

3, 1968

3

No.....8.....OF 1967

Supreme Court of Ceylon,  
No. 689 (Final) of 1960.

District Court of Matara,  
Case No. 289/L.

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

BETWEEN

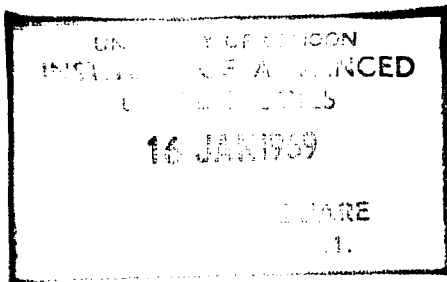
MEERUPPE SUMANATISSA TERUNNANSE, Viharadhipathi of Sudas-  
sanarama Temple, Welihinda.

Plaintiff-Appellant  
Appellant

AND

WARAKAPITIYE PANGNANANDA TERUNNANSE of Warakapitiya.

Defendant-Respondent  
Respondent



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RECORD  
OF PROCEEDINGS

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No. .... **8 OF 1967**

Supreme Court of Ceylon,  
No. 639 (Final) of 1960.

District Court of Matara,  
Case No. 289/L.

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

BETWEEN

MEERUPPE SUMANATISSA TERUNNANSE, Viharadhipathi of Sudas-  
sanarama Temple, Welihinda.

Plaintiff-Appellant  
Appellant

AND

WARAKAPITIYE PANGNANANDA TERUNNANSE of Warakapitiya.

Defendant-Respondent  
Respondent

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RECORD  
OF PROCEEDINGS

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## JOURNAL ENTRIES

## IN THE DISTRICT COURT OF MATARA

No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65

No. L. 289

Class :

Amount : Rs. 9,500/-

Nature : Land

Procedure : Regular.

M. S. S. TERUNNANSE, Chief Incumbent of  
Sudassanaramaya Temple, Welihinda  
*Plaintiff.*

Vs.

10

W. S. TERUNNANSE of Warakapitiya.  
*Defendant.*

## JOURNAL

The 29th day of September, 1954.

Messrs. Keuneman, Proctors for Plaintiff files appointment and Plaint  
together with Documents marked.

Plaint accepted and Summons ordered for 26.11.54.

(Sgd.) .....  
*District Judge.*

Summons issued with Precept returnable the ..... day of  
20 ..... , 19 ..

26-11-54 Summons not served.

Reissue for 15.2.55.

(Intld.) .....  
*District Judge.*

15-2-55 Summons served on defendant.

Mr. Samarasinghe files proxy.

Answer 5-4-55.

(Intld.) .....  
*District Judge.*

30

5-4-55 Answer — Mr. S. Samarasinghe moves for a date.

Answer for 17-6-55.

(Intld.) .....  
*District Judge.*



No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65  
—Continued.

17-6-55 Answer — filed.  
Replication 22-7.  
(Intld.) .....  
*District Judge.*

22-7-55 Replication — on application for 5-9-55.  
(Intld.) .....  
*District Judge.*

5-9-55 Replication — filed.  
Trial for 7-2.  
(Intld.) ..... 10  
*District Judge.*

30-1-56 Messrs. G. E. & G. P. Keuneman for plaintiff files list  
of witnesses and documents.  
(Intld.) .....

6-2-56 Mr. S. Samarasinghe, Proctor, for defendant files list of  
witnesses and documents and takes out summons in  
hand.  
(Intld.) .....

6-2-56 Mr. S. Samarasinghe for defendant moves for summons  
on plaintiff to produce a copy of details of income for 20  
expenditure of Temple lands sent to the Public Trustee  
since 1942.  
Further he moves that the summons tendered be served  
through the headman of Warakapitiya.

Issue.  
(Intld.) .....  
*District Judge.*

TRIAL — 1st date

7-2-56 Messrs. Keuneman for plaintiff.  
Mr. S. Samarasinghe for defendant. 80  
*Vide* proceedings.  
Amended plaint — 28-2-56.  
(Intld.) .....  
*District Judge.*

28-2-56 Amended plaint.  
Not filed.  
Same on 18-8-56.

No. 1  
Journal  
Entries—  
28-9-54  
to  
11-9-65  
—Continued.

(Intld.) .....  
*District Judge.*

18-8-56 Amended plaint.  
Filed.  
Amended answer 27-4-56.

10

(Intld.) .....  
*District Judge.*

27-4-56 Amended answer — filed.  
Trial on 18-8.

(Sgd.) .....  
*District Judge.*

**Trial**

(1) 18-8-56 Messrs. Keuneman for plaintiff.  
Mr. S. Samarasinghe for defendant.  
Mr. Karunaratne for plaintiff.  
Mr. R. H. E. de Silva.

20

Both parties agree that this dispute may be settled by  
the Court inspecting this spot.

Inspection 6-9.

(Intld.) .....  
*District Judge.*

(2) 6-9-56 Inspection —

It is raining today.

Road is not satisfactory.

Inspection 27-9.

(Sgd.) .....  
*District Judge.*

30

No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65  
—Continued.

(3) 27-9-56

Inspection —

Inspected in the presence of parties and their lawyers.

There is a younger planting of coconut in bearing between 5 to 10 years; adjoining the temple premises, on the Crown land there is a residential building and hall almost complete.

Call 4-10.

(Sgd.) .....  
*District Judge.*

(4) 4-10-56

Case called.

10

Mr. Karunaratne for the plaintiff.

Mr. R. H. E. de Silva for the defendant.

Trial 21-1-57.

(Sgd.) .....  
*District Judge.*

(5) 18.1.57

Mr. S. Samarasinghe for defendant tenders amended answer of the defendant and moves that the same be filed of record.

As this case is fixed for trial on 21-1-57, he moves that this case be called on bench on 18-1-57.

20

(1) Accept amended answer.

(2) Take case off trial roll.

(3) Call 21-1.

(4) Question of cost to be considered on that day.

(Sgd.) .....  
*District Judge.*

(6) 21-1-57

Case called.

The defendant will pay plaintiff Rs. 52/50 as costs of today.

Call 21-2.

30

(Sgd.) .....  
*District Judge.*

(7) 21-2-57 Case called.  
Mr. S. Samarasinghe files amended answer.  
Consideration of this amended answer for 5-4.

(Intld.) .....  
*District Judge.*

(8) 5-4-57 Consideration of the amended answer.  
Trial on 2-9-57.

(Sgd.) .....  
*District Judge.*

<sup>10</sup> (9) 23-4-57 Mr. S. Samarasinghe for defendant moves that this case which is fixed for trial on the 2nd September, 1957 be put off for the 11th or 30th of September, 1957, if convenient to Court as the defendant had to be away from this District on 2nd September, 1957.

He further moves to call this case on bench on 23-7-57.

Proctor for plaintiff received notice.

Trial refixed for 20-9.

(Sgd.) .....  
*District Judge.*

<sup>20</sup> (10) 10-9-57 Mr. S. Samarasinghe, Proctor for defendant files list of witnesses and documents and takes out 3 S.S. in hand.

(Intld.) .....  
*District Judge.*

(11) 19-9-57 Messrs. Keuneman for plaintiff file additional list of witnesses and documents.

(Intld.) .....  
*District Judge.*

**Trial (3rd time)**

(12) 20-9-57 Messrs. Keuneman for plaintiff.

<sup>30</sup> Mr. S. Samarasinghe for defendant.

*Vide* proceedings.

Further trial 13-12.

(Sgd.) .....  
*District Judge.*

No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65  
—Continued.

(13) 21-10-57

Messrs. Keuneman, Proctors for Plaintiff move to amend the plaint by adding the following para. 7(a) after para. 7 of the plaint.

7(a) That the defendant entered the premises described in para 2 of the plaint with the leave and licence of the plaintiff and therefore the defendant is estopped from denying the plaintiff's title to the said premises.

They also move that the case be called on bench on 24-10-57 to support this application. 10

Proctor for defendant receives notice subject to objections.

Support on bench 24-10.

(Sgd.) .....  
*District Judge.*

(14) 24-10-57

Case called.

Support on — torn —

(Sgd.) .....  
*District Judge.*

(15) 29-10-57

Case called. 20

Mr. Silva instructed by Mr. Samarasinghe for defendant.

Mr. Silva agrees to the.....(.....).....  
being occupied but subject to the...(.....).....  
that he does not.....( torn ).....  
any fact.....(.....) in this  
amendment.

Trial dates will stand.

(Sgd.) .....

(16) 5-12-57

Mr. S. Samarasinghe for defendant takes out 3 S.S. in hand on list filed. 30

(Intld.) .....

**Further Trial (4th time)**

(17) 13-12-57

Messrs. Keuneman for plaintiff.

Mr. S. Samarasinghe for defendant.

*Vide* proceedings.

Further trial 19-3.

(Sgd.) .....

(18) 11-3-58 Mr. S. Samarasinghe for defendant takes out 3 Summonses in hand on list filed.

No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65  
—Continued.

(Intld.) .....

**Further Trial (5th time)**

(19) 19-3-58 Messrs. Keuneman for plaintiff.  
Mr. S. Samarasinghe for defendant.

*Vide* proceedings.

Further trial 27-6.

(Sgd.) .....

<sup>10</sup> (20) 20-6-58 Mr. S. Samarasinghe for defendant takes out 3 Summonses in hand on the list already filed.

(Intld.) .....

**Further Trial**

(21) 27-6-58 Messrs. Keuneman for plaintiff.  
Mr. S. Samarasinghe for defendant.

Further trial 8-7.

(Sgd.) .....

**Further Trial**

<sup>20</sup> (22) 8-7-58 Messrs. Keuneman for plaintiff.  
Mr. S. Samarasinghe for defendant.

*Vide* proceedings.

Further trial 24-9.

(Sgd.) .....

(23) 18-9-58 Mr. S. Samarasinghe for defendant takes out three Summonses in hand on the list already filed.

(Intld.) .....

**Further Trial**

No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65  
—Continued.

- (24) 24-9-58 Messrs. Keuneman for plaintiff.  
Mr. S. Samarasinghe for defendant.  
*Vide* proceedings.  
Further trial 18-11.  
(Sgd.) .....
- (25) 11-11-58 Mr. S. Samarasinghe for defendant takes out 3 Summonses  
in hand on the list already filed.  
(Intld.) .....

**Further Trial**

10

- (26) 18-11-58 Messrs. Keuneman for plaintiff.  
Mr. S. Samarasinghe for defendant.  
*Vide* proceedings.  
Further trial 2-2-59.  
(Sgd.) .....

**Further Trial**

- (27) 2-2-59 Messrs. Keuneman for plaintiff.  
Mr. S. Samarasinghe for defendant.  
*Vide* proceedings.  
Further trial on 21-4-59.  
(Sgd.) .....

20

- (28) 12-2-59 Mr. S. Samarasinghe for defendant states that Mr.  
Advocate P. Gunawardena has a heavy case fixed earlier  
for trial on 21.4.59 in D.C. Galle. He moves that  
further hearing in this case be fixed for 23rd or 30th  
April, 1959.

He further moves to call this case on 12-2-59.

M/s. Keuneman for plaintiff takes notice — *vide* note  
made by him. Case taken off trial roll. Trial refixed  
for 23-4-59.

80

(Sgd.) .....  
*District Judge.*

Further Trial

No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65  
—Continued.

(29) 23-4-59 Messrs. Keuneman for plaintiff.  
Mr. S. Samarasinghe for defendant.  
Call on 18-6-59.

(Sgd.) .....  
*Additional District Judge.*

Letter written to Mr. N. Edirisinghe enquiring what dates are suitable for the further hearing of this case.

10

(Intld.) .....  
1-6-59.

(30) 18-6-59 Case called.  
Call on 10 July, 1959.

(Intld.) .....  
*District Judge.*

(31) 6-7-59 *Vide* copy of letter filed from Mr. N. Edirisinghe, D.J., informing that the dates 24th to 26th August 1959 would be suitable for him to hear the above case.

And in case P.858.

Mention on 10-7-59.

20

(Mr. E. O. F. de Silva is coming on these same date).

(Sgd.) .....  
*District Judge.*  
7-7-59

(32) 10-7-59 Case called.  
Journal entry of 6-7-59 mentioned.  
Call on 7-8-59.

(Sgd.) .....  
*District Judge.*  
10-7-59



No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65  
—Continued.

(33) 7-8-59

Case called.

Call before D.J. on 18-8-59

(Sgd.) .....  
*Additional District Judge.*  
7-8-59.

