over as I had to come to Courts on Monday, and I promised to come for the next week-end.

Q. On that occasion your wife and you stayed in her parents' house at Gampaha ?

A. Yes.

Q. You have heard your wife saying that she had been requested by you to speak about the promise of the 40 acres of paddy lands ?

A. That is absolutely false.

Q. Can you suggest any reason why your wife, with whom 30 you got on so well, should make such a false allegation against you ?

A. Since she left me, she has been completely in the hands of her parents and they valued the mortgage bond more than the married life of their daughter.

Q. It is your opinion that the plaintiff's parents wanted to obtain a free discharge of the mortgage bond ?

A. That is what they told me on the 11th of January.

Q. They preferred that to the happiness of their daughter ?

A. They have wrecked this marriage, owing to the mortgage bond transaction.

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

Q. The primary consideration, according to you, of the plaintiff's parents was to get a release of the mortgage without payment ?

A. That was their object.

Q. And they did not care whether the marriage of their daughter with you subsisted or not ?

A. When they failed they ran to the divorce court.

Q. This suggestion, on what material are you making ?

A. That is what has happened.

Q. On what material are you making this suggestion ?

A. When I went to their place, they asked me to get a free 10 discharge of the mortgage bond. They also asked me to reside and practice at Gampaha. Plaintiff's brother tried to get a loan of Rs. 15,000/- from me through the plaintiff.

Q. That by itself was not a sufficient ground for the parents of the plaintiff to wreck the marriage ?

A. They tried to get a free discharge of the mortgage bond and when they failed they came to the divorce Court.

Q. It was not till January, 1958 that you knew that the plaintiff's parents had wanted to wreck the marriage ?

A. On 10th October, when she went away, they were preparing 20 material for a divorce case.

Q. It was not till January, 1958, that you knew that the plaintiff's parents wanted to wreck your marriage with the plaintiff ?

A. It was on that day that they first told me about the discharge of the mortgage bond.

Q. The reason you gave for not visiting the plaintiff's father's house on 2nd June, 1957, was because you had found out by then what type of a person your father-in-law was ?

A. Not only for that. I wanted to avoid being drawn into loans by their people. 30

Q. You thought that you might be asked to give loans ?

A. Her brother asked a loan. Thereafter I did not want to be entangled of on any such thing. On that day I decided not to go to the plaintiff's house.

Q. After that you did not go to the plaintiff's house ?

A. After that I went to the plaintiff's house on the 6th of December and on the 11th of January. On the 6th of December, I went there with my aunt, Mrs. Wilson de Silva and her husband.

Q. On that occasion, were those the only persons who accompanied you on the 6th of December?

A. Yes, as far as I remember.

Q. On the 11th of January did anybody else go with you?

A. No.

Q. During the subsistence of your marriage there had been only two visits made by you and your wife to your wife's parents' house at Gampaha?

A. Yes, those two visits were on the 10th and 15th of February.

10 Q. Your wife had a cousin called Kamala?

A. Yes.

I cannot remember when she got married. My wife and I could not attend her wedding because her wedding took place during the prohibited period of three months after the haemorrhage. I cannot remember whether we received an invitation for that wedding. My wife discussed the matter with me and decided not to go on the advice of the Doctor. I think that wedding took place in March. I am not quite certain.

(Inquiry into the application for costs and further hearing on 20 19.11.59 and 12th, 13th, and 15th January, 1960.)

(Sgd.) F. CONRAD PERERA,  
D.J.  
6.11.1959.

19.11.1959.

*Trial resumed*

Same appearances as before, except that Mr. Advocate Wijetunge is not appearing for the defendant today.

P. P. WICKREMASURIYA, recalled, affirmed.

*Cross-examination—continued.*

30 Q. On the two occasions you went to the plaintiff's father's house at Gampaha, you remained mostly in the front part of the house?

A. I wish to know on which two occasions. I have been to the plaintiff's father's house at Gampaha on more than two occasions. Before the 10th of October, I went to his house twice.

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Q. On those occasions did you stay in the front room of the house ?

A. No.

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

Q. Is it not correct to say that the plaintiff's father's house has in fact 10 rooms, apart from the kitchen and servants' quarters ?

A. It is not correct.

Q. You also deny that in addition to the rooms there are three halls in the house ?

A. Yes.

I have been to all the rooms in plaintiff's father's house, except 10 the kitchen quarters.

Q. You have seen the letters which were produced by your wife and her father in the course of this case ?

A. Yes.

Q. (Shown P2.) Can you suggest any reason why your wife should write this letter to her mother ?

A. What is stated in it is false. They are fabrications after this case.

Q. Your only reason for the suggestion that this letter P2 is a fabrication is because the envelope has the figure 9 ? 20

A. The statements in it are also false. I did not give my mind to the figure 9 on the envelope.

Q. Did your wife express her wish that the two of you should live in a separate house ?

A. Never.

(Shown P3.) I have not seen this letter.

Q. There is a request in this letter that the plaintiff should show this letter to you ?

A. I was not shown it.

Q. Do you suggest that all the letters written by the plaintiff 30 to her mother are fabrications ?

A. Most probably.

Q. That is to say they were written sometime after the 10th of October, 1957.

A. Most probably.

Q. Those letters had been fabricated roughly about when ?

A. I cannot say.

(Shown P6.)

Q. You have seen this letter, which according to the plaintiff is dated 14th October, 1957. Did you receive this letter ?

A. I received the original. This is a copy. I cannot remember where I received it.

Q. You did not send a reply to this ?

A. Yes. I felt that it had been written with an intention of getting me to commit myself. I felt that a better brain than that of the plaintiff was responsible for that letter. I have been an Advocate for 11 years.

10 Q. Didn't you think it a good thing to write and tell your wife what you now say ?

A. No. I thought I would have been corresponding not with her but with somebody else.

(Shown P18 of 4.6.57.)

Q. This is a copy of a letter which you received from the plaintiff's father ?

A. Yes. I did not send a reply to this letter.

Q. What is the reason for that ?

A. I did not want to get involved with him. I knew about 20 the mortgage bond transaction and that the plaintiff's brother tried to get a loan from me through the plaintiff, and therefore I thought it best to keep quiet. I thought it best to ignore them.

Q. What are the reasons which led you to think that the best thing to do was to ignore the letter ?

A. I came to know about the mortgage bond transaction, and also because they tried to get a loan from me.

Q. What have those things got to do with sending a reply to this letter ?

A. They had. For those reasons I did not want to get dragged 30 into correspondence.

(Shown P19 of 5.9.57.) I received this letter from the plaintiff's father.

Q. For the same reasons you did not send a reply to this letter either ?

A. Yes.

(Shown letter P23 dated 14.10.1958.) I received this letter from my father-in-law.

Q. Why did you not send a reply to this letter ?

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wekrama-  
suriya  
Cross-  
examination—  
Continued

A. She went away without my permission taking away all the jewellery and money, and I thought that they owed me an apology. Owing to the circumstances of her going I thought it best that I should not reply that letter.

Q. Is it correct to suggest that at that time you did not want your wife ?

A. No. I did not want to get involved with him in correspondence. I heard that he had taken her away against my wishes.

Q. Why didn't you write to your wife and tell that to her ?

A. My wife ran away without my permission, taking all 10 the jewellery. I thought that all these letters were meant to make me commit myself in writing. They wanted to drag me into correspondence over the mortgage bond transaction.

Q. In other words, you did not want your views to be put down in writing at any stage ?

A. As they were writing in that vein, I did not reply.

Q. Is there anything objectionable in the vein in which this letter P3 has been written ?

A. They took my wife against my wishes and also the jewellery.

Q. Is there anything objectionable in the vein in which this 20 letter had been written ?

A. By the vein I meant that they were trying to make me commit myself in writing ?

(Shown P6 of 14.10.1957.) (Shown P7 dated 24.10.1957.)

This is a letter I received from my wife.

(Shown D1 dated 14.11.1957.) This letter D1 was sent to you to the Courts ?

A. I cannot remember.

Q. Did you receive the same letter, one addressed to your house and the other addressed to you to the Courts ? 30

A. I cannot remember. I received only one letter.

(Shown D10.) I received this telegram from my wife.

Q. You did not send a reply to this either ?

A. I came the next day.

Q. Was the question of residence discussed on that occasion ?

A. Plaintiff and her father said that I should reside in Gampaha and practice in this Court.

Q. You discovered on 11.1.1958 that residence and future plans related to their suggestion that you should live in Gampaha and practice your profession at Gampaha ?

A. That is what they told me.

(Shown telegram D11.) I received this telegram on 14th January, 1958, from my wife.

Q. Can you suggest any reason why that message should have been sent to you if you had seen the plaintiff on the 11th of January ?

A. They had sent this telegram after they came to know that I had made an entry at the Gampaha Police Station on the 11th. In this telegram they have deliberately ignored the visit I made on the 11th of January.

(Shown telegram P12.) I sent this telegram from Matara on 16.1.1958 to my wife.

Q. What was the purpose in stating in your telegram that your wife had deserted you three months earlier ?

A. To my mind the telegram on the 14th was a false telegram.

Q. Having charged your wife with desertion you also expected her to return to you after that ?

20 A. I told her what she had done.

(Shown P13.) I received this telegram from my wife.

Q. Have you any coconut properties ?

A. No.

Q. Have you got any immovable property at all ?

A. No.

Q. You have a Savings Bank Account ?

A. Yes.

I have been noticed to produce it. I have brought it.

30 (At this stage, Mr. de Silva states that with regard to the inquiry for costs which has been fixed for today, he is getting whatever evidence he could get from this witness and that he relies on the evidence already led.

Mr. Panditha Gunewardena agrees to this procedure.)

(Witness produces his Savings Bank Pass Book.)

Q. On 10.2.1958, the balance to your credit was Rs. 76/22 ?

A. Yes.

No. 23  
Defendant's  
Evidence—  
*Continued*

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

(Mr. de Silva produces a Post Office Savings Bank Book bearing the number C 27273, in the name of P. Wickremasuriya marked P24.) This Book is in my name.

Q. On 12.12.1957 the amount to your credit was Rs. 6,476.22 ?

A. Yes.

Q. Between December and February, you had withdrawn a sum of Rs. 6,400/- ?

A. On 10th February, I withdrew Rs. 6,400/-.

After summons was served in this case I thought I would have to spend money for litigation. The money I withdrew was with me. 10 I spent a part of it on this case. Out of that sum of Rs. 6,400/-, I have spent about 3,500/- on this case.

Q. Of that sum is it correct to say that you spent more than Rs. 3,000/- on your Lawyers ?

A. Yes.

I have to spend about 30 guineas a day for my Lawyers.

Q. Don't you agree that at least a similar sum is necessary for your wife for the purpose of her case ?

A. All I can say is that there is a previous order made on that matter. 20

Q. Don't you agree that at least your wife also needs a similar sum ?

A. She must be spending about the same amount.

Q. It is reasonable for her to spend about 30 guineas a day ?

A. Yes.

Q. You also agree that a sum of Rs. 100/- is not adequate for the purpose ?

A. Yes.

Q. Have you got any fixed deposits ?

A. No. 30

Q. Have you ever had any fixed deposits ?

A. No.

I have a current account in the Bank of Ceylon main branch. (Shown P25.)

Q. On the face of it, this appears to be a certified copy of your bank account in the Bank of Ceylon (City Office) beginning from 21.12.1956 to 30.10.1959 ?

A. Yes.

At the beginning of January, I had in the Bank a little over Rs. 700/-. On 8.2.1957, I had a little over Rs. 1,000/-. The amount to my credit remained over Rs. 1,000/- up to 22.6.1957.

No. 23  
Defendant's  
Evidence-  
Continued

Q. On 22.6.1957, you deposited a sum of Rs. 30,000 by cheque ?

A. Yes. That is the cheque I got from my father. That represented the amount of dowry I received from the plaintiff's father.

Evidence of  
P. P.  
Wiekrama-  
suriya  
Cross-  
examination  
Continued

Q. On 11.12.1957 you had nearly Rs. 17,000/- in the Bank ?

A. Yes.

10 Q. After that up to 1.4.58 you had over Rs. 9,000/- ?

A. Yes.

Q. From about the 8th of April, 1958, you had about Rs. 10,000/- for a few days ?

A. Yes.

Again the amount came up to about Rs. 9,000/- till May, 1958.

Q. On 13.5.58 the amount came down to Rs. 3,500/- ?

A. Yes.

I withdrew a sum of Rs. 5,000/- to buy tea shares.

20 Q. Up to July, 1959, your account showed a balance of over Rs. 2,000/- ?

A. Yes.

In August, it came down to a little under Rs. 2,000/-. On 30th October, 1959, the amount to my credit was Rs. 761.31.

This statement appears to be correct.

Q. According to you, your wife sold some tea shares. How much did she realise by the sale of those tea shares ?

A. Less than Rs. 5,000/-.

That was before I sued her for the shares, and after she had filed the affidavit in the alimony inquiry.

30 Q. From 10.10.1957, you did not maintain your wife until this Court made an order for alimony *pendente lite* ?

A. No. She left me in October taking all the jewellery, and then she filed this action.

The question of maintaining her did not arise. She had entered the Lying-in-Home without my knowledge.

Q. You did not offer to pay the Lying-in-Home expenses ?

A. I was not asked to pay.

No. 23  
 Defendant's  
 Evidence—  
 Continued

Evidence of  
 P. P.  
 Wickrama-  
 suriya  
 Cross-  
 examination—  
 Continued

Q. Did you offer to pay ?

A. No. I last visited her in hospital on the 1st. On the 3rd I requested the Police to find out whether she was willing to come with me. When I visited her on Saturday, she had left the hospital.

Q. After your child was born, did you give any money for the maintenance of that child until an order was made by this Court ?

A. No.

No request was made to me.

Q. As an Advocate didn't you know that under our Law, it is a liability of a father to maintain his children ?

A. Yes.

Q. Did you ignore that view of the matter ?

A. From the day she left hospital, I, was trying to get back my wife and child.

Q. You oppose the payment of money for your wife as costs now, except a sum of Rs. 100/- ?

A. A sum of Rs. 100/- has already been ordered by Court, and I oppose the fresh application for costs.

I have already mentioned to my Counsel that I was willing to pay Rs. 300/- more.

Q. The order for the payment of Rs. 100/- as costs was made on 16.6.1958 by another Judge of this Court ?

A. Yes.

Q. You paid that amount only in May, 1959 ?

A. May be. I cannot remember the date.

I paid the costs only a few days before the trial, which took place for the first time on 25.5.1959.

Q. Why did you delay paying that sum of Rs. 100/- ?

A. I thought it would be sufficient if I paid the money a few days before the trial. I heard that the practice in this Court was to pay a few days before the trial. There was no request for me to pay that sum of Rs. 100/- earlier.

If I had been requested to pay it earlier, I would have done so.

Q. Are you living at Matara at the expense of your parents ?

A. Yes.

I am being maintained by them. I do not have to spend any money for my food or for living in the house. Even the car that

I am using was provided for me by my father. I am not paying income tax.

No. 23  
Defendant's  
Evidence -  
*Continued*

Q. For the last income tax year, you stated your income from all sources was Rs. 360/- ?

A. Yes.

My professional income was Rs. 300/-, and from the shares I got an income of about Rs. 60/- a month.

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
*Continued*

Q. Yet you have been exempted from payment of income tax ?

A. Yes. The taxable income is over Rs. 5,000/-.

10 My professional income is between Rs. 250/- to Rs. 300/- a month.

(*To Court :*

I enter the fees I receive in my diary.

I don't maintain a regular fee-book.

Q. Are you producing that diary ?

A. I have not brought it today.)

Q. These amounts which you have noted in your diary are against the various dates in the calendar ?

A. Yes.

20 Q. In your diary you do not show any total for any particular month ?

A. No. I total up at the end of the year.

(*To Court :*

Q. Didn't you think that your diary would have been very material for this inquiry ?

A. No.

My income tax return has been produced. It is in the handwriting of the defendant.)

That writing was taken down to my dictation.

Q. Are you in a position to find money if necessary ?

30 A. Yes.

Q. Have you got any capital resources of any kind. That is to say any property of any kind ?

A. Nothing, except the car, which is in my name. My own brilliant ring was taken away by the plaintiff.

Q. After you saw your child at the Lying-in-Home, you again saw your child at the Gampaha Resthouse ?

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
P. P.  
Wickrama-  
suriya  
Cross-  
examination—  
Continued

A. Thereafter I saw the child twice at her residence at Gampaha, after I saw it at the Lying-in-Home. That was before this case was filed. Thereafter, I have been seeing my child at the Gampaha Resthouse. I used to see the child about once a month or once in  $1\frac{1}{2}$  months.

Q. When this Court made an order for alimony and costs, you were treated by the then Judge with grace ?

A. I was treated with Justice.

According to my income, the order made by the then Judge asking me to pay Rs. 100/- as costs is just. 10

Q. You did not file an affidavit stating your income for the three years preceding ?

A. Yes.

Q. But nevertheless, is it not correct to say that the Court as a matter of grace considered your objections ?

A. I don't say that.

Q. Did you tell the Court on that occasion that you were prepared to pay Rs. 50/- a month for your wife and Rs. 25/- a month for the child ?

A. I think I said so. 20

(To Court :

Q. Your father is a well-to-do man ?

A. Yes. He is worth between 7 to 8 lakhs.)

*Re-examined.*

Evidence of  
P. P.  
Wickrama-  
suriya  
Re-examination

Q. You said that the cheques you got as fees you sent to the Bank ?

A. Yes.

I have deposited some monies in the Savings Bank. Some monies which I got as fees I turned into cheques and deposited in the Bank. 30

(Shown P25.) This shows some of the fees I have received.

Q. According to this, roughly, can you say what amount has been deposited per month ?

A. Less than Rs. 300/- a month.

I have been depositing monies in the Savings Bank for the last 25 years. At the commencement, monies were deposited entirely by my father. The first date in this book is 23.3.1957. The then balance to my credit was Rs. 5,254.17. These are accumulated

credit balances for a period of 25 years. In April, I deposited Rs. 300/-. I also used to get dividends from the shares.

Q. Are all your expenses borne by your father ?

A. Not all. I have to spend for my clothing, for books, petrol and for the upkeep of the car.

My wife had her last period on 20.2.1957. Up to the time I got a telegram on the day before this action was filed, I did not expect her to file this action. In fact this case was filed even before the first anniversary of our marriage. I expected a reconciliation.  
 10 I went to the plaintiff's house on 11th January, and on my way back I made an entry at the Gampaha Police Station. On the 6th and 27th also I went to the plaintiff's house. On the 27th when I went there, there was no one in her house. I am having a very slender practice at Matara. I also dabbled in politics, and I suffered as a result. I have come to see my baby several times. On two occasions the child was not brought to the Resthouse. On one occasion they said that everybody in the house was ill, and on the second occasion I was told that the baby was ill. I did not mind that.

(Sgd.) F. CONRAD PERERA,

20

*D.J.*

19.11.1959.

S. P. A. GUNewardENA, affirmed, 55 years, Proctor S.C. and N. P., Matara.

I am a Proctor practising in the Matara District Court. I have been in practice for about 25 years. I am also a Notary Public. I have been practising as a Proctor at Matara for 12 years, and also as a Notary. Before that I practised at Galle for about 12 years. Before that I was practising in this Court for about 4 or 5 months. That was in 1937. I took my oaths in 1933. I have known the defendant in this case for about 10 years. After I went to practice at  
 30 Matara I have been on friendly terms with him. I have been visiting his house. Before his marriage also I have visited his house. Before he got married, I visited his house during the election time and also at other times. As the defendant is a friend of mine, I supported him at the election. I remember the time he got married. My wife and I attended his wedding. Thereafter, a function was held at Matara on the occasion of his home-coming with his bride. My wife and I attended that function also. Thereafter, they visited us often. I knew the plaintiff well. There were occasions in which the defendant  
 40 left his wife in my house and went out on other business. Sometimes when the plaintiff comes to my house, my wife used to prepare eggs and other things for her. Sometimes the defendant used to bring sweets and other things for her from the Galle Oriental Bakery. After

No. 23  
 Defendant's  
 Evidence—  
*Continued*

Evidence of  
 P. P.  
 Wickrama-  
 suriya  
 Re-examina-  
 tion—  
*Continued*

Evidence of  
 S. P. A.  
 Gunewardena  
 Examination

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
S. P. A.  
Gunewardena  
Examination—  
Continued

the defendant married the plaintiff, my wife and I visited their house once. On that occasion we did not meet them. Defendant and his wife visited us often. Plaintiff used to talk to my wife. One day the defendant came and told me that the plaintiff had suddenly left for Gampaha.

*Q.* From January, 1957, to October, 1957, has the plaintiff been complaining to you about any difficulty in her staying in that house of the defendant ?

*A.* No.

*Q.* Was there any complaint that she was not satisfied with 10 staying in that house ?

*A.* No.

*Q.* Was any complaint made about her food ?

*A.* No.

*Q.* Have you been talking to her about matters ?

*A.* When they come to my house, the defendant used to talk with me and the plaintiff with my wife. Plaintiff used to talk to me also.

*Q.* From the talks was there any reason for you to gather that she was not quite disposed to staying in defendant's house ? 20

*A.* No.

Defendant's house is a substantial house. It is an upstairs building. I have been to the upstairs once. There are only a very few houses in Matara which are served with drainage. Defendant's house had water service from the inception. When the plaintiff and the defendant were living at Matara, they were on the best of terms.

*Cross-examined :*

Evidence of  
S. P. A.  
Gunewardena  
Cross-  
examination

*Q.* You have never seen the plaintiff and the defendant together inside the defendant's house ?

*A.* I have seen them together during the home-coming. I 30 have seen them together in the house only on that occasion.

*Q.* At the time of the home-coming they showed very pleasant faces ?

*A.* Yes.

*Q.* After that on the only occasion on which you made a visit, you missed them ?

*A.* Yes.

*Q.* So that you have never seen them together in the defendant's house after the home-coming ?

*A.* Yes.

Q. When the plaintiff and the defendant visited your house they exchanged the usual social civilities with you and your wife ?

A. Yes.

Q. You had been in the upstairs of the defendant's house before he got married ?

A. Yes, during the election period before he got married.

Q. The plaintiff at any time did not discuss any matters of a personal nature with you ?

A. Yes.

10 Q. Plaintiff came to know you and your wife only after she came to Matara ?

A. Yes.

Q. Neither you nor your wife had known the plaintiff before that ?

A. Yes.

My wife's name is Violet Gunewardena. (Shown a letter.) The signature on this letter is similar to the signature of my wife. I reside at No. 94, Kotuwegoda, Matara.

20 (Mr. de Silva produces a letter dated 18.11.1957 written by Violet Gunewardena, the wife of this witness, to the plaintiff.

Mr. de Silva says that the writer of this letter has been listed by the defendant as a witness, and the witness has said that the signature on it is similar to his wife's signature.

Mr. Panditha Gunewardena objects to the production of the letter. He submits that if the plaintiff wants to produce this letter, the writer of the letter should have been summoned.

I uphold the objection.)

My wife has not come to Court today.

Q. Did the defendant discuss any question of dowry with you ?

30 A. No.

He mentioned about the dowry only after the plaintiff left him.

Q. What did he tell you after the plaintiff left him about the dowry ?

A. He said that there was a mortgage bond in his father's name. He said the plaintiff's father wanted a redemption of that mortgage bond without paying money, and it was because of that that the plaintiff left him suddenly without his permission. He said that to me on the day that the plaintiff left him. He did not tell me that

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
S. P. A.  
Gunewardena,  
Cross-  
examination —  
Continued

No. 23  
Defendant's  
Evidence—  
Continued

Evidence of  
S. P. A.  
Gunewardena  
Cross-  
examination—  
Continued

the plaintiff's father had promised to give him some paddy lands. I do not know whether he said such a thing to my wife.

*Q.* In your house on one of the occasions in which the defendant and his wife came there, was there any argument at any time between the plaintiff and the defendant ?

*A.* No.

*Q.* Was there an occasion on which the defendant made a reference to his wife and his wife's brother ?

*A.* I do not know.

*Q.* Is it correct to say that that the reason for your not making 10 frequent visits to the defendant's house was because of the defendant's mother ?

*A.* The plaintiff and the defendant used to visit us very often, and in the evenings they are very often out.

Evidence of  
S. P. A.  
Gunewardena  
Re-examination

*Re-examined.*

I did not have any reason to think that there was any displeasure between the plaintiff and the defendant.

(Sgd.) F. CONRAD PERERA,  
*District Judge.*  
19.11.1959. 20

Defendant's case closed reading in evidence D1 to D27.

No. 24  
Proceedings  
before the  
District Court  
27.2.60

**No. 24**  
**Proceedings before the District Court**

27.2.1960.

Mr. Advocate L. W. de Silva with Mr. Advocate Francis P. Perera and Mr. Advocate D. C. W. Wickremasekera instructed by Mr. Chandrasekera for the plaintiff.

Mr. V. Dias for the defendant.

Plaintiff present. Defendant absent.

Mr. Dias produces a Medical Certificate from Dr. K. E. Karu-30 naratne dated 26.2.1960 to the effect that the defendant is ill and unable to come to Gampaha for a week from that day.

Mr. de Silva states that the Medical Certificate does not state from what date the defendant came under the Doctor's treatment and it is on the whole unsatisfactory. Moreover, he states that the

presence of the defendant is not necessary today as only the Counsel have to address on the evidence already recorded. However, Mr. de Silva is not opposing the application for a date provided a suitable order is made with regard to the costs of today.