(34) 18-8-59

Case called.

Call on 18-9-59.

(Sgd.) .....  
*District Judge.*  
18-8-59 10

(35) 18-9-59

Case called.

Call on 1-12-59.

(Sgd.) .....  
*District Judge.*  
18-9-59.

(36) 1-12-59

Case called.

Call on 8-12-59.

(Sgd.) .....  
*District Judge.*  
1-12-59 20

(37) 8-12-59

Case called.

Trial 1 June 1960.

(Sgd.) .....  
*District Judge.*  
8-12-59.

(38) 16-2-60

*Vide* Journal Entry of 37 of 8-12-59 fixing this case for trial " De Novo " on 1st June 1960.

Mr. N. Edirisinghe presently D.J. Negombo states that he is coming to Matara during the period 4th to 8th April 1960 and that this case may be fixed for further <sup>30</sup> hearing before him on 5-4-60 (*vide* copy of his letter filed).

Call case on 23-2-60 with notice to Proctors.

(Sgd.) .....  
*District Judge.*  
16-2-60.

Messrs. Keuneman for plaintiff.

Mr. S. Samarasinghe for defendant.

(Intld.).....

(39) 23-2-60 Case called after informing all the proctors in this case. No. 1  
 Call on 1-3-60. (Sgd.) ..... Journal  
 Entries—  
 29-9-54  
 to  
 11-9-65  
*District Judge.* —Continued.  
 23-2-60.

(40) 1-3-60 Case called.  
 Trial on 5-4-60. (Sgd.) .....  
*District Judge.*  
 1-3-60.

10

(41) 1-4-60 Mr. S. Samarasinghe for defendant takes out one Summons  
 in hand on the list already filed. (Intld.) .....

(42) 5-4-60 **Trial**  
 Messrs. Kueneman for plaintiff.  
 Mr. S. Samarasinghe for defendant.  
*Vide* proceedings.  
 Further trial 7-4.

20

(Sgd.) .....  
*District Judge.*  
 5-4-60.

(43) 7-4-60 **Trial**  
 Messrs. Keuneman for plaintiff.  
 Mr. S. Samarasinghe for defendant.  
*Vide* proceedings.  
 Further hearing and addresses 6-6.

(Sgd.) .....  
*District Judge.*  
 7-4-60.

30

(44) 27-5-60 Mr. C. D. Samarasekera for plaintiff files proxy and  
 moves that the same be accepted and filed of record.  
 The date fixed for address for 6-6-60 may stand.

1. File.
2. Allowed.

(Sgd.) .....  
*District Judge.*  
 27-5-60.

No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65  
—Continued.

(45) 7-6-60 6-6-60 being a Public holiday Case called today.  
Address 9-6.  
(Sgd.) .....  
*District Judge.*  
7-6-60.

(46) 9-6-60 Addresses —  
This case was fixed for further hearing on 6-6 but 6-6 was declared a Public holiday, with the result neither the Proctors nor Counsel were present.  
Further trial 11-7. 10  
(Sgd.) .....  
9-6.

**Further Trial**

(47) 11-7-60 Mr. C. D. Samarasekera for plaintiff.  
Mr. S. Samarasinghe for defendant.  
*Vide* proceedings.  
Judgment 2-8.  
(Sgd.) .....  
11-7.

(48) 2-8-60 Judgment by Mr. N. Edirisinghe. 20  
Call case on 8-8-60.  
(Sgd.) .....  
*District Judge.*  
2-8-60.

(49) 2-8-60 Judgment by Mr. N. Edirisinghe.  
Call Case on 8-8-60.  
(Sgd.) A. E. R. COREA,  
*District Judge.*  
2-8-60.

(50) 8-8-60 Case called. 30  
Call on 12-9-60.  
(Sgd.) .....  
*Additional District Judge.*  
8-8-60.

(51) 12-9-60 Case called.  
Call on 5-10-60.

(Sgd.) .....  
*Additional District Judge,*  
12-9-60.

No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65  
—Continued.

(52) 5-10-60 Case called.  
Call on 17-10-60.

(Sgd.) .....  
*Additional District Judge,*  
5-10-60.

10

(53) 17-10-60 Case called.  
Call on 28-11-60.

(Sgd.) .....  
*Additional District Judge,*  
17-10-60.

(54) 28-11-60 Case called.  
Call on 6-12-60.

(Sgd.) .....  
*Additional District Judge,*  
28-11-60.

20

(55) 6-12-60 Case called.  
  
*Vide* telephone message received from Secretary D. C.,  
Negombo, Mr. N. Edirisinghe, D. J., Negombo, wants  
a further date of about 2 weeks' time be given for judgment  
in this case.

Call on 21-12-60.

Office to inform Mr. Edirisinghe accordingly.

(Sgd.) .....  
*Additional District Judge,*  
6-12-60.

30

(56) 21-12-60 Judgment delivered in open Court in the presence of  
Mr. Samarasekera and the defendant.

(Sgd.) A. E. R. COREA,  
*District Judge,*  
21-12-60.

No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65  
—Continued.

- (57) 23-12-60 Mr. S. Samarasinghe for defendant-appellant tenders petition of appeal together with notices of security, notes of appeal, application for typewritten copies, Kachcheri Receipt No. 1096 dated 22-12-60 for Rs. 25/- being fees for typewritten copies. Secretary's certificate form in appeal and stamps to the value of Rs. 24/- and moves that the petition of appeal be accepted.

He also moves that 4th January, 1961, be fixed as the date for considering cash security and the notices of security be issued.

10

- (1) File petition of appeal.
- (2) Issue notice of security returnable 4-1-61.

(Sgd.) .....  
23-12-60.  
*District Judge.*

- (58) 4-1-61 (1) Security notice on Mr. C. O. Samarasekera, Proctor for plaintiff served.
- (2) Security notice on plaintiff returned for an extension of time.

Mr. C. D. Samarasekara for plaintiff (absent.)

20

Mr. Samarasinghe for defendant-appellant.

Re-issue — 10-1-61.

(Sgd.) .....  
*District Judge,*  
4-1-61.

- (59) 10-1-61 Return to security notice filed.

Security notice served on the plaintiff-respondent.

He is absent. I accept the security. Issue deposit note. Perfect bond. Issue notice of appeal returnable 7-2-61.

(Sgd.) A. E. R. COREA, 30  
*District Judge,*  
10-1-61.

(60) 7-2-61 Notice of appeal served on Mr. C. D. Samarasekera and  
on plaintiff-respondent.

No. 1  
Journal  
Entries —  
29-9-54  
to  
11-9-65  
—Continued.

They are absent.

Forward record to Supreme Court.

(Sgd.) A. E. R. COREA,  
*District Judge,*  
7-2-61.

(61) 17-2-61 Mr. C. D. Samarasekera applies for typewritten copies  
of the record and tender Kachcheri receipt No. 1066 of  
16-2-61 for Rs. 15/-.

10

File.

(Sgd.) A. E. R. COREA,  
*District Judge.*  
17-2-61.

(62) 27-8-61 Decree tendered.

It is signed.

(Sgd.) A. E. R. COREA,  
*District Judge.*  
28-3-61.

(63) 21-6-63 Registrar, S.C., returns record together with S.C. Judgment.

20

Plaintiff's action in both courts dismissed with cost in  
both courts.

Call case on 12-7-63.

Proctors for plaintiff and defendant to take notice.

(Sgd.) .....  
*District Judge.*  
21-6-63.

(64) 1-7-63 Mr. S. Samarasinghe for defendant moves to withdraw  
Rs. 125/- being security for costs of appeal deposited by  
Defendant-Appellant in this case.

30

Defendant consents.

File Supreme Court bill of costs duly taxed and move.

(Sgd.) .....  
*District Judge.*  
1-7-63.

No. 1  
Journal  
Entries—  
29-9-54  
to  
11-9-65  
—Continued.

- (65) 5-7-63 Mr. S. Samarasinghe for defendant-appellant moves with reference to the order at journal entry (64) that the application for the order of payment therein is to withdraw the security for costs of appeal tendered by his client.

He therefore moves that his application to withdraw Rs. 125/- at journal entry (64) be allowed.

Issue order of payment for Rs. 125/- in favour of Proctor for defendant.

(Sgd.) .....  
*District Judge.* 10  
5-7-63.

- (66) 10-7-63 Order of payment No. C. 002356 of 10.7.63 issued as per journal entry (65) for Rs. 125/-.

(Sgd.) .....  
*District Judge.*  
10-7-63.

- (67) 12-7-63 Case called. *Vide* Journal Entry (63) Supreme Court Decree is communicated.

(Sgd.) .....  
*District Judge.* 20  
12-7-63.

- (68) 11-9-65 Registrar, Supreme Court writes to inform that as an application to appeal to the Privy Council has been allowed, this record together with all connected papers be forwarded to him very early.

Forward record to Registrar, Supreme Court with all documents immediately.

(Sgd.) .....  
*District Judge.*  
13-9.

**Plaint of the Plaintiff**

## IN THE DISTRICT COURT OF MATARA

MEERUPPE SUMANATISSA TERUNNANSE Chief Incumbent of Sudassanarama Temple, Welihinda

*Plaintiff.*

No. L. 289

*Vs.*

WARAKAPITIYE SANGANANDA TERUNNANSE of Warakapitiya.

*Defendant.*

10

This 20th day of September, 1954.

The plaintiff of the plaintiff abovenamed appearing by G. E. and G. P. Keuneman his Proctors sheweth as follows :---

The parties to this action reside within the jurisdiction of this Court and the cause of action hereinafter set forth arose and the subject matter of this action is situate within such jurisdiction.

2. The plaintiff as the controlling Viharadhipathi and Chief Incumbent of the Sudassanarama Temple, Welihinda is the owner and *bona fide* proprietor of the high and low land called Pehimbiyagoda duwa and kumbura alias Hirikotuwe duwa, situate at Warakapitiya in Weligam Korale of Matara District, Southern Province and which said land inclusive of the duwa, situated in the middle of the land is bounded on the North by Heendeniya Wekandiya, East by Pehimbiyaduwa, South by Kekilleduwa, West by Ratkeretolla and Tekkawatta and containing in extent about 18 acres.

3. The plaintiff files herewith a pedigree showing the manner in which he became entitled to the said land which he prays may be taken and read as part and parcel of this plaint.

4. The plaintiff and his predecessors in title have been in the undisturbed and uninterrupted possession of the said premises by a title adverse to an independent of the defendant and all others for a period of over ten years prior to the dispute and have inherited acquired a valid title thereto by right of prescriptive possession in terms of the Ordinance No. 22 of 1871.

5. The said high and low land was given by the plaintiff to the care of the defendant who saw to cultivation of the field portion and gave the plaintiff the paraveni share thereof and also the produce of the high land. The defendant was also allowed by the plaintiff to reside on a filled up portion of this land.



No. 2  
Plaint of the  
Plaintiff—  
20-9-54  
—Continued.

6. That in or about the month of September, 1953, the defendant as usual got the field cultivated for the 1954 Maha and thereafter on or about 15th March, 1954, wrongfully and unlawfully appropriated the paraveni share due to the plaintiff and is in the wrongful and unlawful possession of the said high and low land to the plaintiff's damage in Rs. 500/- already incurred and further damage at Rs. 900/- a year from date of institution of action.