No. 24  
Proceedings  
before the  
District Court  
27.2.60—  
*Continued*

It is agreed that the defendant should pay a sum of Rs. 367/50 as costs of today to the plaintiff. Mr. V. Dias undertakes to request the defendant to pay this sum before 10 a.m. on 4.3.1960.

Further hearing on 4.3.1960.

(Sgd.) F. CONRAD PERERA,  
*District Judge.*  
27.2.1960.

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**No. 25**

**Addresses to Court**

No. 25  
Addresses to  
Court

4.3.1960.

Mr. Advocate L. W. de Silva with Mr. Advocate F. P. Perera and Mr. Advocate D. C. W. Wikramasekera instructed by Mr. Chandrasekera for the plaintiff.

20

Mr. Advocate E. B. Wikramanayake, Q.C., with Mr. Advocate Neil Dissanayake instructed by Mr. V. Dias for the defendant.

30

Mr. Wikramanayake addresses Court: He submits that the question involved is not a mere question of fact, but one of mixed fact and law. The defendant in fact did not desert the plaintiff. She deserted him. Plaintiff will have to satisfy the Court that the conduct of the defendant was such that it clearly indicated on his part to terminate the marriage tie. He cites 35 N.L.R. 174 at 177. The mere fact that the wife leaves the house gives no cause of action for divorce unless the Court is also satisfied that the desertion was a desertion that was deliberate and was clearly intended to put an end to the marriage. She will have to prove that his conduct was such that the Court can from it infer an intention to repudiate the marriage. Assuming that the evidence of the plaintiff is true, the evidence of the plaintiff falls far short of the standard required to grant a divorce. The evidence indicates merely neglect on the part of the defendant. There is no evidence at all of cruelty. The whole cause of this misunderstanding appears to be a desire on the part of the plaintiff's father to get a free discharge of the mortgage. Defendant may have mistakenly thought that the plaintiff's father

did promise 40 acres of paddy. The evidence clearly indicates that the question of differences was not between the plaintiff and the defendant but between the plaintiff and the defendant's parents. He refers to para 6 of the plaintiff's amended pleadings, and submits that assuming these allegations are true not one of these allegations is sufficient in law to justify any cause for granting the plaintiff a divorce on the ground of constructive malicious desertion. The evidence is that the plaintiff's father and mother whenever they went to Matara were entertained by the defendant's parents. There is nothing surprising for a husband to open his wife's letters. Plaintiff 10 admits that the defendant did not take liquor. The only evidence is that the defendant was neglectful. It is a custom in this country for the wife's parents to pay the hospital charges of the first child. The evidence of the plaintiff is utterly insufficient in law to justify the Court to grant a divorce. He refers to the evidence at page 27. In spite of the fact the defendant was a vegetarian, she wanted eggs and he gave her eggs. Plaintiff always had money with her. He refers to the evidence at page 31. It was possible for the plaintiff to communicate with her parents in Gampaha. When she was vomiting the defendant's parents sent for the Doctor. Whenever 20 a telephone message comes somebody comes upstairs and informs her that there is a telephone message for her. Even in her own mind (according to the evidence at page 39) she was satisfied that the conduct of the defendant was such as to indicate to her that he did want her back. Her complaints are crystallized in the pleadings. The evidence falls far short of the standard of proof required to satisfy a Court that there was deliberate intention on the part of the defendant to maliciously desert the plaintiff. It is a principle of the Roman-Dutch Law that a Court will not grant a divorce where there is any possibility of a reconciliation. He cites 26 N.L.R. 113 at 117. On 30 the facts this is essentially a case where reconciliation is possible. Whenever the plaintiff made a complaint to any authority it was against the defendant's mother. *Vide* D1. Her complaints were against her mother-in-law. In D3 she asks the defendant to come and take her back. D3 was a letter written by the plaintiff after she left the defendant. Plaintiff left because her mother asked her to come with her. Assuming the plaintiff's evidence is true that evidence does not constitute in law constructive malicious desertion.

Mr. L. W. de Silva replies: The first question for the Court is 40 the standard of proof that will be applied in this case. The standard of proof in a divorce action is set out in Section 602 of the Civil Procedure Code. The word "satisfied" means that there must be proof beyond reasonable doubt as demanded in a criminal case. Marriage bond should not be set aside without strict inquiry. He cites 55 N.L.R. 410. This standard of proof has to be applied to the claim of the

plaintiff as well as the defendant. The plaintiff has proved not merely beyond reasonable doubt but proved beyond the shadow of a doubt that the defendant is the person who is guilty of malicious desertion. There is no possibility whatsoever of a reconciliation. There is no evidence to show that there is such a possibility. What has been raised in this case by the plaintiff as well as by the defendant is not a pure question of law. The law has to be applied to the facts of this case. Plaintiff has sued the defendant on the ground of constructive malicious desertion of which the defendant had been guilty

10 before 10th October, 1957. There are three requirements of the law in order to enable the claim to succeed. The first is that the consortium of the husband and wife should have come to an end as a result of the plaintiff leaving the defendant. That has been established. There is no evidence that the plaintiff and the defendant lived together or were together at any time thereafter. Secondly the plaintiff must have been compelled to leave by reason of physical or mental cruelty or neglect on the part of the defendant. Neglect is also a form of cruelty. It is also sufficient for a divorce on the ground of constructive malicious desertion, provided the defendant

20 has acted to put an end to the marital relations. This includes compelling the wife to leave the house, where she is submitted to abuse and indignities by others. He cites Hahlo, 1953, pages 328 to 330. The plaintiff's departure from the defendant's house at Matara on 10.10.1957 was merely the culmination of a course of conduct. The letter P5 of 7.10.57 was the last letter which shows that the plaintiff reached a crisis and was unable to bear up the kind of life she had to lead. The defendant has alleged that the plaintiff's departure on 10.10.1957 constituted malicious desertion on the part of the plaintiff. That would be correct if she left not only against

30 his will but without legal justification. He cites 35 N.L.R. 174. There must be legal justification. The plaintiff has shown reasonable cause for her departure. She left because of the intolerable state of affairs in the house. Mr. de Silva refers to para 6a of the amended plaint, which is mainly referable to the failure of the defendant to find a home where the plaintiff and the defendant can reasonably live together. This matter has been raised in issues 14 and 15. Section 114 of the Evidence Ordinance enables the Court to take into account the common force of natural event and human conduct in relation to the facts of the case whether there be issues or not. The

40 defendant's conduct in this case falls into three periods; firstly, during the marriage up to 10.10.1957; secondly from 10.10.1957 to the date of action and thirdly during the pendency of this case. The trouble between the parties arose as a result of the defendant's greed to obtain more dowry. The defendant and his parents as a result continually harassed the plaintiff saying that the dowry given was not sufficient and that her parents had promised him 40 acres of paddy. The defendant's father though worth several lakhs had

No. 25  
Addresses to  
Court—  
*Continued*

not made any kind of financial endowment on the defendant. The defendant is also a politician. He needed money for his political activities. Therefore the 40 acres of paddy lands must have been a magnificent obsession in his mind. A promise of 40 acres of paddy lands was stated to have been the basis of some of the major differences was stated by the defendant's Counsel in his opening, but the defendant in his evidence denied this at page 161. The denial came as a complete surprise. There is reference to this matter in the letter P2 of 24.4.1957 written by the plaintiff to her mother, and also the letters P4 and P5. A comment was made in the cross-10 examination of the plaintiff that the plaint does not refer to the parties second visit to Gampaha after the marriage for the purpose of getting the plaintiff to ask for a transfer of the paddy lands. He refers to the evidence at page 35. Such a reference in the plaint was not necessary because the trouble began after that visit, and because it was during the visit in June, 1957, when the defendant compelled the plaintiff to make a journey to Gampaha to her parents for the express purpose of getting the transfer. On that visit the plaintiff was unable to speak to her father about this matter because he was ill. On the occasion of the visit on 2.6.1957, the defendant 20 stayed in the Resthouse, which is admitted by the defendant and proved by the Resthouse Register, P17, and the plaintiff alone went to her father's house on the defendant's insistence that she should get the transfer of the paddy lands. He refers to the evidence at page 7. This problem is also referred to in P7 and P18. Plaintiff failed to obtain a transfer and the result was that the defendant's parents harassed her more. Plaintiff was at the mercy of both the defendant and his parents. Although the defendant's parents were listed as witnesses and his mother had come to Court to give evidence, as stated by the defendant at page 153 of the evidence, they did not 30 give evidence. In these circumstances the Court may presume that evidence which could have forthcome and was not forthcoming would have been unfavourable to the defendant, if either party was called as a witness, as laid down in Section 114, illustration F of the Evidence Ordinance. The particular acts of cruelty averred in para 6a of the plaint depend primarily on the failure of the defendant to provide a home where the plaintiff could reasonably live as a wife. The evidence is that the plaintiff had no voice in anything in the house. Plaintiff had to be content with meals provided by the defendant's mother and she had no choice in the matter and she 40 had to obey her mother-in-law's commands. An important fact to be kept in mind throughout this case is that the plaintiff was with child in March, 1957. They married on 31.1.1957. From March, 1957, the plaintiff's capacity to endurance began necessarily to weaken. It is common knowledge that pregnancy throws an additional strain upon an expectant mother. Plaintiff was expecting her first child. She did not receive at the defendant's hands any

of the anti-natal supervision. According to the plaintiff the kind of food that was supplied was monotonous and unhealthy, to which there is reference in the letter P4. It is a well-known medical maxim that pregnancy is a diet efficiency test. Mal-nutrition was one more suffering added to the plaintiff's lot. It was only at plaintiff's request that even eggs were supplied at certain times. The defendant has shown himself to be a very dutiful son in that he obeyed his parents and listened to them in all matters, whether such matters were good, bad or indifferent. Defendant's mother went out of her way to cause prejudice to the defendant against the plaintiff's father. *Vide* page 142 of the evidence. This is one piece of evidence to show that the defendant was under his mother's influence. In surrendering himself to his parents the defendant failed to discharge his obligations to his wife. This is not a case where a wife left her husband in a mere moment of friction. Social status and character of the parties have to be taken into account in considering the various problems. Physical and mental conditions of the parties have to be considered. It is not possible to give a definition of cruelty so as to embrace every case. He submits Rayden on Divorce, 6th Edition, 1953, page 79. Defendant is an Advocate and the plaintiff was admittedly suited to him in every way, except in the matter of wealthy. Plaintiff has passed the S.S.C. and had been a teacher for sometime. Defendant has admitted that she was an easily manageable wife and she was a docile person without any show of temper and never disobedient to him. He also admitted that from the date of their marriage to the time of her departure she was the kind of wife he expected her to be. This evidence is at page 167. Even if the plaintiff agreed to live with her parents-in-law it would not mean or follow that she agreed to be humiliated and harassed and treated by them in the way she was treated. Defendant knew that his mother ran the house and that his wife had no control of anything. Defendant's first claim was on his mother, according to the plaintiff's evidence, and she never gave the plaintiff any fees as proved by the oral evidence and the correspondence. The suggestion made by the Counsel for the defendant that because the plaintiff was harassed by the defendant's parents the defendant was not responsible cannot be accepted because the defendant was aware what was happening and he did not care. The Matara house was healthy only because there was drainage and fresh air, but according to the plaintiff it was not healthy. His first duty was to his wife to provide her with a home according to his circumstances. He failed in that duty by putting his mother first. He cites 1931 All England Reports (reprint) 477. There is no proposition of law that a husband has the right to say where the matrimonial home should be. The decision is one that affects both husband and wife and the children, and both parties have an equal voice to decide the question by agreement. One may say that neither husband nor wife has a casting vote in the matter.

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Addresses to  
Court—  
*Continued*

If such an arrangement is frustrated by the unreasonableness of one or the other leading to a separation, then the party responsible for the separation is guilty of desertion. He cites *Dunn vs. Dunn*, 1948, Vol. 2, All England Reports, 822. In the early part of the evidence of the plaintiff at page 6, she said that she requested the defendant to take a separate house, and there is also reference to this in the letter P2 and also in the letter P18 (plaintiff's father's letter). Plaintiff's father's evidence regarding the need for a separate house is at page 87. The defendant did not reply any of these letters. He negotiated what he wanted with Policeman and did not want to 10 commit himself to writing. The plaintiff was a prisoner in the defendant's parents' house. P5 bears this out and also the evidence of the plaintiff's father at page 87. Plaintiff's father was cross-examined in great detail on this matter and he stated what he told the defendant's parents about the need for the plaintiff and the defendant to have a separate house. The best person to contradict this evidence would have been the defendant's father, but he never gave evidence. Defendant's father never stepped into the plaintiff's father's house at Gampaha after the defendant's marriage. This is a most unusual course of conduct. The defendant admits that 20 the plaintiff's father visited him at Matara at least on 3 occasions. The evidence on this point is to be found at page 22. When the plaintiff left the defendant on 10.10.1957, she left for very good reasons. That is because of the conduct of the defendant and his mother. There is no doubt that this conduct on many occasions was attributable to his mother. It is not necessary in a case of this kind when bitter waters flow to inquire from what source it flows. He cites Squire, 1948, Vol. All England Reports, page 51 at page 53. With regard to the ill-treatment of the plaintiff, the oral evidence of the plaintiff shows that the defendant's mother called the plaintiff 30 mad woman and cow. *Vide* the evidence at page 111 and P2. The defendant's mother also made the remark that only prostitutes wore brassiers—evidence at page 6 and the letter P7. It may be said that this is hearsay evidence but when hearsay is a relevant fact in a case it cannot be excluded and is admissible under the explanation to Section 151 of the Civil Procedure Code. It was natural for the plaintiff to write to her parents regarding the conditions at Matara. Defendant says that the letters were most probably fabricated. The fact that letters were not generally received by the plaintiff is proved by the fact that the plaintiff's father sent to the 40 plaintiff at least one registered letter. *Vide* P3 and the envelope, P3a. It was open to the defendant to call his mother to rebut all this evidence. It was she who had asked the defendant not to bring meals to the plaintiff from hotels and no milk was given to the plaintiff during her pregnancy. *Vide* the evidence-in-chief of the defendant at page 139. Regarding the food the evidence is at page 5.

The plaintiff was not allowed even to have "meneriya" and "pol-pala." Evidence at page 10. No meat of any kind was given to the plaintiff. The callous indifference of the defendant is shown in various ways. The plaintiff had to go up and downstairs for meals against medical advice. The defendant also rushed the plaintiff about during her pregnancy to funerals against her wishes. As she had nausea she did not want to attend funerals—evidence at pages 9, 10, 30, and 61 and P4 and P7. Plaintiff has complained of the interception of her letters—evidence at pages 8, 26 and 36.

10 The letter P3 sent by the plaintiff's father was intercepted. The evidence on this point is at page 26. That letter was found under the defendant's mother's pillow. Plaintiff's mother in her evidence said that she never got a reply to any of her daughter's letters. A great deal of the plaintiff's case has been established in cross-examination. Plaintiff was not allowed to go home for her confinement. He refers to the evidence at pages 10 and 117 and the evidence at page 4. Plaintiff's mother went to Matara as a result of P5 sent by the plaintiff. The suggestion by the defendant has been that there was a conspiracy on the part of the plaintiff's parents to come

20 and take her away. That is one reason why the defendant has suggested that all the letters are fabrications. Even the telephone calls have been established by the plaintiff's father's telephone account, P21. It was suggested to the plaintiff that P21a was a fabrication. The defendant and his parents refused the plaintiff permission to leave Matara. Whereupon the plaintiff worshipped the defendant but still was not permitted to leave. Defendant's father had threatened divorce to the plaintiff if she left. During this time the plaintiff was certainly taken by the defendant to see his friends but not her friends. On the way to Gampaha on 10.10.1957, the plaintiff made

30 the complaint D2 to the Panadura Police. A suggestion was made to the plaintiff (at page 38) that she did not charge the defendant with cruelty but only with neglect. This is a mere cribble on words and a distinction without a difference. D2 read as a whole clearly shows that the defendant was cruel. Plaintiff says that she was trying to water-down her complaints against the defendant, because she was still trying to return to him. The defendant's conduct after the plaintiff left on 10.10.1958 has to be considered. It was this conduct which entitled the plaintiff to change her mind and not return to the defendant. The reasons are stated by the plaintiff

40 at page 39. She was free and realised what she would have to suffer if she went back to the defendant. Malicious desertion is a continuing offence and cannot be obliterated by subsequent offers as to the genuineness of which the wife has reason to entertain doubt. He cites *Thomas vs. Thomas*, 1924, Law Reports, Probate Division, 194 and 199. Defendant tried to use the Police for his purposes and was in fact attempting to get rid of the plaintiff. She was not bound in law to accept the defendant's offer to return to him, because she

was not only doubtful of the genuineness of his offers but was also positively afraid. P14 read. In P14 he had shown a great solicitude for the plaintiff's health. It was absurd for any husband to ask the Police to find whether his wife had been taken away forcibly by his mother for the simple reason that the defendant was present when the whole thing happened. One and half hours later the plaintiff made another complaint, P15, making a false charge of theft against the plaintiff. Evidence on this point is at pages 33, 45 and 65. According to P15, the plaintiff had taken away a throatlet worth about Rs. 35,000/- and two brilliant rings and two gold rings. 10 Defendant's evidence at page 144 shows that only two rings were taken. These false allegations entitle the plaintiff to refuse to return to the defendant. The plaintiff was questioned on the following day by a Constable. P16 is a record of her statement made to the Constable. Even at that stage she said that after the confinement she would be leaving to the defendant's place, but the defendant's further ill-treatment lead her to change her mind. Plaintiff entered the Lying-in-Home on 19.11.1957. The defendant made no arrangement for her confinement. He did not pay the Lying-in-Home expenses. That is also a form of cruelty by neglect. There is no 20 evidence that there is in this country a custom whereby the wife's parents undertake to bear the burden of paying the expenses of the first child. The child was born on 26.11.1957. Defendant saw the child on 30.11.1957. On the following day the defendant came and harassed the plaintiff to sign some tea shares. It was conduct that affected the plaintiff's health. Even at the Lying-in-Home the defendant had asked again for the 40 acres of paddy, and gave the plaintiff the very generous sum of Rs. 2/-. On 4th December, a Constable questioned the plaintiff at the instance of the defendant at the Lying-in-Home. Plaintiff left the Lying-in-Home on the 30 same day because she was afraid of the defendant. The defendant did not see the plaintiff again but sent the letter P8 from Matara reply paid. The suggestion of a refusal to return contained in the telegram is false, because the defendant had not gone to the plaintiff's house on that day. At that time the feelings between the parties had become very bitter. This action was filed on 15.1.1958. At that time the defendant was still harping on his wife's desertion. The reasons for changing her mind were because the defendant never replied any of her letters, his behaviour in the Lying-in-Home, and bringing up the paddy land question when she had hardly recovered 40 from childbirth, for sending a Constable to the Lying-in-Home, and she was not prepared to live with the defendant in the same house under the same conditions. The defendant had falsely complained to the Gampaha Police that he had invited her in January, 1958, to return to him. She is also entitled to rely on the other grounds, such as the defendant's conduct in this case. Defendant's failure to pay alimony and maintenance for the child without getting into

arrears. The date of payment made by the defendant appears in the plaintiff's Proctor's motion dated 20.4.1959, filed with notice to the defendant's Proctor moving to certify payment. That motion sets out the particulars. It shows that the defendant was always in arrears. Item No. 9 in the motion was dishonoured. There was a mistake in the date of the cheque. Even the sum of Rs. 100/- ordered as costs was paid five days before the trial began, though the order had been made by another Judge on 16.6.1958. He waited for 11 months and paid the costs, five days before the trial began.

10 He wanted to starve the plaintiff into some kind of surrender. That order for costs shows that the defendant was treated with grace. Defendant's evidence shows that he has been making payments out of the dowry money—conduct which must be deprecated. There appears to be some doubt as to whether movable property like cash given as dowry vests in the husband. The only purpose for which it could be made use of against the defendant is with regard to his conduct. Defendant's conduct in getting improper suggestions made to the plaintiff in cross-examination has to be considered. He refers to the evidence at pages 19 and 56. Defendant also caused the

20 plaintiff's brother Ananda to be scandalized—page 32. The whole idea of the defendant had been to scandalize the plaintiff's family. The evidence of the defendant at pages 158 and 162 is important. Defendant got the plaintiff's father insulted in the witness-box. Every suggestion made in the cross-examination of the plaintiff or her parents has been scandalous or fantastic. He refers to the evidence at pages 70, 154 end 159. Defendant himself admitted that the plaintiff's mother never at any time made herself objectionable in any way. With regard to the intention of the defendant, the common sense rule has to be applied. A person is presumed

30 to intend the natural and probable causes of his acts. He cites *Squire vs. Squire*, 1948, 2 All England Reports, page 51. It has also to be remembered that it is not always necessarily the guilty party who leaves the matrimonial home. The party in this case who intended to bring the cohabitation to an end was the defendant, and it was his conduct which brought about this situation and he is guilty of constructive malicious desertion. He cites *Sickert vs. Sickert*, 1899, Law Reports, Probate Division, 278 and 284 ; 8 C.L.W. pages 4 and 17 C.L.W. page 37. Malicious desertion is not a specific act but a course of conduct. The continuance by the defendant

40 of the various indignities to which he subjected the plaintiff and keeping her in his parents' house shows that the desertion which the plaintiff complains was a repeated desertion up to 10.10.1957. He cites 26 N.L.R. 113 at 116. The whole of the defendant's conduct shows that the result of it was to drive the plaintiff away. Cruelty may be proved by evidence of a number of acts or a series of acts, none of which can be regarded as serious if taken in isolation. They are sufficiently great in view of the accumulating effect because they

constitute a course of conduct adopted by the defendant. Defendant's intentions need not be proved by direct evidence. Defendant's intention can be inferred from all the facts and atmosphere disclosed by the evidence—his knowledge that the probable effect of his conduct would be to cause the plaintiff to leave. He cites 1952, Vol. 1. All England Reports, 875. All the evidence points to the fact that the defendant ill-treated the plaintiff. He cites 1951, Vol. 1. All England Reports, 955. In such a case as this the intention is imputed by law to the defendant. As a reasonable man he should realise that his conduct would result in the departure of his wife. He cites 10 1954, Vol. 3, All England Reports, page 571. The plaintiff had on many occasions told the defendant what she had to endure, but he paid no attention. In that state of affairs the relationship of cruelty to constructive malicious desertion has to be considered by Court. He cites 1956, Vol. 1. All England Reports, 432. The defendant was guilty of constructive malicious desertion before the plaintiff left him on 10.10.1957, as he neglected and ill-treated her. Up to 10.2.1957, she had no cause for complaint. At one time it was suggested that it was on 11.1.1958 that the plaintiff's father wanted the mortgage bond discharged. That evidence is at page 20 105. The suggestion was that the plaintiff's father wanted this action brought unless the bond was discharged, and that was put to the defendant on 11.1.1958 according to the defendant. Reference to this mortgage appears in the letter P18.

(Adjourned for lunch.)

(Resumed after lunch.)

Mr. L. W. de Silva continuing his address, submits that the question of permanent alimony is governed by Section 615 of the Civil Procedure Code and Section 616. As a general rule permanent alimony should be in a large sum than the alimony pending the action. 30 He cites 39 N.L.R. 279 and 57 N.L.R. 511. The Court is entitled to take into consideration three conditions set out in Section 615 of the Civil Procedure Code in awarding permanent alimony. First of all having regard to the wife's fortune, if any. Secondly, the ability of the husband and thirdly, the conduct of the parties. With regard to the plaintiff's fortunes in this case it happens to be a case of misfortune, because she has no means of any kind. At the time of the alimony *pendente lite* inquiry, she had tea shares, which are now the subject-matter of litigation in another case. She has been in receipt of a sum of Rs. 60/- only according to her evidence at page 40 190. That sum of Rs. 60/- is paid roughly about once a year. The only income she had was Rs. 5/- a month. Even that she cannot take because of a settlement arrived at in this case. She had undertaken to transfer the tea shares in favour of the child. The Section does not merely say the husband's income but his ability to pay.

Defendant has admitted in his evidence that he is in a position to find the means to pay. With regard to the defendant's income, his income from the Bar, according to his own evidence, is roughly about Rs. 300/- a month, but he has kept no fee-book. But his Bank statement, P25, and his Savings Bank Book, P24, give some idea of the defendant's means and ability. The question arises as to how the defendant, whose income was Rs. 300/- from the Bar and without any other source of income, was able to keep a bank account of this kind. With regard to the third question about the

10 conduct of the parties, which has to be taken into account, the defendant admittedly did not maintain his wife till 10.10.1959, till the Court made an order for alimony pending the action. The Court ordered only a sum of Rs. 75/- a month. For income tax purposes, the defendant's income is said to be contained in D4, which is an account prepared by the plaintiff at the dictation of the defendant—obviously a doctored document. There is evidence on this point at page 60. Such conduct of the defendant has to be taken into account. He did not pay the Lying-in-Home expenses. The defendant

20 did not plead the custom which is said to exist that the wife's parents should bear the expenses. (Mr. Wikramanayake refers to the evidence at page 50, regarding the custom.) Plaintiff asks for monthly payments as provided for in Section 615, sub-section 2 of the Civil Procedure Code. She has asked for Rs. 400/- a month, which is very reasonable, considering all the three factors the Court has to decide and the value of money today. Plaintiff is not obliged to ask for shelter from her parents. Defendant has not given any circumstances to show that he is entitled to any deductions from his income. He cites 23 C.L.W. 130. His income from the Bar plus his ability to pay plus his conduct has to be taken into account.

30 If the plaintiff succeeds in also obtaining the custody of the child, she is also entitled to an order for the maintenance of the child against the defendant in terms of Section 621 of the Civil Procedure Code. Defendant did not maintain the child till this Court made an order. Maintenance for the child pending the action was fixed at Rs. 100/- a month. A motion was filed by the plaintiff's Proctor with notice to the defendant's Proctor that the defendant has been delaying even this payment. The child will be 3 years old in November, 1960. The sum of Rs. 100/- a month is insufficient these days.

The custody of the child is governed by Section 621 of the Civil

40 Procedure Code. Section 620 gives a very large discretion to the Court to make its order taking into account what it deems proper, taking all the circumstances of the case. Father is not always at all times entitled to the custody of the child. Before action and pending the action the father has a superior right, the paramount consideration, however, being the child's welfare. When the common home no longer exists by reason of a matrimonial decree the natural

right of the father to the custody of the child is interrupted and the question of custody can be raised in Court by either husband or wife. The general principle is that an innocent spouse is entitled to an order for the custody, unless the Court has reason to determine otherwise, having regard mainly to the best interests of the child. Where there is no legal dissolution of the common home the father's right remain unaffected. He cites *Ivaldy vs. Ivaldy*, 57 N.L.R. 568 at 571; Law of Parent and Child, 2nd Edition by Spiro, pages 171 and 182 to 186. The first consideration for the Court is what is best in the interests of the child. The child is under 3 years of age, 10 and if the plaintiff is held to be the innocent party the fact that she is the innocent party cannot be ignored. The fact that the innocent party is also the father is utterly irrelevant. He cites 1948, Vol. 1, South African Law Reports, 130. One of the matters for consideration is that this child is of tender years and should not in any event be taken away from its mother. When one has to consider the evidence in the case one should consider not only whether the influence on the child in the defendant's parents' house is likely to be detrimental to the child but also to the successful parent in this case. In determining what is best for the child, all the circumstances which 20 have been disclosed have to be taken, such as the sex, age, health of the child and its needs. The custody of a young child under 3 years of age will not be given to the father. He cites Lethoo 1942 South African Law Reports, Orange Free State, Provincial Jurisdiction, page 148. The law provided by Section 622 of the Civil Procedure Code is that after a decree absolute is entered for dissolution of marriage the Court may upon the application of one of the parties to the marriage vary the order already made. If circumstances arise later for the defendant to make an application for the custody of the child by having the order made under Section 30 621 varied, the defendant can easily resort to the provisions of Section 622. The question clearly does not arise at this stage whether the defendant should be given the custody of the child at a later stage because we do not know what changes may take place. In the meantime the defendant should be given reasonable access to see the child. A suggestion was made to the plaintiff's father (at page 105) in cross-examination that he wanted the mortgage bond discharged on 11.1.1958. The suggestion was made while the plaintiff and her father were in the witness-box that the plaintiff's father wanted the mortgage bond discharged only on 11.1.1958 and not 40 at an earlier date, and when that did not happen the suggestion was that the plaintiff's father got ready to institute this action for a divorce. This position is repeated by the defendant himself at page 170. This evidence of the defendant and the suggestion made to the plaintiff shows how false this suggestion is because if it was only on 11th January that the plaintiff's father wanted a free discharge of the mortgage, he had to decide the question of divorce

within three days. No father would have done such a thing unless he was off his senses. The lie to this whole thing has been given by Proctor S. P. A. Gunewardena, who said that on 11.10.1957 the defendant told him that her father wanted the mortgage bond redeemed. *Vide* page 169 of the evidence. Defendant also stated at page 169 that the Plaintiff's parents valued the mortgage more than the married life of their daughter. The purpose for which the defendant called Mr. S. P. A. Gunewardena was to prove that the plaintiff never made any complaints to him about her unhappiness  
 10 with the defendant. Plaintiff came to know Mr. Gunewardena only at Matara, and there was only a period of 9 months when she stayed at Matara. The trouble began after the middle of February. There was a period of only seven months.

Mr. Wikramanayake submits that with regard to alimony, the defendant's income is only about Rs. 300/-.

Documents to be tendered to the Record-keeper within a week's time.

Judgment on 21.3.1960.

(Sgd.) F. C. PERERA,  
*D.J.*  
 4.3.1960.

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**No. 26**

**Judgment of the District Court**

**JUDGMENT**

The plaintiff married the defendant on 31.1.1957, in Colombo. After the marriage the plaintiff and the defendant lived at Matara with the defendant's parents in the latter's house. The plaintiff has stated in the plaint a few days after the marriage the defendant and his parents began to harass her continuously saying the dowry  
 30 given to her was not enough, and in June, 1957, the defendant brought her to Gampaha and sent her to her parents to ask the father to transfer to her and the defendant 40 acres of paddy field and as the plaintiff failed to get the said transfer the defendant and her parents started to insult and humiliate her and treat her with gross cruelty.

She has stated the defendant is guilty of constructive malicious desertion for the following grounds :—

(i) refusing to allow the plaintiff to visit her father during illness in 1957.

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- (b) refusing to stay with the plaintiff in her father's house at Gampaha during visits,
- (c) frequently intercepting letters written to the plaintiff by her parents,
- (d) preventing the plaintiff from visiting her friends and relations,
- (e) neglecting the plaintiff and failing to give her care during pregnancy,
- (f) refusing to allow the plaintiff to go to her parents' house for the confinement,
- (g) refusing to arrange for the plaintiff to enter hospital for the 10 confinement,
- (h) refusing the plaintiff lying-in-expenses and the hospital charges,
- (i) insulting and humiliating the plaintiff in the hospital shortly after childbirth.

She had asked for a divorce on the ground of constructive malicious desertion, custody of the child of the union, permanent alimony at the rate of Rs. 400/- per month and maintenance for the child at the rate of Rs. 250/- per month.

The defendant denied that he requested her to ask her father to 20 transfer 40 acres of paddy lands to them and that he cruelly ill-treated or neglected her. He stated that on 10.10.1957 she left for Gampaha against his wishes, without any intention to return and thus maliciously deserted him. He too asked for a dissolution of the marriage on the ground of malicious desertion and for the custody of the child.

The plaintiff is the only daughter of the witness Charles Samarasuriya. He was in Government Service as a teacher for a period of 45 years, serving in several schools as Head Teacher. He retired from service in 1944 and is in receipt of a pension and is still engaged in teaching in his own private school. He has besides the plaintiff three 30 sons. He owns a residential premises at Gampaha, where he has also the school, and 80 acres of paddy field at Hingurakgoda.

The plaintiff was educated at Buddhist Ladies' College, Colombo. She left the school at the end of 1951. After that she was teaching in her father's school at Gampaha. At the time of the marriage she was 23 years of age. She is quite simple and attractive and with the social status she had, she should not have found any difficulty in contracting a good marriage. The defendant was 35 years of age and, in a country where marriages are contracted much earlier, I do not know the reason for this delay. Matara is over 100 miles from Gam- 40 paha and the parties were complete strangers to each other. Proposals of marriage came from various persons to plaintiff's parents and

ultimately from one George Samarasuriya. At first the plaintiff's parents were not agreeable to this proposal as the defendant's place was too far from Gampaha, the defendant was old and he was too rich a person. These are good objections in the case of an arranged marriage : ultimately the proposal was accepted.

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In the case of an arranged marriage, the most important preliminary matter that has to be settled is what dowry the parents of the female party should give. This was simplified by the defendant not asking for a dowry. This is the version of both parties. The  
10 defendant must have been impressed by the appearance of the plaintiff and was willing to marry her without a dowry. I do not know whether not asking for a dowry was a mere ruse to get the consent, because the subsequent conduct of the defendant indicates that he is of a grasping nature and even capable of putting up imaginary claims. The plaintiff's father is a generous minded man. He loved his daughter. He could have disposed her without any dowry. He had a property in Gampaha and a paddy field at Hingurakgoda. He had to think of his three sons. He was expecting a loan from the Government. He promised to give Rs. 25,000/- as dowry of his own  
20 accord. All negotiations with regard to the dowry were discussed and agreed to by the plaintiff's father and the defendant's father. The plaintiff was quite unaware of these discussions. Though the plaintiff's father gave evidence with regard to the dowry he promised and other matters, the defendant's father discreetly kept out of Court.

When the wedding day approached, the full loan that the plaintiff's father expected did not materialise. He asked for a postponement of the marriage, as he could not get the money. If the defendant and his father were genuinely not wanting a dowry, they could have allowed the marriage to go through without dowry. No doubt they  
30 were anxious the marriage should take place : but they were also keen to have the promised dowry. Defendant's father devised a scheme of achieving both these objects. He took a mortgage of the residing premises of the plaintiff's father and lent him Rs. 35,000/- carrying interest at the rate of 8 per cent. per annum : of course, at the same time the dowry was increased to Rs. 30,000/-. Now what was left of immovable property unencumbered to the plaintiff's father was the paddy field at Hingurakgoda.

The wedding took place on 31.1.1957 at the Galle Face Hotel, Colombo. Defendant's father wanted to show the world that the  
40 dowry was much bigger. He gave a further sum of Rs. 20,000/- to the plaintiff's father. In the presence of the gathering, it was declared the cash dowry was Rs. 50,000/- and that sum was paid. Apart from giving Rs. 30,000/- as dowry, plaintiff was given by her parents jewellery worth Rs. 25,000/- to Rs. 30,000/- and sarees worth Rs. 5,000/- to Rs. 6,000/-. The defendant was given a wedding ring

worth Rs. 5,000/- as a present. It does not appear, at these stages, there was any discussion with regard to the paddy field which was the only property left to the plaintiff's parents and their other children unencumbered. Considering the manner in which the defendant and his father acted, it is extremely unlikely that if there was an agreement to give 40 acres of paddy field they would not have got a transfer before the marriage or an effective document agreeing to convey later. Further the plaintiff's father had to incur all the expenses for the wedding at the Galle Face Hotel.

After the marriage the couple took up residence in the defendant's father's house at Matara. On 10.2.1957, the plaintiff and the defendant visited the plaintiff's parents at Gampaha and stayed with them for two hours. After their return to Matara, the defendant has told the plaintiff that her father had promised to give them 40 acres of paddy fields and until this field is given he would not allow her to go again to her parents. However, on 15.2.1957, they paid a second visit and stayed a night. On that occasion the plaintiff had asked her mother about the paddy field and the latter has said there was no promise to give a paddy field. According to the plaintiff, this is the chief cause why the defendant and his parents thereafter began to ill-treat her. Were they labouring under a delusion that the paddy field was promised? Or finding the plaintiff's father is a malleable person and can be easily led, as he was from no dowry to Rs. 25,000/-, and from Rs. 25,000/- to Rs. 30,000/- apart from jewellery, sarees, wedding-ring and a Galle Face wedding at his expense and, coming to know he had a paddy field thought of extracting it or a portion of it? One must keep in mind that the defendant entered the household saying that he did not want a dowry. Paras 5 and 6 of the plaint state that the cause of disagreement was due to the defendant not getting a paddy field. Defendant denied that he requested her to ask her father to transfer 40 acres of paddy field. At the commencement of the trial both Counsel, Mr. L. W. de Silva and Mr. D. H. Panditha Gunewardena outlined their cases. Mr. Panditha Gunewardena stated the trouble was due to the plaintiff's father not honouring his promise to convey to the defendant and his wife 40 acres of paddy field. These two speeches were not taken down by the Stenographer. The case was conducted on behalf of the defendant, as if there was such a promise. Inability to prove such a promise, apart from its unreality, was dawning on the defendant. In examination-in-chief he said, "rings were exchanged and on that occasion the plaintiff's father announced in the presence of all that he was giving Rs. 50,000/- in cash as dowry. Apart from that there was no talk about any movable or immovable property to be given as dowry." On 4.3.1960, Mr. E. B. Wikramanayake, Q.C., for the defendant in the closing address stated "defendant may have mistakenly thought that the plaintiff's father did promise 40 acres of paddy." Before

this statement was recorded I informed Mr. Wikramanayake, in the presence of Mr. L. W. de Silva, that at the commencement of the trial, Mr. Panditha Gunawardena stated there was a definite promise to give 40 acres of paddy but the defendant in the witness-box said there was no such promise. The fact is there was no such promise.

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The question arises whether the defendant was mistakenly believing that there was such a promise. Mr. Wikramanayake said “defendant may have mistakenly thought that the plaintiff’s father did promise 40 acres of paddy.” The plaintiff said that a few days  
10 after the marriage, the defendant told her that her father had promised to give 40 acres of paddy. Both the parents said that the plaintiff at the request of her husband asked for a paddy field of 40 acres after the marriage. In the letter dated 24.4.1957, P2, written just about three months after the marriage, the plaintiff has stated the defendant was harassing her with a view to getting the paddy field. In the letter dated 16.8.1957, P3, the plaintiff’s father stated, “if he has any grievance real or imaginary against me or anyone else, let him discuss it frankly and settle.” P3 has been sent to the plaintiff under registered cover, P3a. The grievances referred to therein is the defen-  
20 dant not getting this paddy field. In the letter dated 25.9.1957, P4, the plaintiff states “he wants Papa’s paddy field.” In the letter dated 24.10.1957, P7, written by the plaintiff to the defendant there is a reference to the paddy field of 40 acres. In the letter dated 4.6.1957 written by the plaintiff’s father to the defendant there is reference to “grievances”, which is the not getting of the field. In the letter dated 5.9.1957, P19, written by the plaintiff’s father to the defendant there is a reference to dowry.

Now the question arises, though there was no promise, did the defendant ask for a paddy field and harass the plaintiff to obtain one  
30 from her father. Anyone who has seen the plaintiff in the witness-box would have been impressed by her evidence. What is the other cause for displeasure? None, except that the atmosphere in the big house of the defendant’s father was unwholesome.

I shall now deal with the allegations of cruelty mentioned in para. 6a.

(a) Refusing to allow the plaintiff to visit her father during illness in 1957. She said “I came to know that my father was ill and I wanted to go to Gampaha. When I asked the defendant for permission to go to Gampaha, he said that my father was a damn liar  
40 and a cheat and that he would not allow me to go home. He did not in fact allow me to go to Gampaha to see my father.” That she was not allowed to go home is referred to in P2. In P3 plaintiff’s father referred to his sickness, which was a serious one. There is no indication in P3 that the plaintiff visited him during the sickness. It must

have caused great mental agony to her, that she was not allowed to see her father, who has been so good to her, during a serious illness.

(b) There is evidence that on the few visits paid, on some occasions, the defendant did not stay in the plaintiff's house. This sort of conduct causes displeasure. The only reason was that the defendant was not given a field as dowry. Now it is apparent that there was no such promise. The promise existed in the dreams of the defendant, and he realised that it was only a dream, perhaps induced by his father, only on the last date of trial, when his Counsel stated in Court that it was due to a mistaken belief. This sort of hallucination that he must have everything the wife's parents have, regardless of their other obligations, is not conducive to a happy married life. Who is to be blamed for this hallucination? He himself and nobody else. It is nothing to him but he has wrecked the life of his young innocent wife.

(c) Frequently intercepting letters written to the plaintiff by her parents. There is ample evidence to show that the letters were intercepted by the defendant and his parents. It was after that the plaintiff's parents began to send letters under registered cover. At that time there was no intention to break the marriage and use these documents in a case. This precaution was taken to ensure the letters duly reached the person they were intended for.

(d) Preventing the plaintiff from visiting her friends and relations. For instance she was not taken to her cousin Kamala's wedding. Of course, once a request is refused, she would not be repeating similar requests. This does not mean she was not taken out, but not to places and persons she liked to visit. Her life was almost the life of a prisoner.

(e) Neglecting the plaintiff and failing to give her care during pregnancy.

Her diet was a monotonous one and she had no choice. It does not appear that the defendant had informed her before the marriage that he was a pure vegetarian and the household did not eat meat at all. She was not given milk or meat. Only on a few occasions eggs have been brought from elsewhere. Defendant's father who had cows, after she became pregnant, sold them. She was not given proper medical care. Her case is one of studied neglect and in such a case certain things are done to give a different appearance. Once a female conceives she is advised to rest, especially during the first pregnancy to avoid a miscarriage. Such a person is not hurried here and there. She had to climb the stairs daily. She was taken to funerals and to long distances. Once she was examined by Dr. Caldera in Colombo. Dr. Caldera informed her that the position of the child was bad and advised her to rest and go back to Matara on the following day. Against this advice she was taken to Matara by the defendant on the same day. On arrival at Matara she was feeling very tired

and sleepy. Surely these acts could not have been done with good intent. She had to wait on many days for her lunch till 2 p.m. The plaintiff states in the letter P4 “ Oh—Mama, save me from these heartless, inconsiderate and cruel people and take me away. In a letter Papa sent to P. P. he had asked P. P. to look after me and the child in my womb. Repeating these words he ridicules me. O, Mama, take me home somehow or other.”

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*Continued*

(f) The defendant admitted that he did not give his consent to the plaintiff to go to her parents' house for the confinement. As  
10 matter of fact, he claims a dissolution on the ground that she maliciously deserted him by doing so. One might understand, when a female marries a man, she does not become his slave. The contracting parties after the marriage, though their functions and duties are different, have equal rights, though for the purpose of the maintenance of the union, the husband generally being the older person, has a greater voice in the household affairs. In certain matters wife must obey : but the husband has no right to refuse a reasonable request of the wife. Can one say that her request to go to her parents' house for the first confinement is unreasonable? The husband has been  
20 unkind, ungenerous and even inimical towards her. Her life was in danger and she may not have survived to unfold her tale of woes if she remained in the defendant's house at Matara for the confinement. The defendant has acted cruelly in refusing to grant her permission.

(g,h,i) The females of a certain status enter Private Nursing Homes for confinements. Arrangements are made before-hand. The defendant had not made any such arrangement. On a visit to Colombo, he may have gone to a Nursing Home, but an arrangement, in fact, has not been made. A mere show of an arrangement is not sufficient. In the case of a person studiously neglecting his wife,  
30 he may do what the defendant has done. The defendant had not paid the lying-in-expenses. When it comes to a payment or incurring an expense, he becomes very dense to his obligations. Though he appropriated the cash dowry of Rs. 30,000/- provided by the plaintiff's father the only present given to her after the marriage was a saree of the value of Rs. 10/- or Rs. 12/-. When the plaintiff asked for money from him at the hospital he offered Rs. 2/-, which was not accepted by her. Then he created a scene at the hospital and sent a Constable with a message. If he was genuinely fond of his wife and was wanting her, that was not the correct method of approach.  
40 When he sent the Constable, not that he wanted his wife but he wanted to have evidence. He is only anxious to have a divorce, but he did not offer to return the dowry of Rs. 30,000/-. He wanted a divorce himself—that is he did not want her; but he wanted to have with him the dowry.

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 the District  
 Court  
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*Continued*

I shall now deal with the matters raised in issue No. 14. It is the duty of the husband to provide a home for both of them. By going to his parents' house she accepted that house as their matrimonial home for the moment. She did not know his parents before. But she found life there was intolerable. She requested the defendant to live in a separate house. At first he agreed but later he withdrew from that position. Correspondence shows, she was willing till a very late stage to patch up differences and live with him. If the defendant's parents were the most objectionable characters, naturally she would have liked to live apart and made a proposal 10 to her husband. When it comes to a question of spending on her he has no money. He contested a Parliamentary Seat in 1956 and then in 1960. Both occasions he lost. He spent at the rate of Rs. 315/- as expenses for each day for himself in this case, but paid her only Rs. 100/- for all her expenses. It was impossible for her to live in that house. She was called a "Pissi" and a "Goni". Her dress was criticised by the defendant's mother. She was compared to prostitutes. Some *meneriya* and *polpala*, which are commonly taken by expecting mothers, sent by her mother, she was not allowed to get them prepared. 20

Why have the defendant and his parents behaved in this awful manner? The best judge of a man's character is his wife, because she knows his innermost thoughts. If opinions and views were formed, at a time while they were living together and without any idea of obtaining a divorce, such opinions and views may be fair. In P2 and P4 she says "they have savage ways, they lack good breeding, no wonder they are called *Polongas*, defendant talks like a cheetah, desiring to get the paddy field, though they have money they are stingy, they usurp others' property" and so on. Who will dare to say these views and opinions expressed by her are 30 not a fair and just estimate of their character?

*Custody of the child.*—After separation no parent has an absolute right to the custody of a child. Custody should be given to that person who will serve the best interests of the child. While the child was in the womb, the defendant transported the child's mother to distant places and funerals and made her climb stairs daily, endangering the life of the child. He made no arrangements for the confinement that would have brought forth to the world the child in question. When the mother asked for money at the hospital, he offered Rs. 2/-, that was all. Except taking a few presents of 40 no great value the defendant did not care to support the child. In the objections filed in Court on 10.6.1958, he stated that Rs. 25/- per month is a reasonable sum that should be given as maintenance. On the other hand, the mother and even the mother's father have been fighting hard to save this child before birth and after birth.

In view of his many professional and political activities he himself has no time to look after the child. He said his mother would look after the child. Considering their behaviour and their ways I think it is not safe that his parents should be allowed to bring up this child. I am definitely of opinion that the best interests would be served if I entrust the custody of the child to the mother. Further, I am of opinion that the defendant is unfit to bring up this child to be a good citizen.

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Court  
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*Continued*

*Alimony and maintenance.*—The defendant has at his command  
10 any amount of wealth. He lives in a palatial building. He owns a motor car. In recent times he contested Parliamentary elections twice. He spent in this case at the rate of Rs. 315/- per day. He is an Advocate of the Supreme Court, who has been in practice for 11 years. He got a cash dowry of Rs. 30,000/-, which he appropriated to himself. These are outward signs of great wealth. In reply to the question “Are you in a position to find money if necessary?” he said, “Yes”. That I am certain is a true answer. However, he said his professional income is Rs. 300/- per month. He is relying on the document D4 to prove that this is so. This is a  
20 document written by the plaintiff to the dictation of the defendant. If anybody is bound by such a document it is the person who dictates and not the person who acts merely as a clerk. The purpose of this document is to make a return to the Income Tax Department. On the return made, perhaps other returns, he is not paying income tax. D4 is a self-serving document, that is this document made to achieve certain results. An Advocate of the Supreme Court must maintain a fee book. He admitted that he does not maintain a regular fee book but that he enters the fees received in his diary. This diary was not produced by him. The plaintiff said his income  
30 was Rs. 2,000/- per month. I accept her evidence. The plaintiff carried a cash dowry of Rs. 30,000/-. The defendant was prepared to engage a governess to look after the child. He should have the same inclination to spend for the child, even if the custody is given to the mother. The plaintiff and the child must live with a fair degree of comfort. I am of opinion that Rs. 400/- per month as permanent alimony for the plaintiff and Rs. 200/- per month as maintenance for the child are fair sums to be awarded.

On all material facts, I accept the evidence of the plaintiff and his parents and reject the evidence of the defendant when he contra-  
40 dicts them. The mortgage bond given by the plaintiff's father to the defendant's father has no connection with this action. The plaintiff's father is paying the sum due by instalments.

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 Judgment of  
 the District  
 Court  
 11.4.60—  
*Continued*

I answer the issues as follows:—

1. Yes.
2. Yes, even before.
3. Yes.
4. Yes.
5. Yes.
6. Yes.
7. Rs. 400/- per month.
8. To the plaintiff.
9. Rs. 200/- per month. 10
10. No—definitely her life was in great danger and her parents had to rescue her.
11. Does not arise.
12. No.
13. Yes.
14. Yes.
15. Yes.

The marriage of the plaintiff with the defendant should be dissolved on the ground the defendant is guilty of constructive malicious desertion. I entrust the custody of the child of the union to the 20 plaintiff. I order the defendant to pay to the plaintiff Rs. 400/- per month as permanent alimony and Rs. 200/- as maintenance for the child. The defendant will also pay costs to the plaintiff in terms of the order dated 3.12.1959, except for days for which special orders have been made. Enter accordingly *Decree Nisi* in the first instance, not to be made absolute for a period of three months.

(Sgd.) F. CONRAD PERERA,  
*D.J.*  
 11.4.1960.

The above judgment was delivered in open Court in the presence 30 of Mr. Chandrasekera and Mr. Valentine Dias.

(Sgd.) F. CONRAD PERERA,  
*D.J.*  
 11.4.1960.

## No. 27

## Decree of the District Court

No. 27  
Decree of the  
District Court  
11.4.60

DECREE FOR DIVORCE " VINCULO MATRIMONII "   
IN THE DISTRICT COURT OF GAMPAHA

Samarasuriya Liyana Arachchi Srimathie  
Ratnawali Samarasuriya of Medagama, Gam-  
paha.....*Plaintiff*

No. 6748/D.