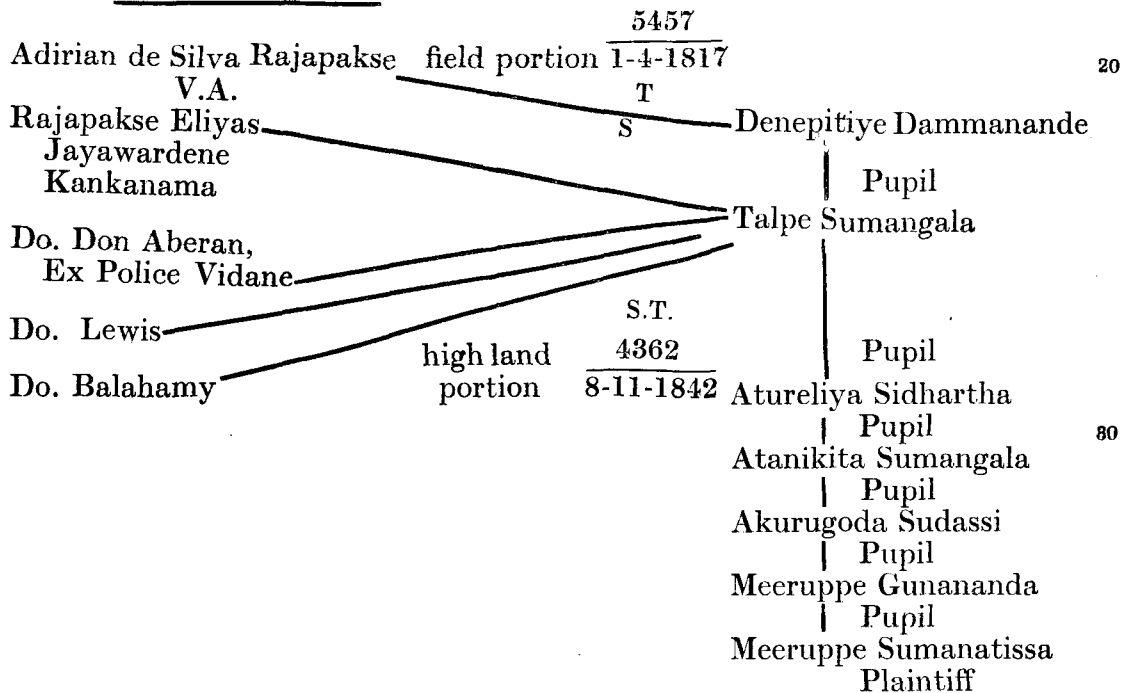
7. The plaintiff estimates the value of the land in dispute at Rs. 9,000/-.

WHEREFORE the plaintiff prays :—

- (1) That he be declared entitled to the said premises and defendant 10 be declared not entitled to same.
- (2) That defendant be ejected from the premises and plaintiff be placed in possession thereof.
- (3) for damages as claimed above and
- (4) for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) G. E. & G. P. KEUNEMAN,  
*Proctors for Plaintiff.*

Pedigree referred to :



(Sgd.) G. E. & G. P. KEUNEMAN,  
*Proctors for Plaintiff.* 40

Document filed with plaint.

Abstract of title in respect of the above land.

(Sgd.) G. E. & G. P. KEUNEMAN,  
*Proctors for Plaintiff.*

PLAINTIFF'S ABSTRACT OF TITLE

Number of deed	Date of deed	Nature of deed	From whom to whom	Boundaries	Acre or fraction of land dealt with	When registered	Original Duplicate or copy
5457	1-4-1817	Transfer	From : Adirian de Silva Rajapakse, V. A. To : Denepitiye Dhammananda Thero of Suddassanarama Temple	North : Heendeniya Wekandiya East : Pehimbiyagoda duwa mawatha South : Kekilleduwe mawatha West : Tekkawatta mawatha	Entire land (field portion)	30-10-1868	Original
4362	8-11-1842	Transfer	From : Rajapakse Eliyas Jayawardena Kankana Do. Don Aberan, Ex Police Vidane Do. Lewis Do. Balahamy To : Talpe Sumangala Thero	No boundaries	Entire land (high land portion)	—	Original

Appointment by the Public Trustee and certified copy of D.C. Matara Case No. 8777

(Sgd.) G. E. & G. P. KEUNEMAN,  
*Proctors for Plaintiff.*

No. 2  
Plaint of the  
Plaintiff—  
20-9-54  
—  
Abstract of  
Title.

**Answer of the Defendant**

**IN THE DISTRICT COURT OF MATARA**

**MEERUPPE SUMANATISSA TERUNNANSE**, Chief Incumbent of Sudassanarama Temple, Welihinda.

*Plaintiff.*

No. L. 289

*Vs.*

**WARAKAPITIYE SANGANANDA TERUNNANSE** of Warakapitiya.

*Defendant.* 10

This 16th day of June, 1955.

The answer of the defendant abovenamed appearing by his Proctor, Sepala Samarasinghe, states as follows:—

1. This defendant admits that the parties to this action reside within the jurisdiction of this Court and denies the other averments in paragraph one of the plaint.

2. This defendant denies that the plaintiff is the rightful incumbent of the Sudassanaramaya Temple and therefore denies the plaintiff's right to maintain this action. This defendant also denies that the plaintiff is a pupil of Meeruppe Gunananda. 20

3. This defendant denies that he is in possession of a land called Pehimbiyagoda duwa and kumbura alias Hirikotuwa duwa and also denies that the said lands are bounded by the boundaries given in the plaint.

4. This defendant denies that the title deeds shewn in plaintiff's pedigree gave the plaintiff title to the land within the boundaries mentioned in paragraph 2 of the plaint.

5. This defendant denies the averments contained in paragraphs 4, 5 and 6 of the plaint.

6. Further answering this defendant states that he is in possession of a field called Kekilladuwaaddara also belonging to the said Sudassanaramaya Temple. Between the years 1942 and 1944 this defendant constructed an 'avasa' and a hall (dharmasalawa) and this defendant is resident in and maintaining the said buildings. 30

7. The income derived from Kekilladuwaaddara for the year 1954 was utilized by this defendant for the maintenance of the said buildings and the maintenance of himself and his pupil Lalpe Attadassa.

8. Without prejudice to the plea of this defendant that the plaintiff does not have the status to maintain this action, this defendant claims a sum of Rupees two hundred from the income of the Sudassanaramaya Temple for the maintenance of the defendant and his pupil in the event of the income of Kekilladuwaaddara be ordered to be given to the Sudassanaramaya Temple.

No. 3  
Answer of  
the Defendant—  
16-6-55  
—Continued.

9. This defendant is a pupil of both Akurugoda Sudassa and Meeruppe Gunananda and as such is entitled to be maintained by the income of the Sudassanaramaya Temple.

10 WHEREFORE this defendant prays —

1. That the plaintiff's action be dismissed ;
2. That in the event of the income of the land mentioned in paragraph 6 be ordered to be handed over to the Sudassanaramaya Temple, the Court be pleased to order a sum of Rs. 200/- for the maintenance of this defendant and his pupil from the income of the Sudassanaramaya Temple.
3. For costs and
4. For such other and further relief as to this Court shall seem meet.

(Sgd.) S. SAMARASINGHE,  
*Proctor for Defendant.*

20 Settled by :

MR. R. H. E. DE SILVA,  
*Advocate.*

No. 14

Replication of the Plaintiff

IN THE DISTRICT COURT OF MATARA

MEERUPPE SUMANATISSA TERUNNANSE, Chief Incumbent of Sudassanarama Temple, Welihinda.

*Plaintiff.*

No. L. 289

*Vs.*

80 WARAKAPITIYE SANGANANDA TERUNNANSE of Warakapitiya.

*Defendant.*

This 5th day of September, 1955.

The replication of the plaintiff abovenamed appearing by G. E. and G. P. Keuneman his proctors sheweth as follows :—

1. The plaintiff denies the averments in paragraphs 1 and 2 of the answer and states that plaintiff is the duly appointed Viharadhipathi of Welihinda Sudassanarama Temple and this has been upheld by the decree

No. 14  
Replication  
of the  
Plaintiff—  
5-9-55  
—Continued.

of the Supreme Court entered in D.C. 8777 of this Court. The plaintiff is further entitled to maintain this action by reason of the exemption granted by the proclamation published in the Government Gazette No. 7896 dated 4 December, 1931.

2. The plaintiff denies paragraphs 3 and 4 of the answer and states that defendant is in possession of Pehimbiyagoda duwa and kumbura alias Hirikotuweduwa within the boundaries given in plaint.

3. The plaintiff denies the 6 and 7 paragraphs of the answer that defendant is in possession of a field called Kekilladuwa-addara and states that the field possessed by the defendant is Pehimbiyagoda duwa and kumbura alias Hirikotuweduwa.

4. The plaintiff denies the 8 and 9 paragraphs of the answer and also denies that the defendant is entitled to maintenance from the income of the Sudassanarama Temple. The plaintiff further states that it is not open to the defendant in an action *rei vindicatio* to make a claim in reconvention for maintenance.

5. The plaintiff denies all other averments in the answer inconsistent with the plaint or with this replication.

6. Further answering the plaintiff states that the defendant has been allotted by the Government an acre of land adjoining the plaintiff's land under the Nidangala Tekkawatta Colony Scheme and the defendant is enjoying the produce of this acre and has put up buildings thereon and has in addition wrongfully appropriated the produce of the plaintiff's land as set out in the plaint.

WHEREFORE the plaintiff prays :—

1. That the claim in reconvention be dismissed and that judgment be entered as prayed for in the plaint.

2. For costs and

3. For such other and further relief as to this Court shall seem meet.

(Sgd.) G. E. & G. P. KEUNEMAN, <sup>80</sup>  
*Proctors for Plaintiff.*

## Proceedings before the District Court

No. 5  
Proceedings  
before the  
District Court —  
7-2-56

7th February, 1956.

MR. ADVOCATE KARUNARATNE instructed by Messrs. Keuneman  
for plaintiff.

MR. ADVOCATE R. H. E. DE SILVA instructed by Mr. Samara-  
singhe for defendant.

Mr. Advocate Karunaratne moves to file an amended plaintiff stating  
how the plaintiff became the Viharadhipathi of the temple in question.

10 Mr. Advocate de Silva moves that the defendant be paid costs of the  
day. Costs fixed at five guineas plus batta to witnesses, if any.

Take case off trial roll.

Amended plaintiff on 28-2-56.

(Sgd.) .....  
*District Judge.*  
7-2-56.

## Amended Plaintiff of the Plaintiff

No. 6  
Amended Plaintiff  
of the Plaintiff—  
13-3-56

## IN THE DISTRICT COURT OF MATARA

20 MEERUPPE SUMANATISSA TERUNNANSE, Viharadhipathi  
of Sudassanarama Temple, Welihinda.

*Plaintiff.*

No. L. 289

*Vs.*

WARAKAPITIYE SANGANANDA TERUNNANSE of  
Warakapitiya.

*Defendant.*

This 13th day of March, 1956.

The amended plaintiff of the plaintiff abovenamed appearing by G. E.  
and G. P. Keuneman, his Proctors sheweth as follows:—

30 1. The parties to this action reside within the jurisdiction of this  
Court and the cause of action hereinafter set forth arose and the subject  
matter of this action is situate within the jurisdiction of this Court.

No. 6  
Amended Plaintiff  
of the Plaintiff—  
18-8-56  
—Continued.

2. The plaintiff as the controlling Viharadhipathi and the Chief Incumbent of Sudassanarama Temple in Welihinda is the owner and *bona fide* proprietor of the high and low land called Pehimbiyagodaduwa and kumbura alias Hirikotuweduwe situate at Warakapitiya in Weligam Korale of Matara District, Southern Province and which land inclusive of the duwa situated in the middle of the land is bounded on the North by Heendeniya Wekandiya, East by Pehimbiyaduwa, South by Kekilladuwa, West by Ratkeretolla and Tekkawatta and containing in extent about 18 acres.

3. The plaintiff became the controlling Viharadhipathi of the said 10 Temple in the following manner :—

(a) That at one time one Akurugoda Sudassi Terunnanse was the Chief Incumbent and controlling Viharadhipathi of the following four temples *viz.*

1. Welihinda Sudassanaramaya.
2. Lalpe Sudarmaramaya.
3. Akurugoda Nagarukkaramaya.
4. Warakapitiye Tribhumikaramaya.

(b) That the said Akurugoda Sudassi Terunnanse had the following pupils in order of their seniority *viz.* Gunananda, Sumanatissa (the Plaintiff), Pemasiri, Somaratana, Indasara and several other junior priests. 20

(c) That the said Akurugoda Sudassi Terunnanse by deed No. 6654 of 29.10.28 appointed Gunananda Terunnanse, Chief Incumbent and controlling Viharadhipathi of the said four temples.

(d) That the said appointment of Gunananda by deed No. 6654 of 29.10.28 was subject to the condition that in the event of death or incapacity of the said Gunananda the next senior pupil of Akurugoda Sudassi should become Viharadhipathi.

(e) The said Gunananda died about 16 years ago and the plaintiff has become entitled to be the controlling Viharadhipathi of the said temple.

(f) The plaintiff also states that he has been acting, officiating and functioning as Chief Incumbent and controlling Viharadhipathi of Welihinda Sudassanaramaya from the year 1930 and as such is entitled to be and continue as Viharadhipathi. 30

(g) The plaintiff also states that in the year 1938 one Gunaratana Terunnanse disputed the plaintiff's right to be Viharadhipathi of Sudassanarama Temple in D.C. Matara Case No. 8777, and by order and decree entered by the Supreme Court in the said case the plaintiff was declared the Viharadhipathi of the said temple.

(h) The plaintiff further states that the plaintiff also became entitled to be the Viharadhipathi of the said temple by virtue of deed No. 2038 of 26-12-30 by which the said Gunananda appointed his senior co-pupil Sumanatissa the plaintiff the Viharadhipathi and Chief Incumbent of the said temple Welihinda Sudassanaramaya.

No. 6  
Amended Plaintiff  
of the Plaintiff—  
13-3-56  
—Continued.

(i) The plaintiff specially states that from the said date viz. 26-12-30 the said Gunananda waived, abandoned, and surrendered his rights to the said Sudassanarama Temple and thus the plaintiff as next senior pupil of Akurugoda Sudassi Terunnanse became entitled to the Viharadhipathiship of Sudassanarama Temple and the plaintiff has functioned and officiated as such from that date for 26 years.

4. The plaintiff files herewith a pedigree showing the manner of devolution of the Viharadhipathiship of the said temple.

5. The plaintiff and his predecessors in title have been in the undisturbed and uninterrupted possession of the said premises by a title adverse to and independent of the defendant and all others for a period of over ten years prior to the dispute and have thereby acquired a valid title thereto by right of prescriptive possession in terms of the Ordinance No. 22 of 1871.

6. The plaintiff also states that the claim of defendant or anybody else to the Incumbency is prescribed by Ordinance No. 22 of 1871.

7. That the said high and low land was given by the plaintiff to the care of the defendant who saw to cultivation of the field portion and gave the plaintiff the paraveni share thereof and also the produce of the high land. The defendant was also allowed by the plaintiff to reside on a filled up portion of this land.

8. That in or about the month of September, 1953, the defendant as usual got the field cultivated for the 1954 Maha and thereafter on or about 15th March, 1954, wrongfully and unlawfully appropriated the paraveni share due to the plaintiff and is in the wrongful and unlawful possession of the said high and low land to the plaintiff's damage in Rs. 500/- already incurred and further damages at Rs. 900/- a year from date of institution of this action.

9. The plaintiff estimates the value of the land in dispute at Rs. 9,000/-.

WHEREFORE the plaintiff prays :—

1. That he be declared entitled to the said premises and the defendant be declared not entitled to same.

2. That defendant be ejected from the said premises and plaintiff be placed in possession thereof.



No. 8  
Amended Plaint  
of the Plaintiff—  
18-8-56  
—Continued.

3. For damages as claimed above ;
4. For costs and
5. For such other and further relief as to this Court shall seem meet.

(Sgd.) G. E. & G. P. KEUNEMAN,  
*Proctors for Plaintiff.*

High and low land Pehimbiyagodaduwa and kumbura and Hirikotuwe-  
duwa.

DON ADIRIAN DE SILVA RAJAPAKSE, V.A.,

	S.T.	5457	
		1-4-1817	10
	Denepitiye	Dammananda	
Rajapakse Eliyas Jayawardene Kankanama  Do. Don Aberan, Police Vidane  Do. Lewis  Do. Balahamy	Talpe Sumangala.	Succeeded as Incumbent by	
S.T. 4362		Succeeded as Incumbent by	20
8-11-1842	Atureliye	Sidhartha.	
	Atanikita	Sumangala.	
	Akurugoda	Sudassi.	
	Meeruppe	Gunananda.	30
	Meeruppe	Sumanatissa.	

*Plaintiff*  
Controlling Viharadhipathi of Sudassanarama  
Vihara.

(Sgd.) G. E. & G. P. KEUNEMAN,  
*Proctors for Plaintiff.*

## Amended Answer of the Defendant

## IN THE DISTRICT COURT OF MATARA

MEERUPPE SUMANATISSA TERUNNANSE, Chief Incumbent of Sudassanarama Temple, Welihinda.

*Plaintiff.*

No. L. 289

*Vs.*

WARAKAPITIYE SANGANANDA TERUNNANSE of Warakapitiya.

*Defendant.*

10

This 27th day of April, 1956.

The amended answer of the defendant abovenamed appearing by his Proctor Sepala Samarasinghe states as follows:—

1. This defendant admits that the parties to this action reside within the jurisdiction of this Court and denies the other averments in paragraph one of the plaint.

2. This defendant denies that the plaintiff is the rightful Incumbent of the Sudassanarama Temple and therefore denies the plaintiff's right to maintain this action. This defendant also denies that the plaintiff is a  
20 pupil of Meeruppe Gunananda.

3. This defendant denies that he is in possession of a land called Pehimbiyagodaduwa and kumbura alias Hirikotuveduwa and also denies that the said lands are bounded by the boundaries given in the plaint.

4. This defendant denies that the title deeds shewn in plaintiff's pedigree gave the plaintiff title to the land within the boundaries mentioned in paragraph 2 of the plaint.

5. This defendant denies the averments contained in paragraphs 3, 4, 5 and 6 of the plaint.

6. Further answering this defendant states that he is in possession of  
30 a field called Kekilladuwaaddara also belonging to the said Sudassanarama Temple. Between the years 1942 and 1944 this defendant constructed an 'avasa' and a hall (dharmasalawa) and this defendant is resident in and maintaining the said buildings.

7. The income derived from Kekilladuwaaddara for the year 1954 was utilized by this defendant for the maintenance of the said buildings and the maintenance of himself and his pupil Lalpe Atadassa.

No. 7  
Amended Answer  
of the Defendant—  
27-4-56  
—Continued.

8. Without prejudice to the plea of this defendant that the plaintiff does not have the status to maintain this action, this defendant claims a sum of rupees two hundred (Rs. 200/-) from the income of the Sudassanarama Temple for the maintenance of the defendant and his pupil in the event of the income of Kekilladuwaaddara be ordered to be given to the Sudassanarama Temple.

9. This defendant is a pupil of both Akurugoda Sudassi and Meeruppe Gunananda and as such is entitled to be maintained by the income of the Sudassanarama Temple.

WHEREFORE this defendant prays :—

10

1. That the plaintiff's action be dismissed ;
2. That in the event of the income of the land mentioned in paragraph 6 be ordered to be handed over to the Sudassanarama Temple, the Court be pleased to order a sum of rupees two hundred (Rs. 200/-) for the maintenance of this defendant and his pupil from the income of the Sudassanarama Temple.
3. For costs ; and
4. For such other and further relief as to this Court shall seem meet.

(Sgd.) S. SAMARASINGHE,  
*Proctor for Defendant.* 20

Settled by :

R. H. E. DE SILVA, ESQR.,  
*Advocate.*

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No. 8

Amended Answer of the Defendant

IN THE DISTRICT COURT OF MATARA

MEERUPPE SUMANATISSA TERUNNANSE, Chief Incumbent of Sudassanarama Temple, Welihinda.

*Plaintiff.*

No. L. 289

*Vs.*

30

WARAKAPITIYE SANGANANDA TERUNNANSE of  
Warakapitiya.

*Defendant.*

This 18th day of January, 1957.

The amended answer of the defendant abovenamed appearing by his Proctor Sepala Samarasinghe states as follows :—

1. This defendant admits that the parties to this action reside within the jurisdiction of this Court and denies the other averments in paragraph one of the plaint.

2. This defendant denies that the plaintiff is the rightful Incumbent of the Sudassanarama Temple and therefore denies the plaintiff's right to maintain this action. This defendant also denies that the plaintiff is a pupil of Meeruppe Gunananda.

No. 8  
Amended Answer  
of the Defendant—  
18-1-57  
—Continued.

3. This defendant denies that he is in possession of the land called Pehimbiyagodaduwa and kumbura alias Hirikotuveduwa and further denies that the boundaries set out in paragraph 2 of the amended plaint apply to the land called Pehimbiyagodaduwa and kumbura alias Hirikotuveduwa named therein.

10 4. This defendant denies that the title deeds shown in plaintiff's pedigree gave the plaintiff title to the land within the boundaries mentioned in paragraph 2 of the plaint.

5. This defendant denies the averments contained in paragraphs 3, 4, 5 and 6 of the plaint.

6. By way of further answering this defendant denies that any conditions set out in paragraph 3 (d) could have effect in law. This defendant specifically denies that the plaintiff became entitled in law to function as Viharadhipathi of any of the temples enumerated in paragraph 3 (a).

20 7. The plaintiff has not set out of what temple he is the Viharadhipathi in paragraph 3 (e) and the averment in paragraph 3(e) therefore is vague.

8. This defendant states that the deed No. 2038 of 26.12.1930 referred to in paragraph 3(b) is void and of no effect in law.

9. This defendant also denies the averments in paragraph 3(i) and denies any acts of abandonment by the late Gunananda Thero.

10. This defendant denies that the plaintiff or any Buddhist priest can acquire a prescriptive title to a Buddhist temple as claimed by plaintiff.

11. This defendant states that he is the pupil of the late Gunananda Thero referred to in the plaint and as such is the priest entitled to claim to be the Chief Incumbent of all the temples referred to in paragraph 3 of the amended plaint in preference to the plaintiff who is not a pupil of the said Gunananda Thero.

12. Further answering this defendant states that he is in possession of a field called Kekilladuwaaddara also belonging to the said Sudassanarama Temple. Between the years 1942 and 1944 this defendant constructed an 'avasa' and a hall (dharmaśalawa) and this defendant is resident in and maintaining the said buildings.

13. The income derived from Kekilladuwaaddara for the year 1954 was utilized by this defendant for the maintenance of the said buildings and the maintenance of himself and his pupil Lalpe Attadassa.

40 14. Without prejudice to the several pleas and claims set out herein by this defendant, this defendant states that he has always utilized all income derived from the land Kekilladuwaaddara for the construction, maintenance and improvement of the said 'avasa' and buildings referred

No. 8  
Amended Answer  
of the Defendant—  
18-1-57  
—Continued.

to in the previous paragraph and has not misused any of the income from the said land named in this answer for any unlawful purpose. The plaintiff therefore has no claim against this defendant and consequently no cause of action.

15. This defendant is also entitled to be maintained as a Bhikku from the income of the lands and fields which are appurtenant to the temples mentioned in paragraph 3 of the amended plaint.

16. This defendant is a pupil of both Akurugoda Sudassi and Meeruppe Gunananda and as such is entitled to be maintained by the income of the Sudassanarama Temple. 10

17. This defendant denies the averments in paragraphs 7 and 8 of the amended plaint. By way of further answering this defendant states that this defendant only agreed to give a part of the income of the field referred to in this answer to the plaintiff as he is in the pupillary line from the original Incumbent of the four temples referred to and to avoid litigation.

18. This defendant denies all averments in the amended plaint in consistent with the several averments set out herein.

19. This defendant states that he is in any event entitled to utilize the income from the land he is lawfully occupying for the maintenance 20 of himself and his pupil and for the purposes aforementioned.

20. The succession to the Incumbency of the temples in dispute is governed by the rule known as 'Sisyanu Sisya' — Rule of Succession.

21. This defendant further pleads that the plaintiff cannot proceed with this action without a plan for the land he claims as obnoxious to Section 41 of the Civil Procedure Code.

WHEREFORE this defendant prays :—

- (a) That the plaintiff's action be dismissed with costs ;
- (b) That the defendant be declared entitled to utilize the income from the land set out herein for the purposes set out in this answer. 30
- (c) That the defendant be declared entitled to be maintained from the income of the lands and fields belonging to the temples set out in paragraph 3 of the amended plaint ;
- (d) for costs and
- (e) For such other and further relief as to this Court shall seem meet.

(Sgd.) S. SAMARASINGHE,  
*Proctor for Defendant.*

Settled by :  
D. PANDITHA GUNAWARDENA, ESQR.,  
*Advocate.*

**Amended Answer of the Defendant****IN THE DISTRICT COURT OF MATARA**

**MEERUPPE SUMANATISSA TERUNNANSE**, Chief Incumbent of Sudassanarama Temple, Welihinda.

*Plaintiff.*

No. L. 289

*Vs.*

**WARAKAPITIYE SANGANANDA TERUNNANSE** of Warakapitiya.

*Defendant.*

10

This 21st day of February, 1957.

The amended answer of the defendant abovenamed appearing by his Proctor Sepala Samarasinghe states as follows :—

1. This defendant admits that the parties to this action reside within the jurisdiction of this Court and denies the other averments in paragraph one of the amended plaint.