*vs.*

Perumbadu Piyasena Wickramasuriya of  
Meddawatta, Matara.....*Defendant.*

10

This action coming on for final disposal before F. Conrad Perera, Esquire, District Judge of Gampaha on the 25th day of May, 1959, in the presence of Mr. Advocate L. W. de Silva with Mr. Advocate Francis P. Perera and Mr. Advocate D. C. M. Wickramasekera instructed by Mr. Louis Chandrasekera, Proctor, on the part of the plaintiff and of Mr. Advocate D. H. Panditha Gunawardena with Mr. Advocate E. P. Wijetunga instructed by Mr. Valentine Dias, Proctor, on the part of the defendant and subsequently coming on for disposal before F. Conrad Perera, Esquire, District Judge of Gampaha on the 26th day of May, 1959, and the appearance being the same as on the said 25th day of May, 1959, and subsequently coming on for disposal before F. Conrad Perera, Esquire, District Judge of Gampaha on the 24th day of July, 1959, and the appearances being the same as on the said 26th day of May, 1959, for the plaintiff and of Mr. Advocate D. H. Panditha Gunawardena with Mr. Advocate Mohamed instructed by Mr. Valentine Dias, Proctor, on the part of the defendant and subsequently coming on for disposal before F. Conrad Perera, Esquire, District Judge of Gampaha, and the appearances being same as on the said 24.7.59 and subsequently coming on for disposal before F. Conrad Perera, Esquire, District Judge of Gampaha on the 22nd day of September, 1959, in the presence of Mr. L. W. de Silva instructed by Mr. Louis Chandrasekera, Proctor, on the part of the plaintiff and of Mr. Advocate D. H. Panditha Gunawardena with Mr. Advocate E. P. Wijetunga instructed by Mr. Valentine Dias, Proctor, on the part of the defendant and subsequently coming on for disposal before F. Conrad Perera, Esquire, District Judge of Gampaha on the 23rd day of September, 1959, in the presence of Mr. Advocate L. W. de Silva with Mr. Advocate Francis Perera and Mr. Advocate D. C. W. Wickramasekera instructed by Mr. Louis Chandrasekera, Proctor, on the part of the plaintiff and of Mr. Advocate D. H. Panditha Gunawardena with Mr. Advocate E. P. Wijetunga instructed by Mr. Valentine Dias, Proctor, on the part of the defendant and subsequently coming on for disposal

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Decree of the  
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11.4.60—  
*Continued*

before F. Conrad Perera, Esquire, District Judge of Gampaha and the appearance being the same as on the said 23rd day of September, 1959, and subsequently coming on for disposal before F. Conrad Perera, Esquire, District Judge of Gampaha on the 6th day of November, 1959, and the appearance being the same as on the said 23rd day of September, 1959, and subsequently coming on for disposal before F. Conrad Perera, Esquire, District Judge of Gampaha on the 19th day of November, 1959, and appearance being same as on the said 23rd day of September, 1959, except that Mr. Advocate E. P. Wijetunga in not appearing for the defendant and subsequently 10 coming on for disposal before F. Conrad Perera, Esquire, District Judge of Gampaha on the 27th day of February, 1960, in the presence of Mr. Advocate L. W. de Silva with Mr. Advocate Francis P. Perera and Mr. Advocate D. C. W. Wickramasekera instructed by Mr. Louis Chandrasekera, Proctor, on the part of the plaintiff and of Mr. Valentine Dias, Proctor, on the part of the defendant and the defendant having been absent and subsequently coming on for disposal before F. Conrad Perera, Esquire, District Judge of Gampaha on the 4th day of March, 1960, and the appearances being same as on the said 27th day of February, 1960, for the plaintiff and of Mr. Advocate 20 E. B. Wickramasekera, Q.C., with Mr. Advocate Neil Dissanayake, instructed by Mr. Valentine Dias, Proctor, on the part of the defendant and judgment having been delivered on the 11th day of April, 1960, in open Court in the presence of Mr. Louis Chandrasekera and Mr. Valentine Dias ; and it appearing to this Court that the marriage of the plaintiff with the defendant should be dissolved on the ground of constructive malicious desertion on the part of the defendant.

It is ordered and decreed that the marriage between Samarasuriya Liyana Arachchi Srimathie Ratnawali Samarasuriya of Medagama, Gampaha, and Perumbadu Piyasena Wickramasuriya of Meddawatta, Matara, be set aside, dissolved, and annulled by reason of the defendant's constructive malicious desertion unless sufficient cause be shown to the Court why this Decree should not be made absolute within a period of three months from the making thereof. 30

It is further ordered that the said plaintiff may henceforth resume and be known by her name of Samarasuriya Liyane Arachchi Srimathie Ratnawali Samarasuriya and have and enjoy all the rights and privileges to which unmarried women are by law entitled.

And it is further decreed that the plaintiff, according to the prayer of the plaint, be entitled to and charged with the custody, 40 care and education of the child, in the pleadings mentioned ; provided always that this order for the custody, care and education of the said infant may at any time hereafter be modified, varied or annulled upon sufficient cause shown.

And it is further decreed that the defendant do pay to the plaintiff Rs. 400/- per month as permanent alimony and Rs. 200/- as maintenance for the child.

No. 27  
Decree of the  
District Court  
11.4.60—  
*Continued*

It is further ordered and decreed that the defendant do pay to the plaintiff at the rate of Rs. 315/- per day for the following days :— 24th July, 1959, 27th July, 1959, 22nd September, 1959, 23rd September, 1959, 24th September, 1959, 6th November, 1959 and 19th November, 1959 aggregating to a sum of Rs. 2,205/-.

It is further ordered and decreed that if this sum is not paid the plaintiff may proceed to recover same by execution in which event she will be entitled to costs of execution.

It is further ordered and decreed with regard to further dates of hearing other than those mentioned above the defendant do pay to the plaintiff the sum of Rs. 315/- being the costs of 4th March, 1960.

On this 11th day of April, 1960.

Drawn by me :

(Sgd.) LOUIS CHANDRASEKERA,  
*Proctor for Plaintiff.*

(Sgd.) Illegibly.  
*District Judge.*  
25.7.60.

Checked : (Sgd.) Illegibly.

**No. 28**

**Petition of Appeal to the Supreme Court**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

No. 28  
Petition of  
Appeal to the  
Supreme Court  
19.4.60

Samarasuriya Liyana Arachchi Srimathie Ratnavali Samarasuriya of Medagama, Gampaha  
..... *Plaintiff*

30 S.C. 165/60 (F.)  
D.C. Gampaha  
No. 6748/D.

*vs.*

Perumbadu Piyasena Wickremasuriya of Meddewatta, Matara..... *Defendant.*

*Between*

Perumbadu Piyasena Wickremasuriya of Meddewatta, Matara.....  
..... *Defendant/Appellant*

*and*

Samarasuriya Liyana Arachchi Srimathie Ratnavali Samarasuriya of Medagama, Gampaha..... *Plaintiff/Respondent.*

No. 28  
 Petition of  
 Appeal to the  
 Supreme Court  
 19.4.60—  
*Continued*

On this 19th day of April, 1960.

To : The Hon'ble The Chief Justice and the other Judges  
 of the Supreme Court of the Island of Ceylon.

The Petition of Appeal of the defendant abovenamed appearing by his Proctor, Valentine Dias, states as follows :—

1. The plaintiff who is the wife of the defendant filed plaint against the defendant on the 15th day of January, 1958, asking for a divorce on the ground of constructive malicious desertion.

2. To this and also to the subsequent amended plaint, the defendant filed answer. The defendant counter-claimed a divorce **10** on the ground of plaintiff's malicious desertion.

3. The plaintiff left the home of the defendant on 10th October, 1957. In her amended plaint she stated that she was compelled to leave the house for the following reasons :—

(a) Refused to allow the plaintiff to visit her father during his illness in 1957 ;

(b) Refused to stay with the plaintiff in her father's house at Gampaha during visits when occasion arose ;

(c) Frequently intercepted letters written to plaintiff by her parents ; **20**

(d) Prevented the plaintiff from visiting her friends and relations ;

(e) Neglected the plaintiff and failed to give her care during her pregnancy ;

(f) Refused to allow the plaintiff to go to her parents' house for the confinement ;

(g) Refused to arrange for the plaintiff to enter hospital for her confinement ;

(h) Refused to pay the plaintiff's lying-in expenses and hospital charges ; **30**

(i) Insulted and humiliated the plaintiff in hospital shortly after childbirth.

4. The case was heard on the 25th day of May, 1959 ; 26th day of May, 1959 ; 24th July, 1959 ; 27th July, 1959 ; 22nd September,

1959 ; 23rd September, 1959 ; 19th November, 1959 and on 4th March, 1960. On the 11th day of April, 1960, the learned District Judge gave judgment in favour of the plaintiff and also granted Rs. 400/- per month as permanent alimony to the plaintiff and also Rs. 200/- per month as maintenance for the child whose custody he gave to the plaintiff.

No. 28  
Petition of  
Appeal to the  
Supreme Court  
19.4.60—  
*Continued*

5. Being aggrieved with the said Judgment the defendant-appellant appeals to Your Lordships' Court on the following among other grounds which may be urged by Counsel at the hearing of this 10 appeal :—

(a) That the said Judgment is contrary to law and against the weight of evidence adduced in this case.

(b) It is submitted that even if the allegations made in paragraph (6A) of the amended plaint are true, the conduct of the defendant does not in law amount to constructive malicious desertion. Such evidence can only prove indifference on the part of a husband towards his wife and does not in law justify her refusal to live with him. The desertion, it is therefore submitted, was on the part of the plaintiff who without lawful justification left the defendant and returned to her parents.

(c) The learned District Judge says that Mr. D. H. Pandita Gunawardena, Counsel for the Defendant-Appellant stated in his opening address that the trouble was due to plaintiff's father not transferring 40 acres of paddy and the case for the defendant was conducted on the basis there was such a promise. On the other hand, the defendant in his answer denied this position and also throughout the cross-examination of the plaintiff and her witnesses adhered to this position.

(d) In none of the letters written by the plaintiff's father to the defendant is there a reference to a request by the defendant to transfer 40 acres of paddy. These letters only refer to the mortgage bond transaction which it is respectfully submitted is the main cause of his anxiety. It is submitted that "grievances" in letter dated 4th June, 1957, does not refer to a request to a transfer of 40 acres of paddy.

(e) On the other hand, the learned District Judge has not given his mind to the letter "P18" in which plaintiff's father says that he holds the defendant in esteem and also that

No. 28  
 Petition of  
 Appeal to the  
 Supreme Court  
 19.4.60—  
*Continued*

the defendant loved his daughter and was sympathetic to her. It is respectfully submitted that the statements in this letter completely contradict the position taken by the plaintiff and her witnesses at the trial.

- (f) In assessing the income of the defendant, the learned District Judge says that the defendant contested a Parliamentary seat both in 1956 and 1960 and lost. It is submitted that nowhere in the evidence is it stated that the defendant contested a Parliamentary seat in 1960. In fact the evidence and the final addresses in the case were over before 10 the Parliamentary Elections of 1960. It is submitted that the Learned District Judge has erred in taking into consideration facts which were not in evidence at the trial.
- (g) A point is also made by the learned District Judge that the defendant paid only Rs. 100/- as legal expenses for the plaintiff. The learned District Judge has failed to take into consideration the fact that the defendant paid Rs. 100/- as costs on an order of court made by the predecessor of the learned District Judge.
- (h) The learned District Judge has not paid sufficient considera- 20 tion to the documentary evidence in the case. For instance, that after sending two telegrams on the 10th and 14th day of January, 1958, even without waiting for a reply the plaintiff filed this case on the 15th January, 1958.
- (i) The learned District Judge has not given his mind to the fact that in her affidavit filed at the alimony enquiry she had made false statements when she stated that she had no income whatsoever and also was not possessed of any property. 30
- (j) The learned District Judge in judging the conduct of the defendant has not taken into consideration the fact that the defendant bought about Rs. 10,000/- worth of tea shares in the name of the plaintiff and also while she was in hospital he wanted to buy premium shares in her favour.
- (k) The learned District Judge has found fault with the defendant for not taking the plaintiff to a Private Nursing Home. On the other hand the plaintiff's father himself has not taken his daughter to a Private Nursing Home. Far from 40 taking the plaintiff who had run away from the defendant

to a Private Nursing Home, the plaintiff herself stated that she did not want the defendant to know that she had entered the De Soysa Lying-in-Home.

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Petition of  
Appeal to the  
Supreme Court  
19.4.60—  
*Continued*

- (l) There is no evidence that the defendant intercepted letters of the plaintiff. Even if it is true, that the defendant opened and read the plaintiff's letters, it is submitted that it was a natural thing for a husband to do.
- 10 (m) The learned District Judge has also failed to take into consideration the evidence of the plaintiff when she says that the defendant has not taken proper care during her pregnancy. It is in evidence that the plaintiff was taken several times to Dr. (Mrs.) Kulatunga and took medicines which were prescribed.
- (n) That the evidence of Mr. S. P. A. Gunewardena, Proctor, who gave evidence on behalf of the defendant has not even been referred to by the learned District Judge.
- 20 (o) In awarding the custody of the child to the plaintiff, the learned District Judge says that no parent has an absolute right to the custody of the child. It is submitted that this is not a correct statement of the law. In giving the custody of the child to the plaintiff the learned District Judge has not even given the right of access to the defendant.
- (p) That the alimony and maintenance awarded is excessive and not in keeping with the evidence adduced in the case.

Wherefore the defendant-appellant prays :—

- (a) That Your Lordships' Court be pleased to set aside the judgment of the learned District Judge ;
- 30 (b) That Judgment be entered in favour of the defendant dissolving the marriage on the ground of plaintiff's malicious desertion ;
- (c) For the custody of the child Ravindra Rohan ;
- (d) for costs, and for such other and further relief as to Your Lordships' Court may seem meet.

(Sgd.) VALENTINE DIAS,  
*Proctor for Defendant-Appellant.*

No. 29  
Decree of the  
Supreme Court  
dismissing  
Appeals  
14.6.62

No. 29

**Decree of the Supreme Court dismissing Appeals**

S.C. 165/'60 (F.) with  
S.C. 145/'59 (Inty.)

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

Samarasuriya Liyanaarachchi Srimathie  
Ratnavali Samarasuriya of Medagama, 10  
Gampaha.....*Plaintiff*

*vs.*

Perumbadu Piyasena Wickramasuriya of  
Meddawatta, Matara.....*Defendant.*

Perumbadu Piyasena Wickramasuriya of  
Meddawatta, Matara ...*Defendant-Appellant*  
*against*

Samarasuriya Liyanaarachchi Srimathie  
Ratnavali Samarasuriya of Medagama,  
Gampaha.....*Plaintiff-Respondent.* 20

Action No. 6748/Divorce.

District Court of Gampaha

This cause coming on for hearing and determination on the 14th day of June, 1962, and on this day, upon an appeal preferred by the defendant-appellant before the Hon. Hema Henry Basnayake, Q.C., Chief Justice and the Hon. Asoka Windra Hemantha Abeyesundere, Q.C., Puisne Justice of this Court, in the presence of Counsel for the defendant-appellant and plaintiff-respondent.

It is considered and adjudged that these appeals be and the same are hereby dismissed. 30

It is ordered and decreed that the defendant-appellant do pay to the plaintiff-respondent the taxed costs of these appeals.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the 27th day of June, in the year One thousand Nine hundred and Sixty-two and of Our Reign the Eleventh.

SEAL

(Sgd.) B. F. PERERA,  
*Deputy Registrar, S. C.*



No. 30  
Application  
for Conditional  
Leave to  
Appeal to the  
Privy Council  
27.6.62—  
*Continued*

ratnam Senathi Rajah, Saravanamuttu Kugaperumal, Hermon Annesley Fernando, Prasanna Stanislaus Goonewardena, and Nihal Hubert Gunaratna, his proctors, states as follows :—

1. That feeling aggrieved by the Judgment and/or Order and/or Decree of this Court pronounced on the 14th day of June, 1962, the said petitioner (defendant-appellant) abovenamed is desirous of appealing therefrom to Her Majesty the Queen-in-Council.

2. The said Judgment or Order is a final Judgment of Your Lordships' Court and the matter in dispute on the Appeal is in excess of the value of rupees five thousand (Rs. 5,000/-) and involves directly 10 or indirectly some claim, or question to or respecting property or some civil right of the value of over rupees five thousand (Rs. 5,000/-). The questions involved in the appeal are questions which by reason of their great general or public importance and/or otherwise ought to be submitted to Her Majesty the Queen-in-Council for decision.

3. That the notice of the intended application for leave to appeal to Her Majesty the Queen-in-Council was served on the respondent (plaintiff-respondent) in terms of Rule (2) of the Rules in the Schedule to the Appeal (Privy Council) Ordinance on the 20th day of June, 1962, by personal service at the respondent's place of residence at 20 "Sri Ranji", Vijaya Road, Medagama, Gampaha, and on the 21st day of June, 1962, by sending the said Notice to the respondent by registered post and also by ordinary post to the said address.

Wherefore the petitioner (defendant-appellant) prays that Your Lordships' Court be pleased to grant the petitioner Conditional Leave to Appeal against the said judgment and/or order and/or decree of this Court pronounced on the 14th day of June, 1962, to Her Majesty the Queen-in-Council, for costs and for such other and further relief in the premises as to Your Lordships' Court shall seem meet.

30

(Sgd.) JULIUS & CREASY.  
*Proctors for Petitioner*  
*(Defendant-Appellant).*

Settled by :

H. W. JAYEWARDENE, Q.C.,  
A. C. M. UVAIS,  
*Advocates.*

## No. 31

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

No. 31  
Decree granting  
Conditional  
Leave to  
Appeal to the  
Privy Council  
7.9.62

Application No. 289/1962.

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

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

10                   In the matter of an application dated 27th  
June, 1962, for Conditional Leave to appeal  
to Her Majesty the Queen in Council by the  
defendant-appellant against the judgment  
and decree of this Court dated 14th June,  
1962, in S.C. 165/1960 (Final)—D.C. Gampaha  
Case No. 6748/D.

Perumbadu Piyasena Wickramasuriya of  
Meddewatta, Matara.....  
.....*Defendant-Appellant-Petitioner*  
*against*

20                   Samarasuriya Liyanaarachchi Sirimathie Ratna-  
vali Samarasuriya of Medagama, Gampaha  
.....*Plaintiff-Respondent-Respondent.*

Action No. 6748/D.

District Court of Gampaha

This cause coming on for hearing and determination on the 7th day of September, 1962, before the Hon. Henry Winfred Robert Weerasooriya and the Hon. Gardiye Punchihewage Amaraseela Silva, Puisne Justices of this Court, in the presence of Counsel for the Defendant-Appellant-Petitioner and Plaintiff-Respondent-Respondent.

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

1. Deposit with the Registrar of the Supreme Court a sum of Rs. 3,000/- and hypothecate the same by bond or such other security as the Court in terms of Section 7(1) of the Appellate Procedure (Privy Council) Order, 1921 (Cap. 85) of the Subsidiary Legislation, shall on application made after due notice of the other side approve.

2. Deposit in terms of provisions of Section 8(a) of the said Appellate Procedure (Privy Council) Order, 1921, with the Registrar

No. 31  
Decree granting  
Conditional  
Leave to  
Appeal to the  
Privy Council  
7.9.62—  
*Continued*

a sum of Rs. 300/- in respect of fees mentioned in Section 4(2)(b) and 4(2)(c) of the Appeals (Privy Council) Ordinance.

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

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the 14th day of September in the year One thousand Nine hundred and Sixty-two and of Our Reign the Eleventh.

(Sgd.) B. F. PERERA, 10  
*Deputy Registrar, S.C.*

No. 32  
Application  
for Final Leave  
to Appeal to  
the Privy  
Council  
1.10.62

**No. 32**

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

**IN THE HONOURABLE 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 Provisions of the Appeals (Privy Council Ordinance) (Chapter 100).

Samarasuriya Liyanaarachchi Sirimathie Ratnavali Samarasuriya of Medagama, Gampaha  
..... *Plaintiff*

*vs.*

Perumbadu Piyasena Wickramasuriya of Meddegawatta, Matara..... *Defendant*

*and*

S.C. Application  
No. 289 of 1962  
(Conditional Leave)

Perumbadu Piyasena Wickramasuriya of Meddegawatta, Matara.....  
..... *Petitioner (Defendant-Appellant)*

S.C. No. 165 of  
1960 (F.)

*vs.*

D.C. Gampaha  
No. 6748/D.

Samarasuriya Liyanaarachchi Sirimathie Ratnavali Samarasuriya of Medagama, Gampaha.....  
..... *Respondent (Plaintiff-Respondent)*

30

To :

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

On this 1st day of October, 1962.

The humble petition of the petitioner (defendant-appellant) abovenamed appearing by Henric Theodore Perera, James Arelupar Naidoo, Alexander Richard Neville de Fonseka, John Claude Byrnell, Lena Charlotte Fernando and Reginald Frederick Mirando, carrying on business in partnership in Colombo, under the name, style and firm of Julius & Creasy and their Assistants : Francis Luke Theodore Martyn, Rex Herbert Sebastian Phillips, John Ajasath Rancoth Weerasinghe, Bertram Manson Amarasekera, Gerald Ebenezer Abey-  
 10 naike, Justin Mervyn Canagaretna, James Orlando De Saa Bandaranaike, Shelton Vernon Perera, Nadarasa Rathinasapapathy, Rajaratnam Senathi Rajah, Saravanamuttu Kugaperumal, Hermon Annesley Fernando, Prasanna Stanislaus Goonewardene and Nihal Hubert Gunaratna, his Proctors, states as follows :—

No. 32  
 Application  
 for Final Leave  
 to Appeal to  
 the Privy  
 Council  
 1.10.62—  
*Continued*

1. The petitioner (defendant-appellant) abovenamed on the 7th day of September, 1962, 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 14th day of June, 1962.

20 2. The petitioner (defendant-appellant) abovenamed has in compliance with the conditions on which such leave was granted deposited with the Registrar of this Court as security a sum of Rs. 3,000/- on the 27th day of September, 1962, and has by Bond dated the 28th day of September, 1962, hypothecated the said sum of Rs. 3,000/- with the said Registrar.

3. That the petitioner (defendant-appellant) abovenamed has further deposited with the said Registrar on the 27th day of September, 1962, a sum of Rs. 300/- in respect of the amounts and fees mentioned in Section 4(2) (b) and (c) of the Appeals (Privy Council) Ordinance  
 30 (Chapter 100).

4. The petitioner (defendant-appellant) has on the 28th day of September, 1962, lodged stamps for the duty payable in respect of the Registrar's Certificate in Appeal to Her Majesty the Queen-in-Council.

5. Notice of this Application has been given to the respondent abovenamed and to her proctor by registered post on the 1st day of October, 1962, *vide* Registered Postal Article Receipts dated the 1st day of October, 1962, and filed herewith marked "X" and "Y" and also served on the proctor for the respondent.

40 Wherefore the petitioner (defendant-appellant) abovenamed prays that he be granted Final Leave to Appeal against the said Judgment

No. 32  
Application  
for Final Leave  
to Appeal to  
the Privy  
Council  
1.10.62—  
*Continued*

of this Court dated the 14th day of June, 1962, to Her Majesty the Queen-in-Council, for costs and for such other and further relief in the premises as to Your Lordships' Court shall seem meet.

(Sgd.) JULIUS & CREASY,  
*Proctors for Petitioner (Defendant-Appellant).*

*Documents filed with the Petition*

1. Affidavit of Mr. H. T. Perera.
2. Registered Postal Article Receipts " X " and " Y ".

(Sgd.) JULIUS & CREASY,  
*Proctors for Petitioner (Defendant-Appellant.)* 10

Settled by :

H. W. JAYEWARDENE, Q.C.,  
A. C. M. UVAIS,  
*Advocates.*

No. 33  
Minute of Order  
granting Final  
Leave to  
Appeal to the  
Privy Council  
19.10.62

**No. 33**

**Minute of Order granting 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 the Privy Council under 20 the rules set out in the Schedule to the Appeals (Privy Council) Ordinance.

Application  
No. 421 of  
1962.

Perumbadu Piyasena Wickramasuriya of Medawatta, Matara.....  
..... *Defendaant-Appellant (Petitioner)*

*vs.*

Samarasuriya Liyanaarachchi Sirimathie Ratnavali Samarasuriya of Medagama, Gampaha..  
..... *Plaintiff-Responcent (Respondent).*

The application of Perumbadu Piyasena Wickramasuriya of 30 Meddewatta, Matara, for Final Leave to Appeal to Her Majesty the Queen in Council from the judgment and decree of the Supreme Court of the Island of Ceylon pronounced on the 14th day of June, 1962, in S.C. 165 (Final) of 1960 D.C. Gampaha Case No. 6748/D,

having been listed for hearing and determination before the Honourable Leonard Bernice de Silva, Puisne Justice, and the Honourable Ponnuduraisamy Sri Skanda Rajah, Puisne Justice, in the presence of H. W. Jayewardene, Esquire, Q.C. with A. C. M. Uvais, Esquire, Advocate, for the petitioner, and D. C. W. Wickramasekera, Esquire, Advocate, for the Respondent, order has been made by Their Lordships on the 19th day of October, 1962, allowing the aforementioned application for Final Leave to Appeal to Her Majesty the Queen-in-Council.

No. 33  
Minute of Order  
granting Final  
Leave to  
Appeal to the  
Privy Council  
19.10.62—  
*Continued*

10

(Sgd.) J. W. SUBASINGHE,  
*Registrar of the Supreme Court,*  
8.11.62.



PART II

**EXHIBITS**



**Letter from the Plaintiff to her Mother  
(English Translation)**

P2

Letter from  
the Plaintiff to  
her Mother  
(English  
Translation)  
24.4.57

Matara,  
24.4.57.

I write to dear Mamma.