2. This defendant denies that the plaintiff is the rightful Incumbent of the Sudassanarama Temple and also denies the plaintiff's right to maintain this action. This defendant also denies that the plaintiff is a pupil  
20 of Meeruppe Gunananda.

3. This defendant denies that he is in possession of the land called Pehimbiyagodaduwa and kumbura alias Hirikotuveduwa and further denies that the boundaries set out in paragraph 2 of the amended plaint apply to the land called Pehimbiyagodaduwa and kumbura alias Hirikotuveduwa named therein.

4. This defendant denies that the title deeds shown in plaintiff's pedigree gave the plaintiff title to the land within the boundaries mentioned in paragraph 2 of the amended plaint.

5. This defendant denies the averments contained in paragraphs  
30 3, 4, 5 and 6 of the amended plaint.

6. By way of further answering this defendant denies that any conditions set out in paragraph 3(d) could have effect in law. This defendant specifically denies that the plaintiff became entitled in law to function as Viharadhipathi of any of the temples enumerated in paragraph 3(a) of the amended plaint.

7. The plaintiff has not set out of what temple he is the Viharadhipathi in paragraph 3(e) of the amended plaint and the averment in paragraph 3(e) therefore is vague.

No. 9  
Amended Answer  
of the Defendant—  
21-2-57  
—Continued.

8. This defendant states that the deed No. 2038 of 26-12-1930 referred to in paragraph 3(d) of the amended plaintiff is void and of no effect in law.

9. This defendant also denies the averments in paragraph 3(i) of the amended plaintiff and denies any acts of abandonment by the late Gunananda Thero.

10. This defendant denies that the plaintiff or any Buddhist priest can acquire a prescriptive title to a Buddhist temple as claimed by plaintiff.

11. This defendant states that he is the pupil of the late Gunananda Thero referred to in the plaintiff and amended plaintiff and as such is the priest entitled to claim to be the Chief Incumbent of all the temples referred to in paragraph 3 of the amended plaintiff in preference to the plaintiff who is not a pupil of the said Gunananda Thero. 10

12. Further answering this defendant states that he is in possession of a field called Kekilladuwaaddara alias Mahapittaniya. Between the years 1942 and 1944 this defendant constructed an 'avasa' and a hall (dharmaśāla) and this defendant is resident in and maintaining the said buildings as the Controlling Viharadhipathi thereof.

13. The income derived from Kekilladuwaaddara alias Mahapittaniya for the year 1954 was utilized by this defendant for the maintenance of the said buildings and the maintenance of himself and his pupil Lalpe Attadassa. 20

14. Without prejudice to the several pleas and claims set out herein by this defendant this defendant states that he has always utilized all income derived from the land Kekilladuwaaddara alias Mahapittaniya for the construction, maintenance and improvement of the said 'avasa' and buildings referred to in the previous paragraph and has not misused any of the income from the said land named in this answer for any unlawful purpose. The plaintiff therefore has no claim against this defendant and also no cause of action.

15. This defendant is also entitled to be maintained as a Bhikku from the income of the lands and fields which are appurtenant to the temples mentioned in paragraph 3 of the amended plaintiff. 30

16. This defendant is a pupil of both Akurugoda Sudassi and Meeruppe Gunananda and as such is entitled to be maintained by the income of the Sudassanarama Temple.

17. This defendant denies the averments in paragraphs 7 and 8 of the amended plaintiff. By way of further answer, this defendant states that this defendant only agreed to give a part of the income of the field referred to in this answer to the plaintiff as he is in the pupillary line from the original Incumbent of the four temples referred to and to avoid litigation and without prejudice to his rights. 40

18. This defendant denies all averments in the amended plaint inconsistent with the several averments set out herein.

No. 9  
Amended Answer  
of the Defendant—  
21-2-57  
—Continued.

19. This defendant states that he is in any event entitled to utilize the income from the land he is lawfully occupying for the maintenance of himself and his pupil and for the purposes aforementioned.

20. The succession to the Incumbency of the temples in dispute is governed by the rule known as 'Sisyanu Sisya Paramparawa' — Rule of Succession.

21. This defendant further pleads that the plaintiff cannot proceed<sup>10</sup> with this action without a plan for the land he claims as obnoxious to Section 41 of the Civil Procedure Code.

22. This defendant states that he with the aid of the dayakayas has put up buildings worth over Rs. 12,500/- and other improvements totalling altogether about Rs. 15,000/- as the *bona fide* owner of the property and as such *bona fide* improver is entitled to claim the sum of Rs. 15,000/- in the event of the plaintiff being declared entitled to the land in question.

23. This defendant further pleads that he is entitled to retain possession of the premises in any event until such amount is paid to this defendant.

24. This defendant further pleads that he has been functioning as<sup>20</sup> the Controlling Viharadhipathi of the 'avasa' referred to in paragraph 12 hereof which has been a Buddhist temple founded and maintained by him from the period referred to in the said paragraph 12 hereof and plaintiff's cause of action, if any, is prescribed in law.

WHEREFORE this defendant prays :

- (a) That the plaintiff's action be dismissed with costs,
- (b) That the defendant be declared entitled to utilize the income from the land set out herein for the purposes set out in this Answer ;
- (c) That the defendant be declared entitled to be maintained from the income of the lands and fields belonging to the temples set out in paragraph 3 of the amended plaint.<sup>30</sup>
- (d) That this defendant be declared the Viharadhipathi of the Buddhist temple called the 'avasa' referred to in paragraph 12 hereof ;
- (e) That in the event of the plaintiff being declared the owner of the land in question this defendant be declared entitled to receive the sum of Rs. 15,000/- or such other sum as Court may determine as compensation as a *bona fide* improver and to retain possession of the premises till such compensation is paid to this defendant.



No. 9  
Amended Answer  
of the Defendant—  
21-2-57  
—Continued.

(f) for costs and

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

(Sgd.) S. SAMARASINGHE,  
*Proctor for Defendant.*

Settled by :

D. H. PANDITHA GUNAWARDENA, ESQR.,  
*Advocate.*

No. 10  
Issues Framed

No. 10

Issues Framed

20-9-1957. 10

MR. ADVOCATE KARUNARATNE instructed for the plaintiff.

MR. ADVOCATE PANDITHA GUNAWARDENA with MR. ADVOCATE  
R. H. E. DE SILVA instructed for the defendant.

Parties present.

It is admitted that Akurugoda Sudassi Terunnanse was at one time the Viharadhipathi of this temple among other temples. It is also admitted that his pupils were Gunananda, Sumanatissa — the plaintiff — Pemasiri, Somaratana and several other junior priests. It is also admitted that the succession to the temple in question is governed by the rule known as Sisyanu Sisy Paramparawa.

20

Mr. Advocate Karunaratne raises the following issues :—

- (1) Did Sudassi Terunnanse appoint Rev. Gunananda the Viharadhipathi on Deed No. 6654 of 29-10-1928 of the four temples mentioned therein inclusive of Welihinda Sudassanaramaya subject to the conditions mentioned therein ?
- (2) In pursuance of the conditions mentioned in Deed No. 6654 of 1928 did Rev. Gunananda appoint the plaintiff Sumanatissa Unnanse his co-pupil as the Viharadhipathi from 26-12-1930 on Deed No. 2038 of 26-12-30 ?
- (3) Did Rev. Gunananda waive, abandon and surrender his rights to the Viharadhipathiship of Welihinda Sudassanaramaya as from 26-10-1930 or at any time ?
- (4) Is the plaintiff entitled to the Viharadhipathiship of Welihinda Sudassanaramaya if issues 2 and 3 and 2 or 3 are answered in the affirmative ?

(5) Did the plaintiff officiate, act and function as the Viharadhipathi of the said temple from 26-12-1930 and as such is he entitled to maintain this action? No. 10  
Issues Framed  
—Continued.

(6) Is the claim of the defendant, if any, prescribed by the provisions of the Prescription Ordinance?

(7) Is the defendant living on the premises referred to in para. 2 of the amended plaintiff with the plaintiff's permission?

(8) Were the premises referred to in para. 2 of the amended plaintiff entrusted to the care of the defendant in or about the year 1942, and did the defendant give the produce of the entire premises to the plaintiff in March, 1954?

(9) Is the defendant in wrongful possession of the premises referred to in para. 2 of the amended plaintiff since March, 1954?

(Damages agreed as Rs. 500/- an year).

(10) Is the land described in the amended plaintiff a part of the temporalities belonging to the Welihinda Sudassanarama Temple?

Mr. Advocate Panditha Gunawardena says that the direct issue that arises in this case is whether the plaintiff is entitled to the premises described in the schedule to the plaintiff as well as the amended plaintiff as the Viharadhipathi of Welihinda Sudassanaramaya on the title pleaded or set out in the amended plaintiff.

Mr. Advocate Panditha Gunawardena suggests :—

(11) Is the plaintiff entitled to the premises described in para. 2 of the amended plaintiff on the title pleaded by him?

He objects to the words "or at any time" in Issue 3. This issue is now altered to read :

(3a) Did Rev. Gunananda waive, abandon and surrender his rights to the Viharadhipathiship of Welihinda Sudassanaramaya as from 26-10-1930 or thereabouts?

(12) Is the defendant in possession of the land called Pehimbiyagoda duwa and kumbura alias Hirikotuveduwa?

(13) Do the boundaries set out in para. 2 of the amended plaintiff apply to the land called Pehimbiyagoda duwa and kumbura alias Hirikotuveduwa?

(14) Do the title deeds referred to in the pedigree filed with the plaintiff give the plaintiff title to the land claimed by him?

- (15) If any one of the issues Nos. 12 — 14 is answered against the plaintiff, can the plaintiff maintain this action ?
- (16) Do the conditions mentioned in Deed No. 6654 of 29-10-1928 referred to in para. 3(d) of the amended plaint and in Issue No. 1 raised on behalf of the plaintiff, have any force or effect in law ?
- (17) Is Deed No. 2038 of 26-12-1930 referred to in para. 8 of the amended answer void and of no force or avail in law ?
- (18) If either of Issues 16 or 17 is answered against the plaintiff, can the plaintiff maintain this action ?
- (19) If Issue No. 3 raised on behalf of the plaintiff is answered in the 10 negative, can the plaintiff maintain this action ?
- (20) Is the defendant entitled to claim the incumbency in question as a pupil of Gunananda Thero referred to in preference to the claim made by the plaintiff ?
- (21) Is the defendant in possession of the field called Kekilladuwaaddara *alias* Mahapittaniya as referred to in para. 12 of the amended answer ?
- (22) Has the defendant constructed an 'awasa' in the said land Kekilladuwaaddara *alias* Mahapittaniya.
- (23) Has the defendant been resident in and maintaining the buildings 20 standing on the said land Kekilladuwaaddara as its Viharadhipathi ?
- (24) If any one of the Issues Nos. 21, 22 or 23 is answered in the affirmative, has the plaintiff any claim against the defendant ?
- (25) Was the income derived from the land Kekilladuwaaddara utilised by the defendant for the maintenance of the 'awasa' referred to and of himself and his pupil Attadassa as set out in paras. 13, 14 and 19 of the amended answer ?
- (26) If Issue No. 25 is answered in the affirmative, has the plaintiff any cause of action against the defendant ? 30
- (27) Is the defendant a pupil both of Akurugoda Sudassi and Meeruppe Gunananda ?
- (28) If so is the defendant, in any event, entitled to be maintained on the lands and fields appurtenant to the temples mentioned in para. 3(a) of the amended plaint ?

- (29) Did the defendant only agree to give a part of the income of the field referred to in the answer as the plaintiff was in pupillary line from the original Incumbent of the temples referred to in the said para. 3 of the amended plaint? No. 10  
Issues Framed  
—Continued.
- (30) Has the defendant put up buildings and effected other improvements as set out in para. 22 of the amended answer?
- (31) If so, is the defendant entitled, in any event, to retain possession of the premises and improvements he has effected until compensation is paid?
- 10 (32) If Issues Nos. 30 and 31 are answered in the affirmative, what amount is due to the defendant as compensation?
- (33) Is the 'awasa' built by the defendant on Kekilladuwaaddara *alias* Mahapittaniya a Buddhist temple within the meaning of 'temple' in Buddhist Temporalities Ordinance?
- (34) If so, was the said temple founded by the defendant about 12 years ago as averred to in the amended answer?
- (35) Has the defendant functioned as its Viharadhipathi for about 12 years?
- (36) If so, is the plaintiff's cause of action, if any, prescribed in law?
- 20 (37) Can the plaintiff proceed with this action without a proper plan by reason of the provisions of Section 41 of the Civil Procedure Code?

Mr. Advocate Karunaratne says this land is easily identifiable without any plan and his boundaries are quite sufficient to identify this land.

He further suggests:—

- (3b) Did the plaintiff as the next senior pupil of Akurugoda Sudassi Terunnanse become entitled to the Viharadhipathship of Welihinda Sudassanarama Temple?

I accept the above issues and the parties go to trial on them.

(Sgd.) N. EDIRISINGHE,  
District Judge.  
20-9-57.

(See further Issues Nos. 38 & 39 on page 44)

## Plaintiff's Evidence

## Plaintiff's Case :

## Mr. Advocate Karunaratne calls :

**Meeruppe Sumanatissa Thero** : Affirmed. 65, Buddhist Priest, Sudassanaramaya, Welihinda. I am the plaintiff.

I am the Viharadhipathi of Welihinda Sudassanaramaya Temple.

**Q.** When did you become the Viharadhipathi, from what year ?

**A.** In the year 1930.

**Q.** Have you functioned as the Viharadhipathi from that time ? 10

**A.** Yes.

I know the land which is the subject matter of this case. It is called Hirikotuveduwa *alias* Pehimbiyagodaduwa and inside this land there are several lots. They are all in one block. I know the boundaries of this land — on the North by Wekandiya *alias* Heendeniya, to the East Pehimbiyagodaduwa ; to the South Pehimbiyagodaduwa and to the West Tekkawatta and Ratkeretotta.

To COURT :

There are about 18 acres in this land.

I know the lands which I mentioned as the boundaries of this land. 20 Inside these four boundaries is the land the subject matter of this action. Pehimbiyagoda and Hirikotuveduwa are fields and highlands. The fields are being cultivated. There are about ten bags paddy sowing extent from the fields and the rest are highland. The plantations in the highland are coconut, jak, cinnamon and vegetables are also planted. This land belongs to the Sudassanaramaya Temple, Welihinda.

**Q.** BY COURT : In what village is this situated ?

**A.** At Warakapitiya.

Warakapitiya is about a mile away from the Welihinda Temple. I got the produce of this land from the time I became the Viharadhipathi 30 of this temple.

**Q.** When did the dispute arise for the first time ?

**A.** In 1953.

The defendant is residing on a part of the land at present.

Q. What year did the defendant go into residence to this land ?

A. In the year 1942.

No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
Thero—  
Examination  
—Continued.

TO COURT :

I sent the defendant into residence. Before that the defendant was at Lalpe temple called Lalpe Sudarmaramaya.

From Lalpe Sudarmaramaya the defendant came to this land. The defendant was studying and was staying at Matara. I was taking the produce and the income of this land from 1930.

Q. Then in 1942 how did the defendant come to this land ?

10 A. The defendant came and told me that he wanted to put up an 'awasa' on this land. Then I agreed and gave him permission and from that time the defendant is residing here.

Q. From 1942 after the defendant took up residence did you get the income of this property ?

A. Yes.

Q. After the defendant took up residence who was looking after this property ?

A. I had leased this property out on deeds. The lessees paid me the rent.

20 Q. Was the defendant at any time getting the fields cultivated ?

A. Yes, as the defendant-priest did not like this property to be leased out to outsiders I gave the premises to be looked after by him. The defendant gave me the income of the properties.

Q. Did the defendant render accounts to you regarding the income of these premises ?

A. Yes.

(Shown writing dated 11-8-1950 to the witness) :

This is in the handwriting of the defendant. These are the accounts regarding the field portion of this land. The defendant has made an account  
30 of the paraveni share that he got from the field portion. (Mr. Advocate Karunaratne produces this marked P1). The defendant gave me this paraveni share mentioned in (P1). Sometimes the defendant used to send me the paddy and sometimes he used to give me the money. (Shown writing dated 31-1-1951 — P2) : This is in the handwriting of the defendant. These are the accounts of the fields that were worked this year and shows the share that I was entitled to. The defendant used to prepare the accounts and send them to me. (Shown letter dated ..... 1952

No. 11  
Plaintiff's  
Evidence  
—  
Evidence of  
M. Sumanatissa  
There—  
Examination  
—Continued.

showing the accounts of the Maha season P3): The accounts written on the top arc in the handwriting of the defendant. These are the accounts with regard to the paddy field section of the subject matter. I got the produce from this field. (Shown writing dated 12-8-1952 — P4): This is in the handwriting of the defendant. These are the accounts written by the defendant. (Shown writing dated 1-2-1950 — P5): These are also accounts prepared by the defendant in his own handwriting. In this letter he has referred to monies he has given to me — in 1947 — Rs. 450/- ; Rs. 450/- in 1948 and Rs. 300/- in 1949. This is in respect of the subject matter of this action. This money was paid in respect of the fields alone 10 and not the highland.

Q. What happened to the produce of the highland ?

A. I have allowed the defendant to take the produce of the highland.

I also produce the accounts prepared by the defendant on 12-8-1948 (P6) : This is also in the defendant's handwriting. I got the money in respect of this field. I produce another list prepared by the defendant for the Maha crop of 1950 — P7. I also produce a list for the Maha crop of 1949 — P8. These are all in the handwriting of the defendant. He was giving the income after he took up residence there and then in 1953, he did not give me the income and I filed an action against him in the Magistrate's Court. I produce the plaint in M.C. Case No. 35526 dated 16-6-1954—P9. I was the complainant in that case and the defendant was the accused. I complained to Court that the defendant worked the field called Hirikotuveduwa at Warakapitiya and, misappropriated the Maha crop. That case came up for trial on 14-7-1954 and I gave evidence in that case. The accused was also present when I gave evidence. I said that the field Hirikotuveduwa belonged to the temple of which I was the Incumbent and that the accused had misappropriated the Maha crop. That case was compounded and the defendant gave security and I filed this civil action. The first dispute arose in 1953. Defendant did 20 not give me the produce of the harvest that was cut in February, 1953. Then I prosecuted the defendant in M.C. Case No. 30926. I produce the plaint in this case — P10. This plaint was dated 12-3-1953. I said that I entrusted the field to the accused, who is the defendant, called Hirikotuveduwa and that he had misappropriated the crop. The case was settled on 12-3-1953. There was a motion filed in that case on 26-3-1953 signed by me and the defendant to the effect that the money was paid to me and the accused was discharged. This motion was signed in the presence of Mr. Daluwatte.

Q. At that time did the defendant raise any dispute with regard to 40 the name of this land ?

A. No.

(Mr. Advocate Karunaratne produces the motion signed by both parties — P11): Akurugoda Sudassi Terunnanse was at one time the Viharadhipathi of this temple.

Q. BY COURT : Where was Akurugoda Sudassi residing ?

A. At Welihinda Sudassanaramaya.

Akurugoda Sudassi was the Viharadhipathi of this temple and three other temples *viz.*, Lalpe Sudarmaramaya, Akurugoda Nagarukkaramaya and Warakapitiye Tribhumikaramaya.

Akurugoda Sudassi had a number of pupils. Their names in order of seniority are : Gunananda, Sumanatissa *i.e.* myself, Pemasiri, Somaratana, Indasara and several other pupils. There were about five pupils.

Q. Where was Rev. Gunananda residing ?

10 A. At Lalpe Sudarmaramaya.

Q. Was he residing at Lalpe Sudarmaramaya during the lifetime of Sudassi ?

A. Yes. He was residing here during the lifetime of Sudassi.

I was residing at Welihinda Sudassanaramaya of which I am claiming the Viharadhipathiship. At the time Sudassi was living, Pemasiri was residing at Welihinda as well as at Lalpe. Akurugoda Sudassi by Deed No. 6654 of 1928 — P12 — appointed Gunananda Thero as the Viharadhipathi of all four temples. The names of the four temples are given in (P12).  
 20 In any event if there was no appointment, Gunananda would have become as the senior pupil the Incumbent of this temple. In (P12) there are certain conditions laid down and I draw the attention of Court to them. I say that I was the next in point of seniority to Gunananda, both of us being the pupils of Sudassi.

Q. Where was Gunananda living at the time this appointment was made ?

A. At Lalpe.

Gunananda died in the year 1944.

Q. Between 1928 and up to 1944, did Gunananda reside anywhere else except at Lalpe ?

30 A. No.

Q. Did Gunananda reside at Welihinda Sudassanaramaya at any time ?

A. No.

The Lalpe Temple is at Hakmana and it is about 30 miles from here to Welihinda Sudassanaramaya.



No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
Thero—  
Examination  
—Continued.

Q. After Gunananda was appointed the Viharadhipathi, did he exercise his rights to Welihinda Sudassanaramaya?

A. He exercised his rights but he was not residing here. Gunananda handed over the management to us saying that he was unable to handle these affairs.

Q. Why could he not exercise the rights in this temple at any time?

A. The Lalpe temple was also a big temple with a large income.

TO COURT :

Gunananda was having his own duties to perform there at Lalpe Temple and it was not convenient for him to live at Welihinda 10  
Sudassanaramaya and, therefore, he gave up this temple.

Rev. Gunananda executed a deed. When Gunananda abandoned that temple, I was residing at Welihinda Sudassanaramaya. Then Gunananda executed Deed No. 2038 of 1930 — P13. By P13 Gunananda appointed me as the Viharadhipathi. Gunananda abandoned the management of this temple because it was inconvenient and a deed was executed in my favour appointing me the Viharadhipathi. These two things took place about the same time.

Q. From that time who has been functioning as the Viharadhipathi of this temple? 20

A. I continued to be the Viharadhipathi of the temple in dispute.

I have given leases of the lands belonging to the temple as the Viharadhipathi. I produce Lease Bond No. 16527 of 21-1-1938 — P14 — I point out to Court that I have leased some of the lands belonging to this temple as the Viharadhipathi. I also produce Deed of Lease No. 16485 of 7-1-1938 — P15. In this I have described myself as the Viharadhipathi of Welihinda Sudassanarama temple. I also produce Lease Bond No. 18292 of 15-1-1942 — P16. I draw the attention of Court that I have described myself in this as the Viharadhipathi of Welihinda Sudassanaramaya. I also produce deed of lease No. 2052 of 1946 — P17 — I point out to Court that 30  
I have described myself here as the Viharadhipathi of this temple. On (P17) I have leased out the entire subject matter.

Further trial and examination-in-chief to be continued for 13-12-1957.

(Sgd.) N. EDIRISINGHE,  
District Judge.  
20-9-57.

Same appearances as on the last date of trial.

Parties present.

### Further Trial

**Examination-in-Chief** continued :

Mr. Advocate Karunaratne calls :

**Meeruppe Sumanatissa Thero** :—Affirmed—Recalled.

(P16) is the lease bond on which I leased the subject matter to one Don Juwanis Appuhamy. I have described myself as the Viharadhipathi of Welihinda Sudassanarama Temple and the land that I leased is Land No. 2 in this deed. The boundaries given in the deed of lease are the same as given by me in the plaint and the extent is also the same. (P17) which I have already produced is also a lease where I have described myself as the Viharadhipathi of Welihinda Sudassanarama Temple and I have leased the subject matter. The subject matter has been described as Pehimbiyagodaduwa and the boundaries are same as given by me in the plaint. The defendant wrote letters to me. (Shown envelope with the date 28-9-1953 appearing in the date stamp which is produced marked P18): The writing of the superscription is that of the defendant and addressed to me. I have been addressed on the envelope as the Viharadhipathi of Sudassanaramaya. Somewhere in 1935 or 1936 there was a dispute raised by another priest. In connection with that dispute I brought an action D.C. Matara Case No. 8777. This case went up in appeal and I was declared to be Viharadhipathi of that temple. (I produce the Decree in that case of the Supreme Court marked P19): I also produce the Decree — P20 — entered in D.C. Matara Case No. 14009 where I was the plaintiff for the partition of a land as the Chief Incumbent of Welihinda Sudassanarama Temple. This was in March 1943. I have a book in the temple regarding the lands of the temple which I have leased out and have dealt with. The leases given regarding the subject matter also have been entered in this book. This land was purchased by one Talpe Sumangala on two deeds — Deed No. 5427 of 1817 (which is produced by Mr. Karunaratne and marked P21).

Mr. Panditha Gunawardena objects to the production of this document because it has not been pleaded.

I allow this document to go in.