At the time Mamma came in March there were many things to be told. On that day as PUNCHIAMMA (Aunt) was always with Mamma and the mother here was also present nothing could be told. Even  
 10 on the occasion of coming before the new year there was no opportunity. These cannot be even written in a letter. P. P. and his mother see all letters written by me. These two see also letters sent to me. It is after they have seen them that I am able to see them. Are there such savage ways in other places too? Although these people have a big house and wealth every deed of theirs shows their lack of good breeding. Mamma and others must have known many things about them from the fact that they did not take me to see Papa who was bedridden for a number of months. When Mamma came, although I asked for permission to visit Papa with Mamma, it was not  
 20 allowed. It is no wonder that these people are called Polongas. Saying that I was nothing given as dowry, they are constantly harassing me. They are frequently insulting me saying that even the jewellery given to me is imitation jewellery. It cannot be thought that P. P. is talking without knowing the truth. It is apparent that the mother is hypocritically misleading the son in the direction she wants. It is for the purpose of getting a transfer of Papa's paddy lands that I am not allowed to come to see Papa and also that I am harshly treated by dragging dowry discussions. It is said that P. P. will never come to our house nor will a child even be sent there. It was because of  
 30 this that I was not allowed to attend Kamala's wedding too. It is said that I would not be allowed to visit any of the relations' houses. It is said that Papa promised to give Papa's paddy lands. I said that no promise whatever was made whether it be about paddy lands or anything else. I reminded that the marriage proposal was brought to us on a no dowry basis. Therefore they bear a great hatred towards me. They are now doing every harassment they can. To get rid of this I made an attempt to shift to a separate house. As mother does not allow to shift P. P. tells a lie that he has no money. These

P2  
 Letter from  
 the Plaintiff to  
 her Mother  
 (English  
 Translation)  
 24.4.57—  
 Continued

are discussed with outsiders in a way to insult me. What is this Karma that has come upon me : They abuse Papa insulting him much. Such a thing has never happened to a member of any of our families. Papa got caught in these people's traps. I also have fallen into difficulty. As soon as Papa becomes a little better please come here. I wish Papa to say in their presence with his own mouth the truth or untruth of this. All this time these people have been insulting Papa that he is a rogue, a rascal, a liar, and a cheat. I cannot bear up these. They are abusing me saying, " You beggar girl who came without anything, do kitchen work and eat." If I am to eat by doing kitchen work what was the necessity to give me dowry of about sixty or seventy thousand rupees. It was no disgrace to work in the kitchen. These people are going to get me to work in the most cruel and unsympathetic manner. One day P. P. intimidated me saying that there would be nobody to give evidence even if I am killed. I asked him what was the purpose of evidence after I am killed. I asked him whether it is not for eating that killing is done. All this is done to get a transfer of Papa's paddy lands. If these are transferred my death may be more quickly expedited. It will be more beneficial to them to get married to another woman and add her property also. I cannot think that I was married because they wanted me what they want is other people's property. I cannot think that there are any other people with such mean ways. Neither send a reply to this nor let Papa or anybody else know about it. Come with Papa for a visit. 10

Your Loving daughter,  
 SHRIMATHIE. 20

Translated by  
 (Sgd.) illegibly.  
 Sworn Translator,  
 Gampaha,  
 21.4.59.

30

P2a  
 Envelope

**P2a**  
**Envelope**

Mrs. D. C. SAMARASURIYA,  
 " Sri Ranji "   
 Gampaha



P18

Letter from  
Plaintiff's  
Father to the  
Defendant  
4.6.57

P18

### Letter from Plaintiff's Father to the Defendant

Chas. Samarasuriya.  
Phone No. 265.

“ Shri Ranjie ”,  
Gampaha, W.P.,  
June 4, 1957.

My Dear Putha,

I was shocked not a little, when my daughter with tears streaming down her cheeks delivered to me the message you had sent me from 10 the Rest House. To me her facial expression was an open book which told many a dreadful story of her new experiences. In the midst of my misery her assurance that your heart was tender and full of sympathy and love for her was a source of hope and encouragement. However, your refusal to accompany her home, I felt, was unjustifiable and went counter to the great esteem in which you were being held by us. You would have got better results had you only chosen to have a few minutes' heart-to-heart talk with me about your grievances.

I understand that you have been given a wrong version of the business part of your marriage settled by your father and me. Your 20 father never asked for any dowry for you, but I frankly told him that I had spent all my earnings on the education of my children and that I was a poor man having nothing to compare with what your father had earned for you. However, of my own accord, I made a true declaration of all my assets and told him what I proposed giving my child. He was quite pleased with my frankness and with my offer which he accepted.

Now I must tell you as frankly as I told your father that I was not prepared for the marriage of my child at the time your proposal was received by us and that I confessed to your father that she had 30 just left school and was not expected to get married at least for two or three years more. Your father was, however, earnest that the matter should be put through before January was out. I tried my best to get it postponed till after May or June. He continued pleading with me to fix the marriage for January. He was so good to me and showed me such a generous attitude that I had no alternative but to agree to it and do my best endeavour to make the necessary preparations within the short period I had, inspite of all the difficulties I had to surmount. These are facts that you may verify from the correspondence that passed between your father and me. 40

A grant of Rs. 50,000 had been recommended for me by the G. A., Polonnaruwa, and the Divisional Agricultural Officer, Anuradhapura,

for the land development I had executed. All the officials who had anything to do with it assured me that I should get it in the course of December or January the latest. I had no doubt about my getting it. So I went ahead with my plans. Finally when I interviewed the Land Commissioner I was told that the vote allotted for land development had been exhausted and that I had to wait till a supplementary vote was allowed. I thought that it was a wild goose chase and turned my attention in another direction. I intimated to your father what had happened. He and I discussed as brothers the situation that had arisen. I told him that my plan was to raise a loan on my residential property as a last resort. He agreed to give the required amount. Accordingly a Mortgage Bond was signed in his favour.

This was purely a business transaction between him and me. It was strictly understood to be a private transaction of a very confidential nature. Your father stated that nobody other than your father and mother and my wife and me should know anything at all about it. It was specifically stated that neither you nor my child nor any of the other members of our two families should be allowed to know this.

20 You will now appreciate the fact that a great trust had been attached to the transaction and that it had to be honoured by all concerned. What has happened is altogether a different thing. I was simply astonished when I was told that the Mortgage Bond given to your father was shown to you and my daughter both. I must point out that this is a serious betrayal of the trust and a gross violation of the confidence between the parties. The effect of this action is that one party has not only been humiliated but also made to appear as cheats in the eyes of others, where not the slightest element of such thing is involved. This is very reprehensible. It would have caused an upheaval among people of a certain category but I do not belong to that category. I take a very sympathetic view of the incident, because it exhibits a weakness on the part of the betrayer. As my son-in-law may I ask you most earnestly to intervene in this matter and put a stop to further display of this document as it tends to bring discredit on me in particular and on all concerned in general. I am an old man and am not troubled about myself, but I am anxious about your prestige and that of my daughter. I am writing to your father and telling him that I am settling the debt even without waiting for the grant from the Government—say in a few weeks' time.

40 I was told that your father had come to Colombo a number of times during my illness and had visited my nephew twice. For him not to have come to see me I felt he must have had some very strong reason. I wrote a letter to him saying that I was ill and that I was sorry that I could not pay a visit to you after your wedding. I received no reply to this. Therefore on the Wesak day when I visited you I drew his attention to the fact that I noticed something wrong

P18  
Letter from  
Plaintiff's  
Father to the  
Defendant  
4.6.57--  
*Continued*

P18  
 Letter from  
 Plaintiff's  
 Father to the  
 Defendant  
 4.6.57—  
 Continued

somewhere in our relations and asked him what it was. He at once told me that his only grievance was that I failed to pay a visit so long and expressed his regret for my illness. Apart from this he did not utter a word about our transaction.

At a moment of sanity you will realize the fact that neither your father nor I had any misgivings in regard to the transaction, because for the amount I borrowed I hypothecated a property worth three or four times the amount borrowed. The interest has been fixed at 8 per cent. per annum. Nobody should fear the non-payment of it. It will be paid to the last cent together with the capital. I must tell 10 you that, had your father not advanced this loan I would have raised it locally, and given you what I had promised to give. I still fail to see how I have cheated you or anybody else or what grievance you may have morally or legally, regarding the dowry given to you.

My only deduction is that you have been a little too hasty in taking 'direct action'. Neither I nor my child, has given you any provocation for your displeasure. Now that I know that you have a displeasure and I know too the cause of it, you can rest assured that the mortgage will be redeemed within the shortest space of time possible. It would have been settled long ago if it were not for my 20 illness and other circumstances that confronted me.

The fault is mine and your father's both, for Shakespeare says, "Neither a borrower nor a lender be." But it could not be avoided as a result of the intervention of unforeseen occurrences as I have already stated.

I assure you that I bear no ill will either towards you or anybody else in this connection, but I would wish you to keep in mind always in your own interest that you should comfort your wife and keep her in good spirit, because every impulse and every emotion that she gets during the period of expectancy leaves its impress indelibly on the 30 child she bears in her womb for you. There is nothing in the world to compare with a child so far as the parents are concerned. That is why most young couples live separately. My dear Putha, let by-gones be by-gones. Nothing of the misunderstanding should continue any longer. We cannot afford to be at variance with each other. Both of us are enlightened men, therefore we must be able to settle our matters amicably and peacefully. If we go to take up cudgels against each other we shall be making ourselves the laughing stock in the eyes of all who are not well disposed towards your family and our family. 40

Read this dispassionately and write to me if you have any point to raise.

I am,  
 Yours affectionately,  
 (Sgd.) CHAS. SAMARASURIYA.

P3

## Letter sent to the Plaintiff by her Father

P3  
 Letter sent to  
 the Plaintiff by  
 her father  
 16.8.57

Shri Ranjie,  
 Gampaha, W.P.,  
 16.8.1957.

My Dear Duwa,

We are sorry that you have not written to us for a long time. My letters as a rule are not received by you, therefore I am sending this under Registered cover and not because I wish to pay an enhanced  
 10 postage to enrich the Government coffers.

Luckily for me Dr. Anthonis after testing my blood and urine and examining a number of X'ray photos says that just now I do not require an operation. However, he warns me to be very careful. I am not in a fit state of health to visit Hingurakgoda and stay there supervising the work of reaping and harvesting. Mamma says that, in the absence of anybody else who can spare the time or who is able to attend to the work she is going there. Our holidays started on the 9th instant and continue till the 3rd of next month. We are very  
 20 dull, there being only your two brothers, Mamma and myself in addition to our servants at home. When Mamma goes to Hingurakgoda she will take one or two servants with her. When this happens I wonder how I will pass my days. You show this letter and tell your husband that I am not the person who machinated to get you married to him. Three times we rejected the proposal but finally we gave in under great pressure from his parents and on the assurance that your husband is a harmless and virtuous man. We expect Lawyers to be more broad minded men than others. If he has any grievance real or imaginary against me or anybody else let him discuss it frankly, and settle it. His not coming here with you makes his people and  
 30 our people laugh at him and at us. If he has however decided rightly or wrongly that he will never come here then you need not try to persuade him against his will. May you be blessed by the Grace of the Triple Gem.

I am,  
 Your Loving father,  
 (Sgd.) CHAS. SAMARASURIYA.

*P.S.*—If you are coming for a short stay come without delay. She will wait for you, otherwise she will leave for Hingurakgoda. Wire date of coming.

P3a  
Envelope

**P3a**  
**Envelope**

<p>R/Gampaha 8699</p> <p>To be delivered to the addressee only and nobody else.</p> <p><i>From :</i> Chas. Samarasuriya, "Shri Ranjie", Gampaha, W.P.</p>	<p>Mrs. Shreema Wickramasuriya, "Sisira", Meddewatte, Matara.</p>
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P19  
Letter from  
Plaintiff's  
Father to the  
Defendant  
5.9.57

**P19**  
**Letter from Plaintiff's Father to the Defendant**

5.9.57.

My Dear Putha,

The letter hereto attached should conclusively remove the delusion to which you appear to have been subjected all the time without my knowledge. 10

On the basis that your parents were seeking no dowry from us we discussed the marriage proposal with your parents though we had thrice rejected it previously. Therefore we had no occasion or reason to offer any promise whatever in discussing and settling it, however when the last stage was reached, before the notice of marriage was given, I announced to them what I proposed giving the child as stated in the letter annexed, so that an opportunity could be given to them to reject it if they were not satisfied. They were quite pleased with it and reiterated the fact that they were seeking no wealth from us adding that they had accumulated enough wealth for you 20 and that they wanted only an educated decent girl to be your wife.

I was so happy at the generous attitude of your parents that I raised the dowry to thirty thousand rupees of my own accord inspite of all my financial difficulties and gave you a ring ordered from Messrs. Hemachandra & Co., at a cost of four thousand two hundred and forty rupees to serve as a special gift, though your parents told us that a ring worth about a thousand rupees would quite do. Lastly as a gesture of good will I agreed to your father's request to hold the wedding reception at the G. O. H. which cost me three thousand five

hundred rupees though I could very easily manage it at home with less than five hundred rupees and in a better way.

I hope these facts will help you to rid yourself of the misunderstanding you have been entertaining. A controversy between you and me will not be in our interest or serve any useful purpose—it will only aggravate our relations and make us the laughing stock of those who come to know of it. Therefore I earnestly request you to drop your illusion once for all and open a new chapter of understanding and cordiality and reciprocate mutual regard and love befitting a  
10 father and a son.

Affectionately yours.

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**P20**

**Registered Postal Article Receipt**

REGISTERED POSTAL ARTICLE RECEIPT No. 6452.

Received from Mr. Samarasuriya, an article addressed to P. P. Wickremasooriya, Matara, upon which Postage and Registration fee cts. 35 has been paid.

(Intld.).....  
*Postmaster.*

20 SEAL  
6 SE 57.

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**D18**

**Letter sent by Chas. Samarasuriya**

CHAS. SAMARASURIYA.

Telephone No. 265.

“ Shri Ranjie ”,  
Gampaha, W. P.,  
6th September, 1957.

My dear Putha,

30 The letter hereto attached should conclusively remove the delusion to which you appear to have been a victim.

I think it relevant to point out to you that we had rejected on three previous occasions the proposal of marriage sent to us by your

P19  
Letter from  
Plaintiff's  
Father to the  
Defendant  
5.9.57—  
*Continued*

P20  
Registered  
Postal Article  
Receipt

D18  
Letter sent  
by Chas.  
Samarasuriya  
6.9.57

D18  
 Letter sent by  
 Chas.  
 Samarasuriya  
 6.9.57—  
*Continued*

parents. But on the next occasion we finally discussed the proposal on the basis that your parents were seeking no dowry from us. Therefore we had no occasion or reason to make any promise whatever in discussing and settling this marriage. However, when the last stage of our discussions was reached shortly before the announcement of the notice of marriage, I informed your parents quite openly and frankly, also in George's presence, what I proposed giving my child, so that they might be given an opportunity of rejecting it if they were not satisfied. This fact is amply borne out in George's letter to me. Your parents were quite pleased with my offer and they reiterated 10 the fact that they had accumulated enough wealth for you and that their only desire was to find a girl of the type you have already selected.

I was so happy at the generous attitude of your parents that I of my own accord, raised the dowry to Rupees Thirty Thousand in spite of my other commitments.

I might also add that I chose you a ring ordered from Messrs. Hemachandra & Co., Kandy, at a cost of Rupees Four Thousand two hundred and forty to serve as a special gift although your parents told me that a ring worth about a thousand rupees would quite do.

Finally, as another gesture of goodwill, I agreed to your father's 20 request to hold the wedding reception at the G. O. H., the cost of which was entirely borne by me, although I could have very easily managed it in my home in a better way and at a fraction of the cost.

I hope these facts will help you to rid yourself of the misunderstanding which you have been entertaining without my knowledge all this time. You should actually feel that happiness cannot be purchased by material wealth, and especially hoping for what is not available would add to nothing short of discontent. You would not surely expect a person of my age and culture to stoop so low as to deceive you. A controversy between you and me will not be in the 30 best interest of all of us and will certainly serve no useful purpose; it will only aggravate our relations and lead to unpleasantness as you are aware, which I should very much regret. Therefore I would be very happy if you would be reasonable and care to understand us, which you should appreciate is in our common interest.

Yours Affectionately,  
 (Sgd.) CHAS. SAMARASURIYA.

**Letter from the Plaintiff to her Mother  
(English Translation)**

Matara,  
25.9.57.

I write to dear Mamma,

Although Mamma sent me Meneri and Polpala there is no way of getting them prepared. The servant girl and I got enough scolding by going to get them prepared. That was the end of it all. This  
10 mother is going to push down my throat only those things that mother has described as bad. The son agrees with whatever the mother says. I cannot say that there are other advocates like this. P. P. has become a real fool because of his greed for wealth. If mother says he will jump into any mass of fire even. There is no remedy for this.

I feel extremely sorry for the rude language that P. P. roared out to Papa and for the disgraceful treatment meted out to Papa when Papa and Mamma visited this place last month. Neither speech nor anything else shows any education. Perhaps his education  
20 is limited to his law books. It is in the guise of a cheetah that he talks. My understanding is that about ninety nine percent of the cruelties perpetrated on me are due to his desire to get the paddy lands.

Dr. Caldera having examined me said that the position of the child was bad, and corrected it. He said as the position of the child was bad I should not be taken so far on that day itself. P.P. having listened to all this drove me to Matara within less than three hours on that day itself. In some places I found it very hard to take my breath. Are there such other cruelties? Killing is one thing but this is torturing and killing. During this month itself he took me  
30 to Koslanda and Haputale also. It may be because the child is a lucky one that so far I have been free from danger and my life is spared. I am afraid wondering what other things mother and son may get together and do. They are treating me in such a way that as an expectant mother I may be endangered.

Their discussions indicate that the delivery should take place in this house itself. O! Mamma I am very badly frightened. Somehow or other you take me home. Please act according to Dr. Caldera's instructions. However much these people may have money they are stingy. What they want to do is to save as many of their rupees  
40 and cents as possible. They are not like Mamma and Papa. Their idea is that if I am allowed to come home they will not get the paddy lands. P. P. does not want me. He wants Papa's paddy lands.

P4  
Letter from  
the Plaintiff to  
her Mother  
(English  
translation)  
25.9.57—  
Continued

They have become rich by usurping other people's property. I have fallen into this danger because of my Karma. I am called "Gonie" and "Pissi" (meaning stupid woman and mad woman respectively). Leave all these alone. According to my present condition is it an easy thing to go up and down stairs twenty or thirty times a day? I believe they make me do all this with a certain purpose in view. O! Mamma, save me from these heartless, inconsiderate, and cruel people and take me away. In a letter Papa had sent to P. P. he had asked P. P. to look after me and the child in my womb well. Repeating these words he ridiculed me. O! Mamma 10 take me home somehow or other.

Your Loving daughter,  
SHRIMATHIE.

Translated by  
(Sgd.) Illegibly.  
Sworn Translator, Gampaha, 21.4.59.

P4a  
Envelope

P4a  
Envelope

Mrs. D. C. Samarasuriya,  
"Sri Ranjie",  
Gampaha, W. P.

P5  
Letter from  
the Plaintiff  
to her Mother  
(English  
Translation)  
7.10.57

P5  
Letter from the Plaintiff to her Mother  
(English Translation)

20

Matara,  
7.10.57.

I write to dear Mamma,

What I requested Mamma at all visits, in all my letters and in oral and telephone messages was to take me home. Yet some how or other nothing has come out of these so far. These people having kept me a prisoner intend getting rid of me. If paddy lands are given it might happen earlier. The wonder is that Mamma and others

are silent inspite of so much I say. The people call them polongas. Is it because of my Karma that I am not taken away. From all their plans I can understand that they are going to get rid of me without getting caught. To fall a victim to their intrigues and die is a disgrace. If I am not freed from these tyrants before the 12th of this month give up all your hopes of me. That is my Karma. Where is the remedy for Karma? Will my father leave me to these fellows and keep his eyes and ears shut?

P5  
Letter from  
the Plaintiff  
to her Mother  
(English  
translation)  
7.10.57—  
*Continued*

Your Loving Daughter,  
**SHRIMATHIE.**

10 Translated by  
(Sgd.) Illegibly.  
Sworn Translator, Gampaha, 21.4.59.

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**P5a**  
**Envelope**

P5a  
Envelope

Mrs. D. C. Samarasuriya,  
" Sri Ranjie ",  
Gampaha, (W. P.).

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**P14**

**Extract from the Information Book of Matara Police**

*Extract from the C.I.B. of Matara Police Station*

Date 10.10.57. Time 3.15 p.m. Page 378. Para 138.

P14  
Extract from  
the Information  
Book of  
Matara Police  
10.10.57

20 *Family Dispute*

Mr. P. P. WICKREMASOORIYA, 36 years, Advocate, residing at Meddawatte comes in and states :—About an hour ago my wife Srimathie Ratnavali Wickremasooriya left my house with her mother, brother who is her youngest, and another young man whose name I do not know in a car. I was in the hall reading the papers. My wife came and asked me permission to go with her mother to Gampaha. I refused permission, she was then in the verandah with her mother and her brother and the young man. The servant boy shouted that my wife had got into the car and was leaving with the above mentioned  
30 three others. I came into the verandah and saw that she had left.

P14  
Extract from  
the Information  
Book of  
Matara Police  
10.10.57—  
*Continued*

I almost immediately came to meet the A. S. P. Mr. Gunasinghe. I told him in brief what happened and he advised me to make a statement at the Police Station. My mother-in-law had no right to take my wife away without my permission. I told my wife that a journey of 120 miles to Gampaha may be injurious to her health as she is expecting a child. I request the Gampaha Police to find out whether my wife had reached there safely and whether she had gone there on her own accord without my permission or whether she had been taken away forcibly by her mother and brother. (Sgd.) P. P. Wickremasooriya. He further states:—She will be at Siri Ramya, Gampaha, her father's name is Charles Samarasooriya (Sgd.) P. P. Wickremasooriya. Read and explained admitted correct (Sgd.) P. S. 2153, Ferdinandis.

P15  
Extract from  
the Information  
Book of  
Matara Police  
10.10.57

**P15**

**Extract from the Information Book of Matara Police**

Date 10.10.57. Time 4.30 p.m. Page 381. Para 140.

*Further Statement re Para 138*

*Vide* para 138 the complainant Mr. P. P. Wickremasooriya further states :—Having made the complaint I went home there after I opened my wife's wardrobe with the key which was on the top of it and I found that all jewellery including two brilliant rings, two gold rings, two coverings and a throatlet worth about Rs. 40,000 which belongs to my mother. This was of Diamonds. I also found cash about Rs. 500/- missing—all that is left is my wife's clothing including her sarees. She went in a ford consul car ivory colour most probably the number of it is 1 Sri 2765. The above mentioned jewellery were in her almirah and she had the key and they were in her possession. (Sgd.) P. P. Wickremasooriya. Read and Sgd. P. S. 2153 Ferdinandis. I certify that the above is true extract taken by me.

(Sgd.) P. S. 3764.

I, C. H. Wijesinghe, Headquarters Inspector of Police, Matara, certify that the above is a true copy of the statements made by Mr. P. P. Wickremasooriya on 10.10.1957, and the original copy of which is in my custody.

(Sgd.) C. H. WIJESINGHE,  
Headquarters Inspector of Police, Matara.

6th May, 1959.

Certified correct.

Signed : Illegibly.

A.S.P., S.P. (East) Matara, 7.7.59.

**P16****Extract from the Information Book of Gampaha Police***Extract from the Complaint Information Book of Gampaha*

Date 11.10.1957. Time : 11.10 p.m. Page : 335. Para : 164

*Notes of P. C. 4073 re : T. M. No. 477/478*

*Vide* R. I. B. para 1235 P. C. 4073 Fernando reads his notes from his note book as follows :—11.10.1957 at 5.50 p.m. Wijeya road, Gampaha. I made inquiries *re* : T. M. No. 477 and 478 Srimathi Wickramasooriya was met in her house. I explained the purpose of my  
10 call and am recording her statement . . .

SRIMATHI WICKRAMASOORIYA, 24 years, wife of P. P. Wickramasooriya, Advocate, Matara, daughter of Chas Samarasooriya “ Rammiya Niwasa ”, Wijaya Road, Gampaha, states :—On 10.10.57 at about 2.00 p.m. I left my husband’s house (Mr. P. P. Wickramasooriya) Meddawatte, Matara, with my mother to come to Gampaha to my parents. I accompanied my mother. The reason for my leaving is not due to anyone forcing me to do so. But due to the illtreatment of my husband and his mother. When leaving I informed my husband that I was leaving with my mother to get treatment as  
20 I am unwell. I am expecting a baby and as I am not well attended to by them I came off. I did not bring any cash or any jewellery. After my confinement I will be leaving to my husband’s place. Signed in English. Read and explained. (Signed) P. C. 4073, Fernando. I certify that this is what I have recorded in my note book. (Signed) Fernando P. C. 4073. Note book initialled. Extract will be forwarded to Matara Police P. S. 595, Banda.

I certify that foregoing is a true copy of the extract taken from the Complaint Information Book of the Gampaha Police which is in my personal custody.

30

(Sgd.) Illegibly.  
H. Q. I., Gampaha.  
25.5.1959.

Certified correct.  
Signed : Illegibly.  
Assistant Superintendent of Police,  
Gampaha, 26.5.1959.

P16

Extract from  
the Information  
Book of  
Gampaha  
Police  
11.10.57

D19  
Application  
for Relief  
under the Debt  
Conciliation  
Ordinance,  
made by Chas.  
Samarasuriya  
12.10.57

D19

**Application for Relief under the Debt Conciliation Ordinance, made by  
Chas. Samarasuriya**

Handed over today. Initialled.

*Secretary.*

12.10.57.

**APPLICATION FOR RELIEF UNDER THE DEBT  
CONCILIATION ORDINANCE**

To : The Debt Conciliation Board.

I, Samarasuriya Liyanaratchi Patabendige Chas. Samarasuriya 10  
(full name) of " Sri Ranjie " Wijaya Road, Gampaha, W. P. (Address)  
am desirous of obtaining relief under the Debt Conciliation Ordinance,  
No. 39 of 1941, in respect of the items of Debt described in Schedule  
A hereto. The particulars required by section 17 of the Ordinance  
appear in the annexed Schedules A to D.

(Sgd.) Illegibly.  
(*Signature of Applicant*)

Dated this 11th day of October, 1957.

**AFFIDAVIT**

I, Samarasuriya Liyanaratchi Patabendige Chas. Samarasuriya 20  
do solemnly, sincerely, and truly declare and affirm that to the best  
of my information and belief the statements contained in the schedules  
attached to my application dated the 12th October, 1957, which is  
forwarded herewith, are true and correct.

(Sgd.) Illegibly.  
(*Signature of Applicant*)

Dated this 12th day of October, 1957.

Declared by the above-named at Colombo this 12th day of  
October, 1957.

Before me.

30

(Sgd.) A. V. PUSHPADEVI JOSEPH,  
*Commissioner of Oaths.*

' True copy ',  
(Sgd.) Illegibly.  
*Secretary.*

Debt Conciliation Board.  
14.3.59.

**P23****Letter from Plaintiff's Father to the Defendant**

CHAS. SAMARASURIYA.  
Telephone No. 265.

P23  
Letter from  
Plaintiff's  
Father to the  
Defendant  
14.10.57

" Shri Ranjie ",  
Gampaha, W. P.,  
14th October, 1957.

My dear Putha,

My daughter accompanied by her Mamma and youngest brother  
10 came home on Friday last, after she was given a thorough examina-  
tion by the Doctor, in Colombo. The Doctor was very happy when  
he was told that she came to Gampaha so that she could visit him  
weekly. The position of the child has to be corrected every time it  
moves out of position. The Doctor prescribed a number of medicines  
which she is now taking. Without meaning any reflection whatever  
on your mother I must say that she does not seem to know the com-  
plications that may set in at any moment. Your child and my child  
are definitely too precious to be treated with indifference. My child  
knew the grave situation in which she was at the moment and wanted  
20 to take all precautions for the safety of both. That was why she was  
adamant to come home to be with her mother who is in every respect  
in a better position to look after her. Under such circumstances there  
should have been no ill-will on either side. Shrima's mother grieved  
very greatly at the unkind and threatening words your father spoke  
to her. However, she bears no ill-will for it. The more she tried to  
leave Shrima with you and come away the greater was Shrima's fear  
and greater was her effort to come with her Mamma. In the heat of  
the moment your father and mother may have expressed things that  
they would not have expressed normally. Let us forget and forgive  
30 the weaknesses displayed, and give our blessings to the new babe and  
its mother. A visit from you at the week-end will be greatly appre-  
ciated not only by her but also by all of us.

By the way I was surprised when a sergeant and two constables  
came in search of Shrima. They said that your father had reported  
to the Police that she had committed a theft of forty thousand rupees  
worth of jewellery and five hundred rupees in cash. When people  
hear of these they laugh at both the parties. At least he ought to  
consider that Shrima is his son's wife and refrain from such frivolous  
allegations which serve no useful purpose. This must be his usual  
40 way of doing things for which I am really sorry. I bear no ill-will  
towards him because I know well his temperament and his ways which  
are of a very domineering type. Only you can put him to right if  
you make an effort in the proper way.

P23  
Letter from  
Plaintiff's  
Father to the  
Defendant  
14.10.57---  
(continued)

It is my earnest request that you come here at the week-end. It will give a great deal of comfort and happiness to Shrima in particular and others in general.

May the blessings of the Triple Gem be unto you.

Affectionately yours,  
(Sgd.) CHAS. SAMARASURIYA.

D3  
Letter from  
the Plaintiff to  
the Defendant  
14.10.57

**D3**

**Letter from the Plaintiff to the Defendant**

“ Sri Ranji ”,  
Gampaha, 10  
14.10.57.

My darling P. P.,

I am very sorry I couldn't write to you earlier. I had plenty of visitors and therefore I had hardly any time left for myself.

I saw the doctor last Friday and he has told me that there is nothing very much to be anxious about. But he has given strict instructions about my diet, which mamma is forcing quite rigidly.

It's very nice to be home after such a long time and would have been far happier if you too accompanied me. I hope to return to you after my confinement. I thought you would visit me last week-end but was very disappointed. Perhaps you were too busy with your various clients. Any I am sure you will come this way at least this week-end, as I am longing to see you.

I was amused to hear from Gampaha Police that a report had been made to the Police that I had committed a theft of Rs. 40,000 worth of jewellery and Rs. 500.00

I am writing this in haste in order to catch the mail in time. I am keeping well. Please write to me by return of Post. Hoping to see you very soon.

Yours lovingly, 30  
(Sgd.) SREEMATHIE.

**D3a**  
**Envelope**

D3a  
Envelope

<p>P. P. Wickramasuriya, Esqr., Advocate, District Court, Matara.</p>	<p>From : Mrs. S. R. Wickramasuriya, Sri Ranji, Wijaya Road, Gampaha.</p>
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**P7**

**Copy of Letter from the Plaintiff to the Defendant**

Sri Ranjie,  
Gampaha,  
24.10.57.

P7  
Copy of Letter  
from the  
Plaintiff to the  
Defendant  
24.10.57

I have been very anxiously waiting to see you here all these days hoping at least that you would come, or reply to my letter though I do not wish to admit it myself, I am afraid I feel you seem to be displeased with me for no fault of mine. However, I am sure you will be glad to hear that I am now in better health. I have now seen the doctor 4 times and his only complaint is that I am rather anaemic due to lack of proper care and nourishment.

For various reasons, I've not so far told you of certain difficulties which I had to face when I was at Matara. I blame myself for not taking courage to tell you then and there what your mother did to me. The dowry question was the most predominant feature in all her talk. To begin with your father and mother said that they wanted a good and simple girl, so that they were seeking no dowry from my parents. My father told your parents that he could not give you a dowry as he was a poor man. Your father then said that he had deposited 2½ lakhs in cash in your bank account, and that your present residence at Meddawatte had been written in your favour. He added that what had been given to you by your father was sufficient for your purpose. My father believed what your father said. However, my father insisted that I would be given 25,000 in cash and sufficient jewellery for me to wear. This was accepted by them with pleasure. Later on my father increased the 25,000 to 30,000 of his own accord.

P7  
 Copy of Letter  
 from the  
 Plaintiff to the  
 Defendant  
 24.10.57--  
 Continued

All these discussions took place in the presence of George. Your father told my father just before the marriage, that he would give you another 20,000 of his own to make it a total of 50,000. This fact was to remain a confidential matter, not to be known to you or anybody else. After the marriage, your father's generosity appeared to have decreased very rapidly, and given place to a means of getting rid of his responsibility for the 20,000 he promised to give you. He told you that although my father promised to give 50,000, he had given only 30,000. If this is true I am surprised as to why your father put in 20,000 of his own money to make 50,000, which amount was presented to you 10 at the Poruwa Ceremony, in the presence of our relations. When your father had to escape from you, your parents invented a story that my father had promised to give you 40 acres of paddy land, being  $\frac{1}{2}$  of his property at Minneriya. This is a big lie, which can be verified from the Land Development Ordinance, which allows an M. C. Colonist only a maximum of 50 acres. Again your parents started talking about a set of brilliant jewellery. You will understand that your father must be either a knave or a fool to have told you that my parents made such a promise. I can understand that your parents continued harassing me, believing that my parents would give you all what 20 your parents wanted my parents to give you. I am really very sorry that I was subjected to such harassment and that you were being purposely misused by them to attempt to make my parents to give what they never promised, and what they could not. I can understand that this was the reason why you refused to live in a separate house. You said that your income was not sufficient to maintain a house of your own and that my father had cheated you, whereas it was your father who cheated you. I was aware all the time, that all the trouble was due to your mother's influence. I hope you too can very well remember how you scolded me several times, concerning the dowry 30 question, something which hurt me very much was that I wasn't allowed to visit home and my relations, except on 3 occasions, since our wedding. On the first occasion we spent here about 2 hours, on the 2nd occasion we spent 2 nights here, and on the last occasion you stayed at the Gampaha Rest House, and sent me here saying that my father cheated you and that you would never come home. You gave me only 2 hours to visit my home. You brought me on this last trip only after I begged of you a number of times to allow me to see my parents.

To prevent me from coming here your mother said that during 40 pregnancy it was bad to travel about. But at the same time it was found allright for me to be taken to Koslanda, Haputale, Moratuwa, and Colombo several times. To make matters worse I was taken to a number of funeral houses and cemeteries, in spite of my great reluctance. The difficulties I had to face during my stay at your place, were due to your mother's neglect of me. I was forced to live

upstairs right up to the time I left for home. I had to move upstairs and downstairs several times a day. My diet in your house as you know consisted of breadfruit and tuna fish, etc. She objected even to your bringing cooked eggs from the town. If any food disagreed with me, it was forced on me by your mother. You do not know on how many occasions I was without my breakfast. When the servant girl at my request asked your mother whether to put some meneri in the sun to prepare meneri cunji, she pounced at her asking her not to do so and that there was no one to prepare it. On several occasions, 10 your mother threw away the sweets brought to me by my mother. When you were absent from home, or came late in the night, I have to sleep alone upstairs. At times I had severe headaches and was confined to our room. But I never could lie down in peace. Your mother would scold me and even speak rudely of me with the servants as well. A few days before I left Matara, I was ill and vomitted several times, and the doctor was called by telephone. He arrived more than an hour later, and prescribed some medicine to be given as soon as possible. Your mother said that the doctor seemed to be frightened for nothing and they would wait longer to see if the sickness dis- 20 appeared. It was only after you came late in the night that you got me the medicine. The following morning I was given string hoppers and Pol Sambol. I wonder what excuse there can be for such an attitude, other than one of hatred and murder. Another very serious thing was that your mother tried to deceive my mother by giving my length of pregnancy by a month less. I am sorry to say that this neglect of me was partly due to you too. When it was found that the child's position was abnormal when we came to Colombo to see the doctor he advised you not to take me back to Matara that day itself. But still you took me back the same day to Matara, though 30 it was much better for you to bring me to Gampaha. These are only a part of the harassment and neglect I had been subjected to. But the humiliation I had to suffer was much worse. As you know all my letters sent from my home were censured by your parents. Some of the letters sent to me were not received by me. In particular a registered letter sent to me by my father was accidentally seen by me opened and lying under your mother's pillow. I didn't want to take it, because I wanted to see whether she would give it to me or not. A little later it was re-sealed and given to you to be handed over to me, and tell me that the Postman gave it to you on your way home 40 from the town. Your mother used to call me ගොනි (gonie), පිස්සි (pissi) etc., even in the presence of my parents. She even intruded on my privacy, and even objected to my wearing brassiers, saying that only prostitutes wear them. Her vocabulary consists of all the filthiest words which are common to the ill-bred women. She even objected to our being seated in the same settie and she sent your father to follow us wherever we went out. Your parents' domestic life appeared to be rather strange to me. One day your father questioned your mother

P7

Copy of Letter  
from the  
Plaintiff to the  
Defendant  
24.10.57—  
*Continued*

P7  
Copy of Letter  
from the  
Plaintiff to the  
Defendant  
24.10.57—  
Continued

about some money. Your mother said that she had given to her other husbands. Your father then jumped at her throat and tried to break it. She herself tried to break your father's throat. Your father rushed into his room and came out with his gun. It was the timely intervention of Weligama auntie and her husband that saved a murder. Dirty words were used by both of them on that occasion. I assure you, such things never happened in the environment where I grew up.

Finally I was surprised to find 2 constables and a sergeant coming here the day after I left Matara, to question me regarding a theft of 10 your parents' jewellery and cash. You were present at the time I left your house. I left Matara at 1.30 p.m. or so and did so in my house clothes. I didn't have even a pair of slippers on. I told you I was going and now I've been made a thief as well. You'll now realise why I insisted on coming home for the confinement. I would have faced death if I stayed there any longer. Now I know that you are been tutored by your parents not to visit me and not to do anything with me. I wonder how a father can neglect at least his child. I hope it's not too late for you to hear both sides of the case, before you give your judgment. 20

D20

Letter from  
Superintendent  
of Tele-  
communication  
Traffic to P. A.  
Wickrama-  
suriya  
9.11.57

D20

**Letter from Superintendent of Telecommunication  
Traffic to P. A. Wickramasuriya**

No. S/13336/57.

Office of the Superintendent of  
Telecommunication Traffic,  
Colombo,  
9th November, 1957.

P. A. WICKRAMASURIYA, Esqr.,

"Sisira", Matara.

30

Dear Sir,

With reference to your letter dated 23.10.57, I wish to inform you that the only document I have in connection with the trunk call is the trunk call ticket which is generally preserved for a period of one year only.

The trunk call ticket of the call made to your telephone from Gampaha 265 at 12.20 p.m. on 9.10.57, is being preserved as requested.

It could be produced in the Courts by an officer if so desired by the Courts.

I shall be glad if you will take further action in the matter early.

Yours faithfully,

(Sgd.) Illegibly.

*for Superintendent of Telecommunication Traffic.*

D20

Letter from  
Superintendent  
of Tele-  
communication  
Traffic to P. A.  
Wickrama-  
suriya  
9.11.57—  
*Continued*

**D1**

**Letter from the Plaintiff to the Defendant**

D1

Letter from  
the Plaintiff to  
the Defendant  
14.11.57

“ Sri Ranji ”,

Gampaha,

14.11.57.

10

My dearest P.P.,

I have been very anxiously waiting to see you here all these days hoping at least that you would come, or reply to my letter. Though I do not wish to admit it myself, I am afraid I feel you seem to be displeased with me for no fault of mine. However, I am sure you will be glad to hear that I am now in better health. I have now seen the doctor four times and his only complaint is that I am rather anaemic due to lack of proper care and nourishment.

20

For various reasons, I have not so far told you of certain difficulties which I had to face when I was at Matara I blame myself for not taking courage to tell you then and there what your mother did to me. The dowry question was the most predominant feature in her talk. To begin with your father and mother said that they wanted a good and simple girl, so that they were seeking no dowry from my parents. My father told your parents that he could not give you a big dowry as he was a poor man. Your father then said that he had deposited 2½ lakhs in cash in your bank account, and that your present residence at Meddawatte had been written in your

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favour. He added that what had been given to you by your father was quite sufficient for your purpose. My father believed what your father said. However, he insisted that I would be given Rs. 25,000/- in cash and sufficient jewellery for me to wear. This was accepted by them with pleasure. Later on my father increased the 25,000 to 30,000 of his own accord. All these discussions took place in the presence of George. Your father told my father just before the marriage that he would give you another Rs. 20,000 of his own to make it a total of Rs. 50,000. This fact was to remain a confidential

D1  
 Letter from  
 the Plaintiff to  
 the Defendant  
 14.11.57—  
*Continued*

matter not to be known by you or anybody else. After the marriage your father's generosity appeared to have decreased very rapidly and given place to a means of getting rid of his responsibility for the Rs. 20,000 he promised to give you. He told you that although my father promised to give Rs. 50,000/- he had given only Rs. 30,000/-. If this is true I am surprised as to why your father put in Rs. 20,000/- of his own money to make Rs. 50,000/- which amount was presented to you at the Poruwa Ceremony, in the presence of our relations. When your father had no escape from you, your parents invented a story that my father had promised to give you 40 acres of paddy 10 land, being half of his property at Minneriya. This is a big lie which can be verified from the Land Development Ordinance, which allows a Middle Class colonist only a maximum of 50 acres. Again your parents started talking about a set of brilliant jewellery. You will understand that your father must be either a knave or a fool to have told you that my parents made such a promise. I can understand that your parents continued harassing me, believing that my parents would give you all what your parents wanted my parents to give you. I am really very sorry that I was subjected to such harassment and that you were being purposely misused by them to attempt 20 my parents to give what they never promised, and what they could not. I can understand that this was the reason why you refused to live in a separate house. You said that your income was not sufficient to maintain a house of your own, and that my father had cheated you, whereas it was your father who cheated you. I was aware all the time, that all the trouble was due to your mother's influence. I hope you too can very well remember, how you scolded me several times, concerning the dowry question.

Something which hurt me very much was that I was not allowed to visit home or my relations, except on 3 three occasions since our 30 wedding. On the first occasion we spent here about two hours, on the second occasion we spent two nights here, and on the last occasion you stayed at the Gampaha Rest House and sent me home saying that my father cheated you and that you would never come home. You gave me only two hours to visit my home. You brought me on this last trip, only after I begged of you a number of times to allow me to see my parents.

To prevent me from coming home, your mother said that during pregnancy it was bad to travel about. But at the same time it was found alright for me to be taken to Koslanda, Haputale, Moratuwa 40 and Colombo several times. To make matters worse I was taken to a number of funeral houses and cemeteries, in spite of my great reluctance. The difficulties I had to face, during my stay at your place were due to your mother's neglect of me. I was forced to live upstairs right up to the time I left for home. I had to move upstairs and downstairs, several times a day. My diet in your house

as you know consisted of breadfruit, tuna fish, etc. She objected even to your bringing cooked eggs from town. If any food disagreed with me, it was forced on me by your mother. You do not know on how many occasions I was without breakfast when the servant girl, at my request, asked your mother whether to put some meneri in the sun to prepare meneri cunji she pounced at her asking her not to do so, and that there was no one to prepare it. On several occasions, your mother threw away the sweets brought to me by my mother. When you were absent from home, or came late in  
10 the night, I had to sleep alone upstairs. At times I had severe headaches and was confined to our room. But I never could lie down in peace. Your mother would scold me and even speak rudely of me with the servants as well. A few days before I left Matara I was ill and vomitted several times, and the doctor was called by telephone. He arrived more than an hour later and prescribed some medicine to be given as soon as possible. Your mother said that the doctor seemed to be frightened for nothing and they would wait longer to see if the sickness disappeared. It was only after you came late in the night that you got me the medicine. The following morning  
20 I was given string hoppers and Pol Sambol. I wonder what excuse there can be for such an attitude other than one of hatred and murder. Another very serious thing was that your mother tried to deceive my mother by giving my length of pregnancy by a month less. I am sorry to say that this neglect of me, was partly due to you too. When it was found that the child's position was abnormal, when we came to Colombo to see the doctor, he advised you not to take me to Matara that day itself. But still you took me back the same night to Matara though it was much better for you to bring me to Gampaha. These are only a part of the harassment and neglect  
30 I had been subjected to. But the humiliation I had to suffer was much worse. As you know all my letters sent from my home were opened by your parents. Some of the letters sent to me were not received by me. In particular a registered letter sent to me by my father was accidentally seen by me opened and lying under your mother's pillow. I didn't want to take it, because I wanted to see whether she would give it to me or not. A little later it was re-sealed and given to you to be handed over to me, and tell me that the postman gave it to you on your way home from the town. Your mother used to call me ගොනී (gonie), පිස්සි (pissi) and so on, even in the presence of my parents. She even intruded on my privacy and even  
40 objected to my wearing brassiers, saying that only prostitutes (වෙසිගො) wear them. Her vocabulary consists of all the filthiest words which are common to the ill-bred women. She even objected to our being seated in the same settie, and she sent your father to follow us wherever we went out. Your parents' domestic life appeared to be rather strange to me. One day your father questioned your mother about some money. Your mother said that she had

D1

Letter from  
the Plaintiff to  
the Defendant  
14.11.57—  
*Continued*

D1  
Letter from  
the Plaintiff to  
the Defendant  
14.11.57—  
*Continued*

given to her other husbands (හොර මිනිස්සු). Your father then jumped at her throat and tried to break it. She herself tried to break your father's throat. Your father rushed into his room and came out with his gun. It was the timely intervention of Weligama Auntie and her husband that saved a murder. Dirty words were used by both of them on that occasion. I assure you, such things never happened in the environment where I grew up. Finally, I was surprised to find two constables and a sergeant coming here the day after I left Matara to question me regarding a theft of your parents' jewellery and cash. You were present at the time I left your house. I left Matara at 1.30 p.m. or so, and did so in my house clothes. I did not have even a pair of slippers on. I told you I was going, and now I have been made a thief as well. You will now realise why I insisted on coming home for the confinement. I would have faced death, if I stayed there any longer. Now I know that you are been tutored by your parents not to visit me and not to do anything with me. I wonder how a father can neglect at least his child. I hope it's not too late for you to hear both sides of the case before you give your judgment. I am told that you had come to Colombo on the 4th. I wonder why you even did not care to visit me. 20

Yours lovingly,  
(Sgd.) SRIEMATHIE.

D23  
Memorandum  
to Shareholders  
of the Ceylon  
Provincial  
Estates Co.,  
Ltd.  
22.11.57

**D23**

**Memorandum to Shareholders of the Ceylon Provincial  
Estates Co., Ltd.**

*Memorandum to Shareholders*

**THE CEYLON PROVINCIAL ESTATES CO., LTD.**

W 86, Mrs. S. R. Wickremasuriya,  
Meddawatta,  
Matara.

30

**PROPOSED NEW ISSUE OF SHARES**

By circular issued under date of 22nd June, 1956, shareholders were advised of the Directors' intention to capitalise a portion of the Company's previously existing reserves by the issue of 1 bonus share for every 2 shares held, and at the same time to make an issue of shares for cash in the ratio of 1 new share for every 10 shares held following the bonus issue referred to. For purposes of the cash issue the new shares were offered at Rs. 12.00 each, *i.e.* a premium of Rs. 2.00 per share.

The original intention of your Directors in 1956 was to make a cash offer of shares in the ratio of 1 for 5 shares held following the bonus issue but, having regard to the investment climate at the time, the Board on reconsideration resolved to limit the cash offer to 1 to 10 shares.

In the event, the applications received revealed that an issue on the basis of 1 for 5 shares would have been wholly successful.

The need for replenishing the Company's cash resources still exists and your Directors now propose to make good their original  
10 intention and offer for subscription to shareholders a further issue of shares in the ratio of 1 new share for every 10 shares now held.

The present issued capital of the Company is Rs. 5,811,130.00, divided into 581,113 shares of Rs. 10.00 each, fully paid, and the Directors' proposal therefore, involves the issue of 58,111 new shares which would raise the issued capital to Rs. 6,392,243.00 equivalent to a capitalisation at par of Rs. 1,868.00 per acre on the area cultivated in tea. Having regard to the elevation, intrinsic value and profitability of the Company's properties, your Directors consider that capitalisation figure to be very reasonable.

20 The Company's shares are quoted in the market at about Rs. 14.00 per share of Rs. 10.00, they are freely dealt in and are obviously attractive to the investor.

Your Directors have decided to offer 58,111 new shares to existing shareholders on the register on 18th November, 1957, at a premium of Rs. 2.00 per share, which means that, on 58,111 shares, additional capital to the extent of Rs. 697,332.00 will become available.

The issue of 58,111 shares has been underwritten by Messrs. E. John, Thompson, White & Co., Ltd., Brokers, Colombo, for a commission of  $1\frac{1}{2}$  per cent on the issue price.

30 As mentioned above, the issue is made for the purpose of replenishing the Company's cash resources which were partly recouped by the issue made in July, 1956, and which it is necessary to augment by reason of further working capital being necessary. Your Directors are satisfied that upon the issue of the new shares the Company will have adequate working capital for its purpose.

The expenses of the new issue will be met out of the Company's cash resources.

The 58,111 new shares will rank in all respects *pari passu* with the existing issued shares without any apportionment of dividends  
40 in respect of the year 1957.

Arrangements are being made to have the new shares quoted by the Colombo Brokers' Association.

D23  
 Memorandum  
 to Shareholders  
 of the Ceylon  
 Provincial  
 Estates Co.  
 Ltd.  
 22.11.57—  
 Continued

The articles of association provide that the unissued shares shall first be offered to the members in accordance with their rights, and that such shares as shall not be accepted by the members to whom the shares shall have been offered within the time specified in that behalf by the Directors may be disposed of by the Directors in such manner as they think most beneficial to the Company. The Directors have specified the 18th December, 1957, as the date by which the members must accept the shares offered to them and have also decided to give members the opportunity to apply for additional shares in the event of there being any available for disposal by the 10 Directors.

As the holder of 100 shares in the Company, you are entitled to claim an allotment of 10 of the new shares to be issued, and your claim must be made on or before the 18th December, 1957.

If you desire to claim an allotment of the said shares of a smaller number of shares, we shall be obliged by your signing the annexed form of application (printed in black and marked "A") and sending it to the Company's Bankers, The National Bank of India, Limited, so as to reach the Bank not later than the 18th December, 1957.

If you desire to claim an allotment of shares in excess of your 20 proportion, you should please sign the annexed form of application (printed in red and marked "C") and send it to the Company's Bankers as above, also so as to reach the Bank not later than 18th December, 1957.

All forms of application for shares should be accompanied by a remittance in favour of the Company's Bankers for an amount calculated at the rate of Rs. 12.00 per share on the number of shares applied for. Cheques drawn on outstation Banks should include the requisite Bank charges for collection.

If the number of shares allotted in respect of any application 30 for shares in less than the number of shares applied for, the application money paid in respect of the balance will be returned to the applicant without interest.

Shares will be allotted as soon as possible after the 30th December, 1957. Receipts for payments made on application should be retained by applicants to be exchanged for share certificates in due course.

By Order of the Board,

(Intld.).....

GEORGE STEUART & Co., LIMITED,

*Agents & Secretaries.* 40

45, Queen St., Fort,

Colombo 1.

22nd November, 1957.