*Continued*: Dhammananda Thero was the Viharadhipathi of this temple at one time and he was succeeded by Talpe Sumangala who bought other rights in this land on Deed No. 4652 of 1942 — P22 — Talpe Sumangala was succeeded by Atureliye Sidhartha and he was succeeded by Atanikita Sumangala who was succeeded by Akurugoda Sudassi who was succeeded by Meeruppe Gunananda. I became the Viharadhipathi of this temple

No. 11  
Plaintiff's  
Evidence  
—  
Evidence of  
M. Sumanatissa  
There—  
Examination  
—Continued.

after Gunananda. Gunananda gave it up as he was unable to administer the properties. In Case No. 8777, Meeruppe Gunananda gave evidence. I produce a certified copy of the evidence of Meeruppe Gunananda marked (P23).

(Mr. Advocate Panditha Gunawardena objects to the production of this document. Mr. Advocate Karunaratne says he is producing this under Section 32(3).

I allow this passage to go in because it says he has appointed him and it is definitely against his proprietary interests).

*Continued*: I also produce Deed No. 2350 of 11-1-1936 — P24 — by 10 which Meeruppe Gunananda has bought certain properties and his residence is given as Kandewatte Vihare, Lalpe. I have stated earlier the year on which the defendant came on to this land. This was in the year 1942. The defendant priest asked my permission to improve the land and reside there as it was in an abandoned state. Therefore, I gave the defendant permission to reside on the land. Before the defendant came on to this land I was taking the produce of this land and was in possession of the entire land. Before the defendant came — I had been possessing this land since 20 the time I was an Adikari *i.e.* from the year 1930. I used to get the crop from the paddy fields and I used to take the produce of the coconuts and the cinnamon. The year that the defendant came to reside on this land, I had given a lease of this land on (P16) and the following year too I had leased it out. In 1946 also I had leased this property on (P17). The defendant said that he would take the produce for himself and show me the accounts and give me the income and he asked me not to give the leases to outsiders. Therefore, I did not lease it out to outsiders. I asked the defendant to look after the property and asked him to give me the income. Then the defendant was looking after the property and giving me the income till 1953. The dispute arose in 1953, when the defendant started to appropriate the 30 income for himself.

Mr. Advocate Karunaratne suggests at this stage :

- (38) Has the defendant entered the premises described in para. 2 of the plaintiff with the leave and licence of the plaintiff ?
- (39) Is the defendant estopped from denying the rights of the plaintiff to the said premises ?

Mr. Panditha Gunawardena has no objection to these issues but, he says, that the mere entering of a land by leave and licence does not create an estoppel, even if admitted.

(Adjourned for Lunch).

(Resumed after lunch) :

When I handed over the land to the defendant there were no buildings on the land. A 7 cubits thatched house was put up on the land. The defendant went into occupation of this house. The defendant got the 40

materials for this house from the Welihinda Temple, *i.e.* my temple. Then the defendant put up a hall and abandoned the 7 cubits house. This is still standing on the land. I know the land adjoining this portion where this Salawa has been put up. The defendant got it from the Crown. This was Crown land. The defendant has put up a residing house, latrine, well, Vihare and a Salawa. All the buildings necessary for a temple have been put on the adjoining land.

No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
Thero—  
Examination  
—Continued.

TO COURT :

10 The Judge inspected these buildings in the presence of the plaintiff and the defendant.

The defendant is now residing in this land. The defendant sleeps and resides here. I know the priest called Saddananda Thero who is a pupil of Rev. Gunananda. The senior pupil of Gunananda Thero is Rev. Saddananda. Saddananda Thero is living in the Welihinda Temple where I am residing. Saddananda Thero is not claiming the Viharadhipathiship of any temple. I said that Revd. Gunananda was residing at Lalpe in Kandewatte Vihare. The Viharadhipathi of Kandewatte Vihare was Gunananda Thero.

**Cross-examination by Mr. Advocate Panditha Gunawardena :**

Evidence of  
M. Sumanatissa  
Thero—  
Cross-examination.

20 I said that Gunananda Thero was not the Viharadhipathi of Welihinda Temple but of Lalpe Temple. An Adikari deed was written in Gunananda's favour for two years but he was not residing at Welihinda Temple. He was not residing permanently at Welihinda Temple. The deed was written in the year 1928 and it was turned in my favour in 1930.

Q. Did Gunananda Thero function as the Viharadhipathi of Welihinda Temple at any time ?

A. He was not residing permanently there. He did function as the Viharadhipathi because on some days he used to come to Welihinda Temple and investigate the affairs there.

30 Q. You also admit that to be a Viharadhipathi it does not necessarily mean that one should reside there ?

A. It is not possible to function as a Viharadhipathi without residing in a place. A Viharadhipathi can function even if he does not reside in a particular temple. According to me, I am residing at Welihinda Temple and I do not claim to be the Viharadhipathi of any other temples.

Q. You are not claiming to be the Viharadhipathi of any other temple except the Welihinda Temple ?

A. No.

No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
— *Continued.*

Q. The succession to the Viharadhipathiship of Welihinda Temple of which you claim to be the Viharadhipathi is according to the rule of Sisyanu Sisya Paramparawa ?

A. No. It has come according to the ' Wadimaha Paramparawa ' *i.e.* rule of seniority. Now the rule of succession to this temple is according to Sisyanu Sisya Paramparawa. According to the present rules it is by Sisyanu Sisya Paramparawa.

Q. Do you want to make out that the succession is going to be by the rule of Sisyanu Sisya Paramparawa after you ?

A. Yes. 10

Q. Do you want to make out that before you there was another rule of succession to this temple ?

A. Yes.

Q. How did this change occur ?

A. I do not know but in this place the succession has been according to the rule of seniority.

Q. How did this change from one rule to another take place ?

A. This change has been brought about by Government.

Q. This temple is governed by the rule known as Sisyanu Sisya Paramparawa ? 20

A. Formerly the succession was according to seniority. The deed written in favour of Revd. Gunananda by Sudassi is according to Sisyanu Sisya Paramparawa. From Sudassi the succession has been by the rule of Sisyanu Sisya Paramparawa. According to Sisyanu Sisya Paramparawa, the senior pupil of the Viharadhipathi will succeed.

Q. If there is no deed given by the Viharadhipathi to one of the pupils, the senior pupil will succeed ?

A. Yes.

Q. The Viharadhipathi can choose from among his pupils for his suc- 30  
cession ?

A. Yes.

Q. You are not a pupil of Gunananda ?

A. I was his pupil as well as a brother priest. It was he who taught me letters.

Q. You know by learning letters you do not become a pupil for purposes of succession ?

No. 11  
Plaintiff's  
Evidence

A. He taught me letters and it was he who robbed me.

Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
—Continued.

Q. By virtue of the fact that Gunananda taught you letters, you do not become a pupil for purposes of succession ?

A. No.

Q. You have never claimed to be the robbed pupil of Gunananda Thero at any time before now ?

A. I had no opportunities to state this.

10 Q. You had opportunities to state this in a case before this ?

A. I was not questioned about it.

Q. Even in this plaint you do not claim to be a pupil of Gunananda by robing or by ordination ?

A. No. I have not stated so.

Para. 3 (d) of the amended plaint is read out by Mr. Panditha Gunawardena. The witness admits the correctness of para. 3 (d).

Q. You are claiming, according to the plaint, as the next senior pupil of Gunananda Thero ?

A. Yes.

20 Q. You are not claiming the incumbency as a pupil of Gunananda Thero ?

A. I am not claiming the Viharadhipathiship only by virtue of a deed but also as the second pupil of Sudassi Terunnanse.

Q. These are the only two grounds on which you are basing your claim as the Viharadhipathi of this temple ?

A. Yes.

I sued Gunaratana Terunnanse of Welihinda Temple in the year 1933. (Mr. Advocate Panditha Gunawardena marks the plaint in D.C. Matara Case No. 8777 — D1) : (Para. 3 of D1 is read out) : I have stated that  
30 Akurugoda Sudassi was the Chief Incumbent of Welihinda Temple and that Sudassi died in 1928 leaving as his senior pupil Meeruppe Gunananda to whom Akurugoda Sudassi handed over the rights and by deed No. 2038 of 1930 Gunananda appointed me as the Viharadhipathi.

No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
—Continued.

- Q. If the claim on the deed fails, then you are not entitled to be the Viharadhipathi of this temple?
- A. Even if I fail on the deed, I would have succeeded according to seniority.

I have stated earlier that after Sudassi, the rule of succession was not according to seniority but according to Sisyanu Sisya Paramparawa. By virtue of this deed the succession has been rendered on the basis of Sisyanu Sisya Paramparawa. Prior to the execution of the deed, the rule of succession was according to seniority. I cannot say which rule of succession prevailed after Sudassi. The change took place because of the deed but according to the succession in force earlier, I was entitled to succeed. Both modes of succession are in existence at present. The mode of succession in this temple at present is not according to Sisyanu Sisya Paramparawa. I say that after this deed not only the rule of succession known as Sisyanu Sisya Paramparawa is operative but the other system also. I say that the succession to this temple is according to the rules of seniority as well as Sisyanu Sisya Paramparawa. I claim rights to this temple on both systems of succession. I was there looking after Gunananda Thero till 1904. I am a pupil of Sudassi and, therefore, I am entitled to succeed on the system of Sisyanu Sisya Paramparawa. Sudassi's senior pupil is Gunananda Thero and Gunananda's senior pupil was Saddananda Thero. I cannot remember the name of his next senior pupil. He had 7 or 8 pupils. His other pupils were Sangananda *i.e.* the defendant, Panghasekera, Indasara Thero and there are two other priests at Lalpe Temple. One priest is from Denegama and I do not know his name. There are other priests whose names I cannot recollect now. These are only the pupils of Gunananda Thero. If Gunananda's pupils can succeed, it is one of these priests who must succeed but not in respect of this land. If it is the rule of Sisyanu Sisya Paramparawa that operates, either the senior pupil or one of the pupils appointed must succeed out of those mentioned.

- Q. Do you now even admit that you are not a pupil of Gunananda Thero for the purpose of succession?
- A. I would not say that I am not a pupil of Gunananda because he has taught me.
- Q. You claim to be a pupil because, according to you, he has taught you letters?
- A. It was he who taught me, robed me and sent me to the Vidyodaya Pirivena. I do not say that he robed me but Gunananda Thero got me robed.
- Q. Are you claiming to be the Viharadhipathi as the robed or ordained pupil of Gunananda Thero?
- A. I do not say that Gunananda robed me and that I am the robed pupil of Gunananda or the ordained pupil but he helped me in various ways.

- Q. Are you claiming to be the successor of Gunananda because he has helped you in various ways apart from this deed ?
- A. Yes.
- Q. One of the grounds you claim to be the Viharadhipathi is the deed to which you refer to ?
- A. Yes.
- Q. The second ground you are claiming the Viharadhipathiship is because Gunananda has taught you and attended to various matters and requirements ?
- 10 A. Yes.

No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
— Continued.

These are the two grounds on which I am claiming the Viharadhipathiship. I have been in possession and I have improved the place. I am also claiming by prescriptive possession.

Q. Do you claim the Viharadhipathiship on any other ground ?

A. I claim as the second pupil of Sudassi Terunnanse because I have improved and looked after the temple.

Q. Anything else ?

20 A. That is the temple in which I was robed and my place of birth is in close proximity. I am a member of one of the Dayaka families and I am entitled on this ground too. I was looking after my tutor from 1906. It was I who attended to his funeral. My tutor was carrying on a 'Buddha Pujawa' from 1904 and I am carrying on the same ceremony. Whoever who attends to any administrative matters of this temple is also qualified to be the Viharadhipathi.

Q. On what further grounds do you claim to be the lawful Viharadhipathi of this temple ?

A. I got a decree of the Supreme Court also. This decree was against another priest, Gunaratana Thero.

30 Q. You are basing your claim on the Supreme Court decree and other grounds ?

A. Yes. Principally I am claiming on the decree of the Supreme Court. These are the only grounds on which I am basing my claim to the Viharadhipathiship. I am not claiming this on any other grounds.

Q. You do not claim to be the robed or ordained pupil of Gunananda Thero ?

A. No.



No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
— Continued.

Q. You said that the rule of succession for this temple is Sisyanu Sisya Paramparawa and also the seniority rule?

A. Yes.

Q. In case No. 8777 you did not claim according to what you call now, the seniority rule?

A. I did not claim according to the seniority rule. I do not know how it has been written in the English language in Case No. 8777. It has not been mentioned anywhere in the Tripitika about Sisyanu Sisya Paramparawa.