**D23a**

**Form attached to D23**

D23a  
Form attached  
to D23

*Overseas Shareholders should reply by Air Mail*

“ C ”

**THE CEYLON PROVINCIAL ESTATES COMPANY, LTD.**

(New Issue of 58,111 Shares of Rs. 10·00 each at a  
premium of Rs. 2·00 per share)

**FORM OF APPLICATION FOR SURPLUS SHARES**

*(To be retained by the Bankers)*

10 To The Directors of

**THE CEYLON PROVINCIAL ESTATES COMPANY, LTD.**

C/o George Steuart & Co., Ltd.,  
45, Queen Street,  
Colombo 1.

Gentlemen,

Having paid to the company's Bankers, The National Bank  
of India, Ltd., Colombo, the sum of Rs.....being  
the amount payable on application for.....shares in the  
Company, I/we request an allotment to me/us of that number of  
20 shares upon the terms of the Company's circular dated 22nd November,  
1957, out of such of the 58,111 shares as shall be at the disposal of  
the directors, and I/we hereby agree to accept the same or any smaller  
number of shares that may be allotted to me/us and I/we authorise  
you to register me/us as the holder/s of the said shares.

If the number of shares allotted to me/us is less than the number  
above applied for, the application money paid in respect of the balance  
is to be returned to me/us without interest.

And I/we hereby declare that I am/we are not resident outside  
the sterling area.

30 Dated this.....day of.....1957.

Yours faithfully,

Name/s of Member/s.....  
Signature/s of Member/s.....  
Ordinary Residence of Member/s.....  
Address to which communications may be sent.....  
Description of Member/s.....

D23a  
Form attached  
to D23—  
*Continued*

No.....

THE CEYLON PROVINCIAL ESTATES  
COMPANY, LIMITED  
New Issue of 58,111 shares

(*Bankers' Receipt*)

Received this day of.....1957 from.....  
.....the sum of Rupees.....being a payment  
of Rs. 12.00 per share upon.....shares in the above-  
named Company.

For the National Bank of India, Ltd., 10  
*Accountant.*

Rs.....

This form should be sent entire with a cheque for Rs. 12.00  
per share, to the Company's Bankers, THE NATIONAL BANK OF  
INDIA, LTD., Colombo.

D5  
Telegram sent  
to the  
Defendant  
26.11.57

D5

## Telegram sent to the Defendant

## CEYLON TELEGRAPHS

A : *Class X Words* : 11/13.

Charge : Rs. 1.60.

20

SEAL. Name : P. P. Wickramasuriya.  
26 Nov., 57 Address : Meddawatte,  
Place : Matara.

**Urgent**

Baby Son Born Srima Today.

SAMARASURIYA.

*Signature and Address of Sender* : C. SAMARASURIYA,  
Vijaya Road,  
Gampaha.

**D24****Extract from the Information Book of Matara Police****EXTRACT FROM THE COMPLAINT INFORMATION  
BOOK OF MATARA POLICE**D24  
Extract from  
the Information  
Book of Matara  
Police  
3.12.57

C.I.B. page 386. Para : 39. Date : 3.12.57. Time : 5.45 p.m.

*Complaint of Family Dispute*

PERUMABADU PIYASENA WICKRAMASURIYA : 36 years, Advocate, Matara residing at Meddawatte present and states as follows : On the 10th of October, 1957, my wife Ranees Srimathi  
 10 Wickramasuriya left me with her mother and brother. I made a complaint to Matara Police with respect to that matter on the same day. Thereafter my wife had made a statement to Gampaha Police that she was returning to me after her confinement. On the 19th of November she had been admitted to De Soysa Lying Home, Colombo, for the 1st time I was informed by telegram that she had given birth to a child on the 26th. Thereafter I went to see her and the child. My own impression is that she is completely in the hands of her parents who are out to wreck the marriage. I want the Police to find out whether she is willing to come with me  
 20 together with the child. If she so willing I am prepared to come and take her away. I extremely anxious of my child and I feel my wife's parents are not able to give her the comfort she deserve. This is all. She is at Ward No. 16, De Soysa's Lying-in-Home in Borella Police area. Her home address is Sri Ranji, Wijaya Road, Gampaha. This is all. Read and explained, admitted correct. (Signed) Mr. P. P. Wickramasuriya. (Signed) P.C. 1215 Ariyasena.

I certify that the above is a true extract from the Complaint Information Book of Matara Police Station and the original of which is in my custody.

30

(Sgd.) Illegibly.

*Headquarter Inspector of Police, Matara.**True Copy.*

(Sgd.) Illegibly.

Asst. Superintendent of Police,  
Matara.  
11.6.58.

D22  
Extract from  
the Information  
Book of Borella  
Police  
4.12.57

**D22****Extract from the Information Book of Borella Police**

POLICE STATION, BORELLA. 4.12.57.

R.I.B. page 10. Para 351. Time : 10.45 a.m.

*Vide a T.M.* 204. P.C. 2534. Bodimanna.

I went L.I.H. Ward No. 16 and met Mrs. Premawathie Wickramasuriya. She stated, she was admitted to hospital by her mother and she is unable to say at what date she would be discharged from Hospital further she stated that she is unable to go till her mother's arrival. This is all.

10

(Sgd.) Illegibly P.C. 2534.  
24.9.59.

I certify that above statement at R.I.B. page 10. Para 351.

(Sgd.) Illegibly P.C. 2534.  
24.9.59.

P21  
Statement of  
Trunk Calls

**P21****Statement of Trunk Calls****STATEMENT OF TRUNK CALLS**

Exchange : Colombo

Date Day Month	Telephone No.	No. of Calls	Value	20
5 10	265	1	1.80	
8 10	265	1	70	
9 10	265	1	1.80	
13 10	265	1	70	
13 10	265	1	70	
18 10	265	1	70	
19 10	265	1	70	
25 10	265	1	70	
28 10	265	1	70	
29 10	265	1	70	
31 10	265	1	2.00	
		11	11.20	

**P22****Notice sent with P21**P22  
Notice sent  
with P21  
13.12.57Chas Samarasuriya, Esqr.,  
" Sri Ranji ",  
Vijaya Road,  
Gampaha.

CQ 265

*Important* :—

It is requested that this account may be paid in full within 15 days.

	Rs. Cts.
10 To Charges for Trunk calls ( <i>Vide</i> statement enclosed)	
October, 57 .. .. .	11 ·20

*Notice*—

The understated A/c rendered is outstanding and condition 7 of the agreement provides for the disconnection of the telephones without further notice. A grace of 7 days is however allowed for settlement of this A/c.

To Trunk Calls : June to September, 57 .. .. .	15 ·00
Total Amount due .. .. .	26 ·20

20 Colombo 13.12.1957.

**P8****Telegram sent to the Plaintiff by the Defendant**P8  
Telegram sent  
to the Plaintiff  
by the  
Defendant  
28.12.57CEYLON  
TELEGRAM

SEAL	REPLY	PAID	SRIMATHIE
GAMPAHA	WICKRAMASURIYA	CARE	CHARLES
28 DE 57.	SAMARASURIYA	VIJAYA	ROAD
	GAMPAHA GQ—		

30

[ Prefix Code Office of origin  
O IE MATARA RESENT 27 ]ANXIOUSLY EXPECTING BABY AND YOU  
INFORM WHETHER COMING AND WHEN  
SHALL BRING CAR REPLY—PIYASENA

P9  
Endorsement  
appearing on  
P8

**P9**

**Endorsement appearing on P8**

Wire received late under medical treatment.

D8  
Telegram sent  
to the  
Defendant by  
the Plaintiff  
28.12.57

**D8**

**Telegram sent to the Defendant by the Plaintiff**

CEYLON TELEGRAPHS

*A/Class* : O Code S.B.

*Words* : 11/10

*Charge* : Cts. 75

SEAL. *Name* : ADVOCATE WICKRAMASURIYA

10

GAMPAHA *Place* : Matara.

28 DE. 57

Wire received late under medical treatment

SREEMATHIE.

*Signature and Address of Sender:* } S. R. WICKRAMASURIYA  
} Sri Ranji, Gampaha.

(REVERSE)

**INLAND OR INDIAN REPLY VOUCHER**

A sum of Rs.....cents seventy-five  
having been deposited for a reply to a Telegram No.  
39 handed in at Matara at 9 H. 38 M. this form will  
be accepted within two months of the dates of its  
issue at any Telegraph Office in payment or in part  
payment, as the case may be, of a Telegram.

Dated Stamp of  
Issuing Office. 20  
Seal.  
GAMPAHA  
D  
28 DE 57

*Signature of Issuing Clerk* : (Sgd.).....

D10

**Telegram sent to the Defendant by the Plaintiff**

10.1.58

## CEYLON TELEGRAPHS

*A/Class* : Code N.K.*Words* : 20/19*Charge* : Rs. 1.20*Name* : ADVOCATE WICKRAMASURIYA,*Address* : Meddawatta.10 *Place* Matara.

---

Now much better come weekend discuss our residence  
and future plans see our baby.

SHRIMATHI.

*Signature and Address of Sender* : S. R. WICKREMASURIYA  
Sri Ranji, Gampaha.

---

D25

**Extract from the Information Book of Gampaha Police***Extract from the C.I.B. of Gampaha Police*

Date : 11.1.58. Time : 3.38 p.m. Page : 118. Para : 206.

20

*Civil Dispute*

Mr. P. P. Wickramasooriya. Advocate, 36 years, of Matara, appeared at station and states: I am married to Srimathie Wickramasooriya Nee Samarasooriya of Vijaya Road, Gampaha. On the 10th of October last year my wife left for Gampaha. A child has born to her on the 26th of November last year. About a month ago I came to Gampaha to her house with my uncle and aunt, Mr. and Mrs. Wilson Silva to take my wife and the child away. On that day she refused to come with me. Last evening I received a telegram from her requesting me to come during the week-end.

30 Accordingly a few minutes ago I went to her place and informed them that I had come to take my wife and child to Matara. She refused. Both she and my father-in-law said that I should get my

D10

Telegram sent  
to the  
Defendant by  
the Plaintiff  
10.1.58

D25

Extract from  
the Information  
Book of  
Gampaha  
Police  
11.1.58

D25  
Extract from  
the Information  
Book of  
Gampaha  
Police  
11.1.58—  
*Continued*

father to make a free discharge of the mortgage of their house. Then only they informed me that they would allow me to be with my wife and child. On condition that I lived with them at Gampaha and practice at the Gampaha Courts. My wife and father-in-law stated that under no circumstances would she and the child, come to reside with me at Matara. (Sgd.) in English. Read and explained. (Sgd.) P.S. 595. Banda.

I certify the above is a true extract taken from the C.I.B. of Gampaha Police.

(Sgd.) N. RAJASINGAM, S.I. 10  
(Sgd.) SHIVASITHAMPALAM,  
P.C. 1710 SITHAMPALAM.

Certified correct.

(Signed.) Illegibly.  
*Asst. Superintendent of Police, Gampaha.*

I certify the above is a true extract taken from the C.I.B. of Gampaha Police of which the original is in my custody.

(Signed.) Illegibly.  
H.Q.I. Gampaha.

D11a  
Telegram sent  
to the  
Defendant by  
the Plaintiff  
14.1.58

**D11a**  
**Telegram sent to the Defendant by the Plaintiff** 20  
14.1.58

CEYLON TELEGRAPHS

*A/Class* : O Code S.F.  
*Words* : 20/22  
*Charge* : Rs. 3.25  
*Name* : ADVOCATE WICKRAMASURIYA,  
*Address* : Meddewatta,  
*Place* : Matara.

Expected your arrival till this evening note with  
regret your failure to come or reply. 30

SHRIMATHI.  
*Signature and Address of Sender* : CHAS. SAMARASURIYA,  
Shri Ranjie, Gampaha.

P1

**Certificate of Marriage**

Application No. B 943

CEYLON

**CERTIFICATE OF MARRIAGE**

District : Colombo.

Division : Colombo District.

No. 6237.

P1  
Certificate of  
Marriage  
15.1.58

	<i>Male Party</i>	<i>Female Party</i>
10 Name (in full) of parties ..	Perumbadu Piyasena Wickremasuriya	Samarasuriya Liyana- arachchi Srimathi Ratnavali Samara- suriya
Age (in years) .. ..	Thirty Five	Twenty Three
Civil Condition .. ..	Bachelor	Spinster
Rank or Profession and Race ..	Advocate Sinhalese	— Sinhalese
Residence .. ..	Meddawatta, Matara	Medagama, Gampaha
20 Father's Name (in full) ..	Perumbadu Amaradasa Wickremasuriya	Samarasuriya Liyana- arachchi Patabendige Charles Samarasuriya
Rank or profession of Father	Proprietary Planter	Teacher
Name and Division of Registrar who issued Certi- ficate .. ..	S. H. S. Gunaratne, Wella- boda Pattu and Four Gravets, Matara	V. S. M. de Mel Colombo Disurict
Place of solemnization of Marriage .. ..	The Grand Oriental Hotel, Registrar, Colombo.	by licence of the District

Solemnized by me (or in my presence) this Thirty first day of January, 1957.

(Sgd.) V. S. M. De MEL,  
*District Registrar.*30 Marriage was solemnized between us in the (Sgd.) P. P. WICKRAMASURIYA,  
presence of :— (Sgd.) S. R. SAMARASURIYA.

Signature of Witness : (Sgd.) W. DAHANAYAKE.

Name in full, Rank or Profession, and Hon. WIJAYANANDA DAHANAYAKE,  
Residence of Witness . *Minister of Education,*  
" Sravasti ", Colombo

P1  
Certificate of  
Marriage  
15.1.58—  
Continued

Signature of witness : (Sgd.) W. P. DALUWATTA.  
Name in full, Rank or Profession; and WILFRED PIYASENA DALUWATTA,  
Residence of witness : Ceylon Civil Service,  
Bullers Road, Colombo.

(Sgd.) before me:  
(Sgd.) V. S. M. De MEL,  
District Registrar.

I do hereby certify that the foregoing is a true copy of a marriage registration entry  
filed of record in this Office.

Registrar-General's Office,  
Colombo, 15th January, 1958.

(Sgd.) Illegibly. 10  
Asst. Registrar-General.

P12  
Telegram sent  
to the  
Plaintiff by  
the Defendant  
16.1.58

**P12**  
**Telegram sent to the Plaintiff by the Defendant**

CEYLON TELEGRAM

SEAL Srimathie care Charles Samarasuriya  
GAMPAHA Vijaya Road, Gampaha GQ.

B

16 JA

58

Saturday you refused return you deserted me three 20  
months ago you are welcome here anytime—

PIYASENA

D12  
Telegram sent  
to the  
Defendant by  
the Plaintiff  
16.1.58

**D12**  
**Telegram sent to the Defendant by the Plaintiff**

16.1.58

*A/Class* : O Code S.K.

*Words* : 17/18

*Charge* : Rs. 1.10

SEAL

GAMPAHA *Name :* ADVOCATE WICKRAMASURIYA.  
16 JA 58 *Address :* Meddawatta.  
*Place :* Matara.

D12  
Telegram sent  
to the  
Defendant by  
the Plaintiff  
16.1.58—  
*Continued*

Your wire a fiction never expected such deliberate lies from my husband.

SREEMATHIE.

*Signature and Address of Sender: S. R. Wickramasuriya.*  
SRI RANJIE,  
Gampaha.

10

D6

**Affidavit of the Plaintiff**

D6  
Affidavit of  
the Plaintiff  
1.4.58

IN THE DISTRICT COURT OF GAMPAHA

Samarasuriya Liyanaarachchi Srimathie Ratnawalie Samarasuriya of Medagama, Gampaha  
.....*Plaintiff*

No. 6748/D.

*vs.*

Perumabadu Piyasena Wickremasuriya of Meddawatta, Matara.....*Defendant.*

20

Samarasuriya Liyanaarachchi Srimathie Ratnawalie Samarasuriya of Medagama, Gampaha  
.....*Plaintiff-Petitioner*

*vs.*

Perumabadu Piyasena Wickremasuriya of Meddawatta, Matara.....*Defendant-Respondent.*

I, Samarasuriya Liyanaarachchi Srimathie Ratnawalie Samarasuriya being a Buddhist, do hereby solemnly, sincerely and truly declare and affirm as follows :—

30

1. I am the plaintiff-petitioner above-named.
2. The defendant-respondent above-named is my husband.
3. I am not possessed of any property and I have no income whatever.
4. The defendant-respondent is an advocate practising at Matara and gets a professional income of about Rs. 2,000/- per month.

D6  
Affidavit of  
the Plaintiff  
1.4.58—  
Continued

5. He is also possessed of properties from which he derives a monthly income of about Rs. 1,000/- and also has shares in several companies.

6. I have no income to maintain myself and my child Ravindra Rohan who is about five months old and I have no means to maintain this action.

7. I claim a sum of Rs. 750/- as legal expenses and a sum of Rs. 400/- per month as alimony *pendente lite* and Rs. 250/- per month as maintenance for my said child from the defendant-respondent.

The contents of the foregoing  
affidavit having been duly  
read over to the affirmant  
in Sinhalese her own lan-  
guage and she appearing to  
understand the contents  
thereof the same was  
affirmed to and signed at  
Gampaha on this 1st April,  
1958 } (Sgd.) S. R. WICKRAMASURIYA. 10

Before me :  
(Sgd.) Illegibly.  
J.P.

I certify that the foregoing is a true copy of the Affidavit dated 1.4.1958 filed of Record in D.C. Gampaha, Case No. 6748/D. As compared with the original.

(Sgd.) Illegibly.  
Secretary,  
District Court, Gampaha.

Document containing Exhibits marked D13, D14, D15, 20  
D16 and D17

IN THE DISTRICT COURT OF GAMPAHA

No. 7109/M	Perumbadu Piyasena Wickramasuriya of
Class : IV	Meddawatta, Matara..... <i>Plaintiff</i>
Amount :	<i>vs.</i>
Rs. 9,540/50 cts.	Sirimathie Ratnavali Wickramasuriya <i>nee</i>
Nature : Money	Samarasuriya of Medagama, Gampaha....
Procedure : Regular	..... <i>Defendant.</i>

D16

## Journal Entries in D. C. Gampaha Case No. 7109/M

## JOURNAL

D16  
Journal Entries  
in D.C.  
Gampaha  
Case No.  
7109/M

The 4th day of August, 1958.

Mr. Valentine Dias, Proctor, files appointment and Plaint.  
Plaint accepted and Summons ordered for 31.10.58.

*District Judge.*

(2) 7.8.58.

Mr. Valentine Dias for plaintiff-petitioner files petition and  
10 affidavit from plaintiff-petitioner with a letter addressed to petitioner  
duly stamped and for the reasons stated in the said affidavit moves  
to issue an interim injunction restraining her from disposing or trans-  
ferring the shares set out in the petition.

Issue notice returnable 31.10.

(Intld.) C. E. J.

Later : Mr. Advocate N. Dissanayake in support.

He tenders motion to add certain parties.

Order to issue notice vacated. *Re* injunction .

Issue interim injunction limited till 1/9 and returnable 1/9.  
20 Order for summons vacated and summons to be issued returnable 1/9.

Issue notices on the parties mentioned in the motion as to be  
added to show cause if any why they should not be added returnable  
1/9.

(Intld.) C. E. J.,  
*D.J.*

(3) 7.8.58.

Interim Injunction issued to Gampaha.

(Intld.) Illegibly,  
*Secretary.*

30 (4) 11.8.58.

Return to Interim Injunction from Gampaha filed.

D16  
Journal Entries  
in D.C.  
Gampaha  
Case No.  
7109/M—  
Continued

(5) 19.8.58.

Summons on defendant issued to Gampaha.

(6) 19.8.58.

Notice on 1-3 parties issued to Colombo.

(7) 26.8.58.

Return to summons from Gampaha filed.

(8) 1.9.58.

Mr. Valentine Dias for plaintiff.

1. Interim Injunction served on defendant-respondent on being pointed out. 10  
Proxy of defendant filed *vide* 2 below. Objections 18/9.  
Interim injunction extended till 18/9.
2. Summons served on defendant.  
Mr. K. P. G. Perera files proxy of defendant. Answer 18/9.
3. No return to notice on 1-3 parties. Proxies of 1 and 2 parties tendered. Objections 18/9. 3rd party absent. Await and reissue, if necessary for 18/9/58.

(Intld.) C. E. J.,  
D.J.

(9) 2.9.58. 20

Return to notice from Colombo filed.

(10) 18.9.58.

Mr. Valentine Dias for plaintiff.

1. Objections *re* interim injunction due—The objections of The Dickoya Tea Co., Ltd., by Mr. P. P. Jayawardena—filed. The objections of the Ceylon Provincial Estates Co., Ltd., by Mr. P. P. Jayawardena—filed.
2. Objections of 1—3 parties due—objections of defendant-respondent filed by Mr. K. P. G. Perera.
3. Notice on 3rd party has already been served on 21.8.58. 30
4. Answer due. Answer of defendant filed by Mr. K. P. G. Perera.

Inquiry 17/11.

(Intld.) C. E. J.

Interim injunction extended till inquiry is over.

(Intld.) C. E. J.

(11) 28.10.58.

Proctor for plaintiff files plaintiff's list of documents with notice to proctors of the represented parties.

File.

(Intld.) Illegibly,  
*Secretary.*

(12) 28.10.58.

10 Proctor for plaintiff files plaintiff's list of witnesses with notice to proctors of the represented parties and moves for summons on 1st witness.

1. File.
2. Tender summons and move.

(Intld.) C. E. J.,  
*D.J.*

(13) 7.11.58.

Proctor for plaintiff moves for summons in hand on 1st witness mentioned in list of witnesses filed by him on 27.10.58.

2 Cite.

(Intld.) C. E. J.,  
*D.J.*

(14) 8.11.58.

Summons on 1 witness for plaintiff issued in hand.

(15) 17.11.58.

*Inquiry re Injunction*

Mr. Valentine Dias for plaintiff.

Mr. K. P. G. Perera for defendant.

Mr. P. P. Jayawardena for 1 and 2 parties.

30 *Vide* proceedings and order.

Trial 23.2.59.

(Intld.) C. E. J.,  
*D.J.*

D16  
Journal Entries  
in D.C.  
Gampaha  
Case No.  
7109/M—  
*Continued*

(16) 11.2.59.

Proctor for plaintiff files additional list of witnesses with notice to proctor for defendant and moves for summons on 1st witness mentioned in the list of witnesses already filed by him on 27.10.59 and 1st witness mentioned in this list.

Cite.

(Intld.) D. H. De S. G.,  
*D.J.*

(17) 11.2.59.

Proctor for defendant files defendant's list of witnesses with 10 notice to proctor for plaintiff and moves to issue summons on 1st witness in hand and on 5th witness to the Fiscal for service.

1. File.
2. Cite.

(Intld.) D. H. De S. G.,  
*D.J.*

(18) 13.2.59.

Summons on 2 witnesses for plaintiff issued to Colombo. Summons on 1 witness for defendant issued to Matara. Summons on 1 witness for defendant issued in hand. 20

(19) 23.2.59.

*Trial (1)*

Mr. Valentine Dias for plaintiff.  
Mr. K. P. G. Perera for defendant.  
Mr. P. P. Jayawardena for 1 and 2 parties.

*(Companies)*

*Vide* proceedings and settlement. No costs.  
Take case off trial roll. Call 17/3.  
Parties sign the Stenographers' notes.

(Intld.) C. E. J., 30  
*D.J.*

(20) 17.3.59.

Mr. Valentine Dias for plaintiff.  
1. Case called *vide* J.E. (19).  
2. Mr. L. Chandrasekera files proxy of defendant.

Transfer not effected. Call case 23/3 for transfer to be effected.  
If it is not so done secretary will effect transfer.

(Intld.) C. E. J.,  
D.J.

D16  
Journal Entries  
in D.C.  
Gampaha  
Case No.  
7109/M  
—Continued

(21) 23.3.59.

Mr. Valentine Dias for plaintiff.  
Case called *vide* J.E. (20) 2.

Transfer not effected ; Secretary to effect transfer. Defendant states that script is with the plaintiff. Stamp duty will be provided in the first instance by defendant and she is entitled to recover  $\frac{1}{2}$  from plaintiff.

*Vide* letter sent by Secretary.

(Intld.) C. E. J.,  
D.J.  
24/3.

(22) 25.3.59.

Mr. Valentine Dias for files the share certificate No. 972 of the Dickoya Tea Company Ltd., together with a transfer form and moves that the transfer be effected as per order of Court dated 23.3.59.

20 Call for stamp duty.

(Intld.) C. E. J.,  
D.J.

(23) 8.4.59.

*Vide* letter No. C.D. 5 : 9 of 6.4.59 from Messrs. George Steuart & Co., Ltd., for the Dickoya Tea Co., Ltd., *re* transfer of shares.

1. *Vide* Secretary's report filed (on separate sheet)—(23a).
2. Notice parties for 19.5.59.

(Intld.) D. H. De S. G.,  
Actg. D.J.

30

*Office*

(24) 15.4.59.

Notices on plaintiff and defendant issued.

(25) 24.4.59.

Return to notice from Gampaha filed.

(26) 29.4.59.

Return to notice from Gampaha filed.

D17  
Journal Entry  
in D.C.  
Gampaha  
Case No.  
7109/M  
19.5.59

## D17

## Journal Entry in D. C. Gampaha Case No. 7109/M

(27) 19.5.59.

Mr. Valentine Dias for plaintiff.

Notice *vide* J.E. (23) served on plaintiff and defendant.*Vide* proceedings.

Enter order.

(Intld.) F. C. P.

*Vide* late proceedings.

Call case 25/5.

(Intld.) F. C. P., 10  
*D.J.*

(28) 25.5.59.

Mr. Valentine Dias for plaintiff.

Case called *vide* J.E. (27).

Call 26/5.

(Intld.) F. C. P.,  
*D.J.*

(29) 26.5.59.

Mr. Valentine Dias for plaintiff.

Case called *vide* J.E. (28).

Mention on 24/7.

(Sgd.) F. CONRAD PERERA, 20  
*D.J.*

(30) 24.7.59.

Mr. Valentine Dias for plaintiff.

Case called *vide* J.E. (28).

Call on 27.7.59.

(Intld.) F. C. P.,  
*D.J.* 30

(31) 27.7.59.

Mr. Valentine Dias for plaintiff.

Case called *vide* J.E. (30).

Call 22/9.

(Sgd.) F. CONRAD PERERA,  
*D.J.*  
27.9.59.



D14  
 Plaintiff of the  
 Plaintiff in  
 D.C. Gampaha  
 Case No.  
 7109/M  
 4.8.58—  
*Continued*

7. On or about 10th October, 1957, the defendant wrongfully and maliciously deserted the plaintiff and though thereafter requested to do so has failed and neglected to transfer the said shares.

8. The plaintiff further states that he is entitled to all the dividends paid since the purchase of the said shares.

Wherefore the plaintiff prays :—

- (a) for a declaration that the defendant holds the shares referred to in the schedule annexed hereto in trust for the plaintiff.
- (b) for a declaration that the plaintiff is entitled to the dividends paid on the said shares ; 10
- (c) that the defendant be ordered to transfer the said shares to the plaintiff ;
- (d) or in the alternative, the defendant failing to do so, the Court be pleased to execute a transfer of the said shares to the plaintiff.
- (e) and for costs of action.

(Sgd.) VALENTINE DIAS,  
*Proctor for Plaintiff.*

*Schedule*

(1) One hundred shares of the Ceylon Provincial Estates Company 20 Limited numbered 526402—526501.

(2) One hundred shares of the Dickoya Tea Company Limited numbered 63051—63150.

(3) Two hundred shares of the Uva Highlands Tea Company Limited numbered 55138—55140

52866—52902

13571—13640

50252—50268

50401—50473

(Sgd.) VALENTINE DIAS, 30  
*Proctor for Plaintiff.*

Settled by :

H. W. JAYEWARDENE, Q.C.

S. H. MOHAMED,

*Advocate.*

Gampaha,

4th August, 1958.

D13

Answer of the Defendant in D. C. Gampaha Case No. 7109/M

IN THE DISTRICT COURT OF GAMPAHA

D13  
Answer of the  
Defendant in  
D.C. Gampaha  
Case No.  
7109/M  
18.9.58

Perumbadu Piyasena Wickramasuriya of  
Meddawatta, Matara.....*Plaintiff*

No. 7109/M.

*vs.*

Sirimathie Ratnavali Wickramasuriya *nee*  
Samarasuriya of Medagama, Gampaha.....  
.....*Defendant.*

10 On this 18th day of September, 1958.

The answer of the defendant abovenamed appearing by her Proctor, K. P. G. Perera, states as follows :—

1. The defendant admits the averments in paras 1 and 2 of the  
plaint.

2. Answering paras 3 and 4 of the *plaint* the defendant states that on the dates mentioned in para 3 of the *plaint* the defendant bought shares out of dowry money and money which the defendant received as presents at her wedding.

3. The defendant categorically denies the averments in paras 5, 6, 7, and 8 of the *plaint*.

Wherefore the defendant prays :—

- (a) That *plaintiff's* action be dismissed with costs; and
- (b) For such other and further relief as to this Court shall seem meet.

(Sgd.) K. P. G. PERERA,  
*Proctor for Defendant.*

D.C. 7109/M.

23.5.59.

Plaintiff and defendant present.

Mr. Advocate Panditha Gunawardana instructed for the *plaintiff*.

30 Mr. Advocate Francis Perera instructed for the *defendant*.

D13  
 Answer of the  
 Defendant in  
 D.C. Gampaha  
 Case No.  
 7109/M  
 18.9.58—  
*Continued*

Mr. Panditha Gunawardana says that he will be confining his action only to 100 shares of Dickoya Tea Company, as the other shares have been sold. This will be without prejudice to his rights with regard to items one and two of the schedule to the plaint.

Mr. Panditha Gunawardana raises the following issues.

1. Did the plaintiff purchase 100 shares in the Dickoya Tea Company Limited with his money ?
2. Were the shares certificates issued in the name of the defendant at the express request of the plaintiff ?
3. Is the defendant holding the said shares for and on behalf 10 and in trust for the plaintiff ?
4. If issues one, two, and three are answered in the affirmative is the plaintiff entitled to the relief claimed in the plaint ?

Mr. Francis Perera suggests the following issues :—

5. (a) Were the shares bought out of the dowry money and the money received as wedding presents by the defendant ?
- (b) If so, is the plaintiff entitled to the relief claimed ?

Issues accepted.

(Intld.) C. E. J.,

*D.J.* 20  
 23.2.59.

D15  
 Proceedings  
 before the  
 District Court,  
 Gampaha in  
 Case No.  
 7109/M  
 23.2.59

**D15**  
**Proceedings before the District Court, Gampaha in**  
**Case No. 7109/M**

At this stage it is agreed that the shares of the Dickoya Tea Company Limited will be transferred in the name of the child, Ravindra Rohan Wickramasooriya, presently of Medagama, Gampaha, or in the name of such person who will hold those shares for and on behalf of this child. The plaintiff and the defendant, and their counsel will consider and submit to Court the best method by which this 30 could be achieved having consulted the Dickoya Tea Company Limited also.

In the event of defendant not attesting the transfer then it is agreed the Secretary of this Court to do so.

(Sgd.) C. E. JAYAWARDENA,  
D.J.  
23.2.59.

D15  
Proceedings  
before the  
District Court,  
Gampaha in  
Case No.  
7109/M  
23.2.59—  
Continued

The stenographers notes bearing the signature of the parties is to be filed of record.

(Intld.) C. E. J.

I certify that the foregoing which is typed on this and 10 the preceding pages is a True Copy of Journal Entries, Plaintiff, Answer and the proceedings of 23.5.59 in D.C. Gampaha Case No. 7109/M.

(Sgd.).....  
Secretary, D.C.

District Court,  
Gampaha.

---

**D2**

**Extract from the Information Book of Panadura Police**

**Extract from the Minor Offence Information Book of Panadura Police**

D2  
Extract from  
the Information  
Book of  
Panadura  
Police  
10.10.58

20 Date : 10.10.58. Time : 8 p.m. Page : 173. Para : 57.

*Complaint of Family Dispute*

I now record the statement of Mrs. Wickremasuriya.

Mrs. SIRIMATHIE R. WICKRAMASURIYA. Age 24 years, wife of Advocate P. P. Wickramasuriya, Matara, present and states :— I have sent a series of letters to my father and mother stating I was very cruelly treated by my mother-in-law and neglected by my husband. This cruelty has increased since I became pregnant. I have been deprived of the pre-natal treatment that the poorest woman ordinarily gets. Just a few days ago I was taken to a doctor

D2  
 Extract from  
 the Information  
 Book of  
 Panadura  
 Police  
 10.10.58—  
*Continued*

who examined me and asked me to be very careful but my husband does not seem to be interested in me. My husband took me to the doctor only after my mother urged him to do so several times. I have noticed an attitude of indifference in regard to my state of health. He would not have done this if not for the fact, that his mother's urge was too much for him to stand and my mother wanted me to take home against my husband's will. I beg of my mother-in-law and my husband to let me go home for my confinement so that I could be with my mother for the period of confinement. They appeared to be too heartless to comply with my request. 10 Therefore I beg my father and mother to take me home whether they liked it or not. Today my mother came to see me. As my mother-in-law and my husband refused to grant my request I beg my mother to take me home for my confinement as I valued my life above anything else. Any woman would go mad if she is treated in the way in which I am treated. I am practically a lone prisoner in a upstairs room in my mother-in-law's house. In addition to this torcher I am made to go upstairs and downstairs a number of times daily. I feel fagged and tired every time I am made to do this. But unfortunately I have no way to avoid this. As an educated 20 girl I know this is bad for me and my child both. But my mother-in-law and my husband do not mind it. Both my mother-in-law and my husband who were at home at the time I left the house. I was very ill at the moment and I urged my mother to take me home and get me the necessary treatment and keep me there for the duration of my confinement. This is all I got to say. Signed in English. Read and explained admitted correct. This is a complaint of Family dispute. Parties are referred to Court.

(Sgd.) P.S. 1129 MANSOORIYA.

Certified correct.

30

(Sgd.) Illegibly.  
 P.S. 18 MUHAJIREEN.

I certify that this is a true copy from the M.O.I.B. of Panadura Police Station which is in my custody.

(Sgd.) Illegibly.  
H.Q.I. Police, Panadura.  
24.7.59.

D2  
Extract from  
the Information  
Book of  
Pananura  
Police  
10.10.58—  
*Continued*

True copy.

(Sgd.) on a Stamp.  
A.S.P., Panadura.  
24.7.59.

10

D21

**Letter from Superintendent of Telecommunication  
Traffic to Proctor Valentine Dias**

My No. S/F. 71303/11. Central Telegraph Office, Building  
P. O. Box 523,  
Colombo.

D21  
Letter from  
Superintendent  
of Tele-  
communication  
Traffic to  
Proctor  
Valentine Dias  
16.5.59

POSTS AND TELECOMMUNICATIONS DEPARTMENT—  
OFFICE OF THE SUPERINTENDENT OF  
TELECOMMUNICATION TRAFFIC

16th May, 1959.

20

Gampaha D.C. 6748/D.

Dear Sir,

Adverting to P.M.G.'s letter No. 63312 of May, 1959, paragraph 3, I wish to inform you that all documents referred to in item (8) of the summons pertaining to 9.10.1957 have been destroyed.

Yours faithfully,

(Sgd.) Illegibly.  
*for Superintendent of Telecommunication Traffic.*

VALENTINE DIAS, Esq.,  
*Proctor, S.C.,*  
Gampaha.

30

P25  
Bank Account  
Statement

**P25**  
**Bank Account Statement**

C.A. 11622

P. P. WICKREMASURIYA, Esqr., In Account with  
" Sisira, Meddewatta, BANK OF CEYLON CITY OFFICE  
Matara.

Particulars	Debits	Credits Balance Forward	Date Dec. 31, 56	Balance 876.25s.	
433	10.00		—	—	10
435	150.00	—	Jan. 3, 57	716.25s.	
434	25.00	—	Jan. 4, 57	691.25s.	
		CHQ 52.50	Jan. 5, 57	743.75s.	
		CHQ 371.70	Feb. 2, 57	1,115.45s.	
Rim	126.35	—	Feb. 5, 57	989.10s.	
436	184.00	—	Feb. 6, 57	805.10s.	
		CHQ 150.00	Feb. 7, 57	955.10s.	
		TFR 63.00	Feb. 8, 57	1,018.10s.	
		CHQ 84.00	—	—	
		65.00	—	—	20
		35.50	Feb. 9, 57	1,202.60s.	
		CHQ 52.50	—	—	
		76.50	Feb. 12, 57	1,331.60s.	
		CHQ 21.00	—	—	
		25.00	Feb. 16, 57	1,377.60s.	
		CHQ 10.00	Feb. 19, 57	1,387.60s.	
		CHQ 804.00	—	—	
437	804.00	—	Feb. 27, 57	1,387.60s.	
Com.	2.50	—	Mar. 25, 57	1,385.10s.	
		CHQ 10.50	Apr 22, 57	1,395.60s.	30
		CHQ 25.00	—	—	
Com.	.25	—	Apr 26, 57	1,420.35s.	
439	25.00	—	May 8, 57	1,395.35s.	
438	10.00	—	May 9, 57	1,385.35s.	
440	25.00	—	May 16, 57	1,360.35s.	
441	25.00	—	May 27, 57	1,335.35s.	
		CHQ 30.00	Jun. 5, 57	1,365.35s.	
		CHQ 30,000.00	Jun. 22, 57	31,365.35s.	
443	25.50	—	Jun. 25, 57	31,339.85s.	
442	21.00	—	Jul. 18, 57	31,318.85s.	40
445	25.00	—	Aug. 1, 57	31,193.85s.	
446	50.00	—	Aug. 13, 57	31,243.85s.	
447	3,155.00	—	Aug. 19, 57	28,088.85s.	
CH. BK.	1.95	—	—	—	
448	3,615.00	—	Aug. 22, 57	24,471.90s.	
		CHQ 14.90	Sep. 9, 57	24,486.80s.	
449	4,062.50	—	Sep. 16, 57	20,424.30s.	
Tax	6.87	—	Sep. 20, 57	20,417.43s.	

(Continued)

Particulars		Debits	Credits	Date	Balance
			CHQ 91.50	Sep. 23, 57	20,508.93s.
			CHQ 2,140.00	Oct. 4, 57	22,648.93s.
450	19.00	—	—	Oct. 5, 57	22,629.93s.
Tax	4.06	—	—	Oct. 12, 57	22,625.87s.
426	3,872.50	—	—	Oct. 14, 57	18,753.37s.
			CHQ 50.00	Nov. 1, 57	18,803.37s.
Tax	3.89	—	—	—	—
427	1,922.50	—	—	Nov. 11, 57	16,876.98s.
10 428	40.00	—	—	Dec. 5, 57	16,836.98s.
			CHQ 16.20	Dec. 9, 57	16,853.18s.
Tax	1.92	—	—	Dec. 11, 57	16,851.26s.
429	7,107.50	—	—	Dec. 13, 57	9,743.76s.
430	30.00	—	—	Dec. 27, 57	9,713.76s.
			CHQ 122.00	Dec. 28, 57	9,835.76s.
			TFR 30.00	Jan. 7, 58	9,865.76s.
Tax	7.17	—	—	Jan. 10, 58	9,858.59s.
431	50.00	—	—	Jan. 18, 58	9,808.59s.
Tax	.05	—	—	Feb. 10, 58	9,808.54s.
20 433	25.00	—	—	—	—
432	250.00	—	—	Mar. 4, 58	9,533.54s.
			CHQ 91.50	Apr. 1, 58	9,625.04s.
Tax	.28	—	—	—	—
			CHQ 398.78	Apr. 8, 58	10,023.54s.
			CHQ 110.53	Apr. 11, 58	10,134.07s.
436	50.00	—	—	Apr. 19, 58	10,084.07s.
434	1,000.00	—	—	Apr. 22, 58	9,084.07s.
			CHQ 45.75	Apr. 23, 58	9,129.82s.
30 437	80.00	—	—	May 6, 58	9,049.82s.
435	25.00	—	—	May 7, 58	9,024.82s.
Tax	1.05	—	—	May 9, 58	9,023.77s.
438	5,485.00	—	—	May 13, 58	3,538.77s.
Tax	5.59	—	—	Jun. 25, 58	3,533.18s.
441	25.00	—	—	July 21, 58	3,508.18s.
440	50.00	—	—	July 25, 58	3,458.18s.
			CHQ 32.94	Aug. 5, 58	3,491.12s.
Tax	.08	—	—	Aug. 12, 58	3,491.04s.
442	30.00	—	—	Aug. 14, 58	3,461.04s.
443	50.00	—	—	Aug. 21, 58	3,411.04s.
40 444	175.00	—	—	Aug. 22, 58	3,236.04s.
445	200.00	—	—	Sep. 1, 58	3,036.04s.
446	173.25	—	—	Sep. 2, 58	2,862.79s.
			CHQ 312.00	Sep. 9, 58	3,190.99s.
			TFR 16.20	Sep. 11, 58	3,190.73s.
Tax	.26	—	—	Sep. 23, 58	3,188.78s.
CH. BK	1.95	—	—	—	—
448	175.00	—	—	Sep. 29, 58	3,135.78s.
50 449	30.00	—	—	Oct. 1, 58	3,105.78s.
976	19.00	—	—	Oct. 6, 58	3,086.78s.
Tax	.55	—	—	Oct. 9, 58	3,086.23s.
978	175.00	—	—	Nov. 4, 58	2,911.23s.

(Continued)

P25  
Bank Account  
Statement—  
Continued

P25  
Bank Account  
Statement—  
Continued

Particulars	Debits	Credits	Date	Balance
Tax	.05		Nov. 6, 58	2,911.18s.
979	50.00		Nov. 11, 58	2,861.18s.
980	60.00		Nov. 24, 58	2,801.18s.
		CHQ 137.56	Dec. 4, 58	2,938.74s.
982	105.00		Dec. 8, 58	2,833.74s.
Tax	.29		Dec. 9, 58	2,833.45s.
981	25.00		Dec. 12, 58	2,808.45s.
		CHQ 30.50	Dec. 16, 58	2,838.95s.
		CHQ 91.50	Dec. 17, 58	2,930.45s. 10
983	50.00		Dec 29, 58	2,880.45s.
		CHQ 30.50	Jan. 13, 59	2,910.95s.
Tax	.18		Jan. 21, 59	2,910.77s.
984	175.00		Jan. 27, 59	2,735.77s.
985	147.00		Feb. 5, 59	2,588.77s.
Tax	.18		Feb. 6, 59	2,588.59s.
987	25.00		Feb. 10, 59	2,563.59s.
988	15.00		Feb. 23, 59	2,548.59s.
986	175.00			
993	50.00		Feb. 24, 59	2,323.59s. 20
992	157.50		Feb. 25, 59	2,166.09s.
Tax	.57		Mar. 12, 59	2,165.52s.
989	175.00			
		CHQ 76.25	Apr. 1, 59	2,066.77s.
		CHQ 396.50	Apr. 4, 59	2,463.27s.
990	25.00			
		CHQ 396.50	Apr. 13, 59	2,834.77s.
		CHQ 115.14	Apr. 17, 59	2,949.91s.
		CHQ 76.25	Apr. 22, 59	3,026.16s.
994	20.00		Apr. 24, 59	3,006.16s. 30
997	30.00			
991	30.00		May 5, 59	2,946.16s.
996	25.00		May 11, 59	2,921.16s.
Tax	.22		May 13, 59	2,920.94s.
995	175.00		May 18, 59	2,745.94s.
CH. BK	1.95		May 26, 59	2,743.99s.
251	25.00		Jun. 5, 59	2,718.99s.
2,000	100.00		Jun. 8, 59	2,618.99s.
Tax	.26		Jun. 10, 59	2,618.73s.
252	25.25		Jun. 18, 59	2,593.48s. 40
254	10.00		July 2, 59	2,583.48s.
253	175.00		July 7, 59	2,408.48s.
Tax	.15		July 14, 59	2,408.33s.
255	325.00		July 27, 59	2,083.33s.
Tax	.51			
257	175.00		Aug. 13, 59	1,907.82s.
		CHQ 66.67	Aug. 17, 59	1,974.49s.
256	175.00			
		CHQ 66.66	Aug. 24, 59	1,866.15s.
		CHQ 16.20	Aug. 31, 59	1,882.35s. 50
Tax	.35		Sep. 8, 59	1,882.00s.
260	487.50		Sep. 25, 59	1,394.50s.

(Continued)

Particulars	Debits	Credits	Date	Balance
261	44.50		Sep. 29, 59	1,350.00s.
259	175.00		Oct. 2, 59	1,175.00s.
262	350.00		Oct. 14, 59	825.00s.
263	44.10		Oct. 15, 59	780.90s.
Tax	.53		Oct. 20, 59	780.37s.
264	19.00		Oct. 24, 59	761.37s.
By Balance			Oct. 30, 59	761.37s.

P25  
Bank Account  
Statement—  
Continued

I do hereby certify that the foregoing is a true copy of entries  
10 and that such entries are contained in one of the ordinary books of  
the Bank and were made in the usual and ordinary course of business.  
I further certify that such book in which these entries are contained  
is still in the custody and control of the Bank.

(Sgd.) J. M. De SILVA,  
*Manager.*

Bank of Ceylon, City Office,  
Colombo.

Date : 5th November, 1959.

#### D4

#### Details of Income

20

D4  
Details of  
Income

POSTED UNDER REGISTERED COVER

" X "

Date	Case No.		Fee	Fee
4. 5.55	Matara L129	31.50	21.00	52.50
15. 6.55	Matara D.C. 2155	31.50	21.00	52.50
25. 7.55	Matara C.R. 4566	21.00	21.00	31.50
1. 9.55	Matara P413	21.00	21.00	52.50
20.10.55	Matara P416	31.50	31.50	52.50
1. 11.55	Matara L9	31.50	31.50	52.50
17. 6.55	Matara C.R. 4431	21.00	21.00	31.50
30 20. 9.55	Matara D.C. P716	31.50	31.50	42.00
5. 9.55	Matara C R 4137	21.00	21.00	31.50
31.10.55	Matara C.R. 4703	21.00	21.00	31.50
4. 5.55	Matara D.C. 22658	31.50	31.50	31.50
23. 9.55	Matara M317	31.50	31.50	31.50
15.11.55	Matara D.C. 21733	31.50	31.50	31.50
22.12.55	Matara C.R. 4520	21.00	21.00	31.50
4. 5.55 } 19. 8.55 } 8. 11.55 }	Matara D.C. 21195	52.50	52.50	105.00

(Continued)

D4  
Details of  
Income—  
Continued

Date	Case No.		Fee	Fee
12. 5.55 }	Matara P213	52.50	52.50	105.00
9. 9.55 }				
7. 9.55	Matara D.C. 23006	31.50	31.50	31.50
9. 12.55	Matara C.R. 4558	21.00	21.00	31.50
31. 3.55	Matara P268	31.50	31.50	52.50
7. 6.55 }				
17.11.55 }	Matara D.C. 22415	31.50	31.50	52.50
19. 9.55 }	Matara D.C. 21.706	31.50	31.50	52.50
14.11.55 }	Matara D.C. 19646	31.50	31.50	31.50 10
21.11.55 }	Tangalle D.C.			150.00
22.12.55	Hambantota D.C. 454			200.00
12. 1.56	Hambantota L292		31.50	31.50
12. 1.56	Hambantota P150		31.50	31.50
11. 1.56	Hambantota M.B. 40		31.50	31.50
13. 1.56	Hambantota D.C. 22605		31.50	31.50
16. 1.56	Hambantota D.C. 20727		31.50	31.50
16. 1.56	Matara C.R. 4244			31.50
16. 1.56	Matara C.R. 4566			31.50
16. 1.56	Matara C.R. 4567			31.50 20
17. 1.56	Tangalle L434			175.00
18. 1.56	Matara D.C. 19177			31.50
18. 1.56	Matara D.C. 20629			31.50
18. 1.56	Matara D.C. 20129			31.50
18. 1.56	Matara D.C. 19807			31.50
19. 1.56	Hambantota D.C.			225.00
24. 1.56	Tangalle L390			105.00
25. 1.56	Matara D.C. 21458			31.50
30. 1.56	Matara D.C. 23750			31.50
30. 1.56	Matara D.C. 21516			31.50 30
2. 2.56	Matara D.C. 22320			31.50
3. 2.56	Matara D.C. 21767			31.50
3. 2.56	Matara D.C. 21620			31.50
8. 2.56	Matara C.R. 22257			31.50
8. 2.56	Matara D.C. 21676			31.50
13. 2.56	Matara C.R. 4675			31.50
13. 2.56	Matara D667			31.50
14. 2.56	Matara C.R. 3172			31.50
16. 2.56	Matara D.C. 377			31.50
17. 2.56	Matara D.C. 265			31.50 40
20. 2.56	Matara C.R. 4163			31.50
24. 2.56	Matara L316			31.50
24. 2.56	Matara D.C. 23071			31.50
27. 2.56	Matara D.C. 20656			31.50
28. 2.56	Matara D.C. 5			31.50
29. 2.56	Matara D.C. 2895			31.50
5. 3.56	Tangalle P408			105.00
20. 3.56	Matara L273			31.50
				2,986.50
21.11.55	Tangalle D.C.			150.00 50
22.12.55	Hambantota D.C. 454			200.00

**D7****Application Form for Shares of the Ceylon Provincial  
Estates Company, Ltd.**

**THE CEYLON PROVINCIAL ESTATES COMPANY,  
LIMITED**

D7  
Application  
Form for Shares  
of the Ceylon  
Provincial  
Estates  
Company, Ltd.

“ A ”

(New issue of 58,111 Shares of Rs. 10.00 each at a premium  
of Rs. 2.00 per share)

Form of Application for Shares  
(To be Retained by the Bankers)

10 To The Directors of :

**THE CEYLON PROVINCIAL ESTATES COMPANY, LIMITED,**  
C/o George Steuart & Co., Ltd.,  
45, Queen St., Colombo 1.

Gentlemen,

Having paid to your Bankers, The National Bank of India, Ltd.,  
Colombo, the sum of Rs. . . . . being the nominal value of  
Rs. 10.00 per share and premium of Rs. 2.00 per share payable on  
application in respect of . . . . . of the above shares, to which  
I am/we are entitled in the above issue in terms of the circular dated  
20 22nd November, 1957, I/we hereby accept the said number of shares,  
on the terms of the said circular and authorise you to place my/our  
name/s on the register in respect of them.

And I/we declare that I am/we are not resident outside the  
sterling area.

*Signature/s of Member/s* : (Sgd.) S. R. WICKRAMASURIYA.

Dated this                      day of                      1957.

**THE CEYLON PROVINCIAL ESTATES COMPANY,  
LIMITED**

New Issue of 58,111 Shares

(Bankers' Receipt)