Q. Is there a rule of succession by seniority mentioned anywhere in the Vinaya, Tripitika or the Suluwaga?

A. There are places where it is referred to. It is given how Sangika property should be administered. I cannot remember whether the seniority rule as a rule of succession is referred to in the Suluwaga.

Q. You admit that with regard to the temples in the Low-country the prevailing rule is the rule of succession known as Sisyanu Sisya Paramparawa?

A. Yes, in the present time.

(The passage of the witness' evidence given on 6-9-1945 is marked 20 by Mr. Pandita Gunawardena as D2):

Q. As a matter of fact, Gunaratana Thero the defendant priest in that case claimed according to the rule of seniority?

A. Gunaratana Thero said that there was a Katikawa.

(Mr. Pandita Gunawardena marks the answer of Gunaratana Thero dated 8-11-1953 — D3): He reads out the answer (Witness says this is what he meant by the rule of succession by seniority.)

Q. You on the other hand, claimed in this case under the Sisyanu Sisya Paramparawa rule of succession?

A. As a pupil of the Adikari priest.

30

Q. You lost in the lower Court and succeeded in the Appeal Court?

A. Yes.

Q. You succeeded in that case in appeal because you claimed under the Sisyanu Sisya Paramparawa rule?

A. And by right of long possession.

(Mr. Advocate Pandita Gunawardena produces the S.C. judgment marked D4) :

No. 11  
Plaintiff's  
Evidence

Q. It is held in S.C. judgment that you succeeded because the rule of succession known as Sisyana Sisyā Paramparawa applies ?

Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
—Continued.

A. Yes.

I filed a plaint originally in this case and I attached a pedigree along with my plaint.

(Mr. Advocate Pandita Gunawardena produces the plaint and pedigree marked D5) :

<sup>10</sup> I say in the pedigree that Talpe Sumangala was a pupil of Denepitiye Dhammananda and that Talpe Sumangala's pupil was Atureliya Sidhartha whose successor Atanikita Sumangala and Sumangala's successor was Akurugoda Sudassi.

Q. What you have stated in the pedigree attached to your original plaint is all wrong ?

A. There were two pupils of Denepitiya Dhammananda living in the temple.

Q. In your original plaint you have put forward your claim as a pupil of Meeruppe Gunananda ?

<sup>20</sup> A. Yes.

Q. But you cannot claim either as the robed pupil or the ordained pupil of Gunananda ?

A. No.

Q. Atureliye Sidhartha was neither the robed nor ordained pupil of Sumangala ?

A. No.

Q. Then if this appears in the pedigree filed with your original plaint it is wrong ?

A. If so, it is wrong.

<sup>30</sup> Q. Was Sudassi a pupil of Atanikita Sumangala ?

A. No.

Q. Then if this also appears in the pedigree it is wrong ?

A. Yes.

No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
—Continued.

Q. You put forward your claim in the original plaint on the basis of pupil to pupil?

A. I have given the names of those priests who were the Viharadhipathis.

If the word pupil is there, then it is wrong. Talpe Sumangala and Atureliya Sidhartha are the pupils of Denepitiye Dhammananda. If in the pedigree it is stated from pupil to pupil, and, if by pupil it is referred to as the immediate pupil, it is wrong.

Q. You cannot claim on the basis of this succession as coming from pupil to pupil? 10

A. No.

Q. Do you say that Meeruppe Gunananda did not reside in the Welihinda Temple?

A. He was not residing during my time.

Q. To your knowledge, he never resided?

A. No.

Meeruppe Gunananda was the senior pupil of Akurugoda Sudassi. (Mr. Advocate Pandita Gunawardena moves to mark the declaration made under the Buddhist Temporalities Ordinance 19 of 1931 by Meeruppe Gunananda — D6): 20

Mr. Advocate Karunaratne objects.

I allow this document to go in because it is in the chain of title of the plaintiff.

(Sgd.) .....  
*District Judge.*  
13-12-57.

(Continued):

Q. You know that Meeruppe Gunananda has registered himself under the Bhikku Register as an Upasampada priest?

A. He became an Upasampada before the Buddhist Temporalities Ordinance. 30

I have sent my declaration. When Meeruppe Gunananda became an Upasampada, his declaration was written on an Ola leaf.

Q. Did you register under the Buddhist Temporalities Ordinance?

A. I did not register myself in 1931. We got our Upasampada 'situwa' from Kandy.

Q. What you state is that you did not register yourself as an Upasampada Bhikku in 1932 under the Buddhist Temporalities Ordinance ?

No. 11  
Plaintiff's  
Evidence

A. We did not send any papers.

Evidence of  
M. Sumanatissa  
Thero —

Q. You did not sign any form and send it for registration under Section 41 of the Buddhist Temporalities Ordinance ?

Cross-examination  
—Continued.

A. I sent this declaration.

Q. So you have registered yourself under the Buddhist Temporalities Ordinance ?

A. Yes.

<sup>10</sup> I do not know whether Meeruppe Gunananda also sent a declaration under the Buddhist Temporalities Ordinance.

Q. Do you know that Gunananda has given on the 25th of March, 1932, his permanent address and residence as Welihinda Sudassanarama Temple ?

A. It was in the year 1931 that the Buddhist Temporalities Ordinance was approved and before that he had transferred this property to me. He must have said that his original temple was Welihinda Sudassanaramaya.

(Shown D6) : Column 6 — Samanera's name is Meeruppe Gunananda.

<sup>20</sup> (Witness reads out D6) : I also sent a declaration of Upasampada to the Registrar.

There were cages and I filled up a form like this. From what I have read in (D6) it appears that this is the Bhikku Register of Meeruppe Gunananda. I do not know why Gunananda should have sent incorrect information. I gave the correct information when I sent my declaration. (Shown the reverse of D6 — Column 15) : His Upasampada name is Meeruppe Gunananda. Column 16 : At the time of ordination Meeruppe Gunananda was resident at Welihinda Sudassanaramaya. Column 17 : His permanent residence appears to be Welihinda Sudassanaramaya. Although <sup>30</sup> Gunananda treated Welihinda Sudassanaramaya as his residence, he was not residing there. He may have said so because this is the central temple.

Q. What is "Niththiya Niwasa" ?

A. Where he is always residing. It is not 'permanent' but 'always.' "Niththiya" has the meaning of permanency also.

Q. In 1932 when Gunananda made the declaration he was at Lalpe Kandewatte Temple ?

A. Yes.

No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination  
—Continued.

**Q.** So his declaration in cage 18 is correct ?

**A.** It is correct that he was at Lalpe Kandewatte Temple.

I do not know whether there are any false statements in this or not. I did not read this declaration. Akurugoda Sudassi was the incumbent of several temples. I have seen Sudassi Thero. I have not seen the tutor of Sudassi Thero. I do not know how Akurugoda Sudassi got the Lalpe temple. What I know is that Akurugoda Sudassi was the Viharadhipathi of Lalpe Sudharmaramaya but I do not know whether his predecessor had any rights in Lalpe Sudharmaramaya. Akurugoda Nagaruka Temple is one established by Akurugoda Sudassi. Warakapitiye Tribhumikaramaya 10 was also one established by Akurugoda Sudassi. Akurugoda Nagarukkaramaya and Warakapitiye Tribhumikaramaya temples should go according to the rule of Sisyanu Sisya Paramparawa from Akurugoda Sudassi. The Incumbent of Tribhumikaramaya is Lalpe Kandewatta Pemasiri. At present Pemasiri is residing at Lalpe Sudharmaramaya. He is resident and functioning as the Viharadhipathi of Lalpe Sudharmaramaya. Somaratana Thero is in charge of Nagarukkaramaya and Indrasara Thero is in charge of Tribhumikaramaya.

Further Cross-examination to be continued on 19-3-1958.

(Sgd.) ..... 20  
*District Judge.*  
13-12-1957.

L. 289

19th March 1958

**Appearances as before.**

**Meeruppe Sumanatissa Thero** — Affirmed — recalled.

**Cross-examination** continued by Advocate Pandita Gunawardena.

Tribhumikaramaya and Nagarukkaramaya are two temples which had been founded by Sudassi. Nagarukkaramaya was founded in 1899. It was on a 'Paramparawa'. I do not know the name of the land. After the temple was established, that temple got that name. I do not know the 30 name of the land. Tribhumikaramaya was founded in 1926. I remember that time well, I do not know the name of that land also. Before the establishment of that temple, it was not a land given to Sudassi ; first an 'avasa' was put up and later it was dedicated. The first incumbent of both temples was Sudassi. Those two temples will go according to 'Sisyanu Sisya Paramparawa' of Sudassi. Somaratana is in charge of Nagarukkaramaya. Somaratana is the pupil of Sudassi by robing. Indrasara is in charge of Tribhumikaramaya — he is the pupil of Gunananda who is the pupil of Sudassi.

The Lalpe Temple is a little older than the Welihinda Sudassanaramaya. 40 Gunananda lived throughout at Lalpe Sudassanarama Temple which is the older temple. One priest is sometimes the incumbent of a number of temples, being in one temple, he supervises the other temples. When

a priest has a number of temples, and if he has a number of pupils, he sometimes keeps those pupils in other temples.

No. 11  
Plaintiff's  
Evidence

I know the temple where the defendant is. That is called Keththaramaya. A few years ago, at Lalpe Temple there were some 'pinkamas'. (Shown document) — This was an advertisement with regard to a number of 'pinkamas' and 'bana' preachings at Lalpe Temple and these were distributed. I have seen this.

Evidence of  
M. Sumanatissa  
There —  
Cross-examination  
—Continued.

(Mr. Advocate Pandita Gunawardena moves to mark this document as D7. Mr. Advocate Karunaratne objects. This document will be admitted subject to proof).

D7 refers to a 'pinkama' in connection with the "Sambudhajayanthi." The purpose was to get on every 'poya' day 'bana' preached by a priest. On 15-10-55 I have preached 'bana' there. The defendant also preached a sermon there.

The defendant priest went to Keththaramaya. The defendant was the first priest to put up the building there with our consent. One portion of those premises is a field and the other portion is owita land. On one side is the temple. The high land is the land given by Government. I brought this action in respect of 18 acres. Of the 18 acres there is no high land portion, a portion is owita and the other portion is field, but round there is high land. Keththaramaya has been built on a high land portion of the owita. That owita portion is in extent about two acres.

TO COURT :

On the road side also there is high land, that is also about two acres in extent. Both portions will be about four acres of high land. In the temple portion there is a 'dharmaasalawa' put up by defendant after he went there. That 'dharmaasalawa' would not have cost about Rs. 15,000/-, it would have cost about Rs. 3,000/-. On the same side there is a 'bo-maluwa', which has been put up during the pendency of this action. The bo-tree is not so old, it is a small tree, about 2 to 3 years old. There is also a 'legumge' that is not here, it is on the one acre Crown land. The 'legumge' is worth about 5,000/-. They used the 'dharmaasalawa' also for the residence. A part of the 'dharmaasalawa' is used for washing, etc. The defendant has put up those buildings with the aid of the 'dayakayas.'

I have sent several letters to the defendant (shown envelope marked D8) — This is my handwriting. This is the envelope which has contained a letter sent to the defendant (Address in D8 is read). 'Keththaramaya' is the name of the temple where the defendant is residing. (Shown another envelope) — This is not my handwriting. (Shown another envelope marked D9) — This is another envelope which has contained a letter sent by me to the defendant. (Address in D9 read). This has been sent in 1952 according to the seal. Whenever I sent him letters I addressed

No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
There —  
Cross-examination.  
—Continued.

them to 'Keththaramaya, Warakapitiya.' Defendant and I belong to the same paramparawa. I am the pupil of Sudassi, defendant is Sudassi's pupil's pupil.

All people of my paramparawa, are entitled to be maintained from the temporalities of the paramparawa; any person who is residing outside the temple is not entitled to maintenance; priests of my paramparawa, must remain in that temple to be maintained by that temple. For maintenance I am not entitled to call upon another person, from another temple belonging to this same temple, one has no right to ask like that, it is more or less like begging. If I am in a temple I am entitled to get a share for my own maintenance. From another temple that belongs to the same 'paramparawa' we do not ask for maintenance. A pupil of Sudassi can ask for maintenance from Sudassi's successor, if he wants. If the pupil is not alive, that pupil's pupil cannot claim at length. If the pupil is living there, he can get maintenance, not if he is living in another temple. When he is only residing in the temple, he is entitled to maintenance, not otherwise. I can get the maintenance from the temple where I reside, from the lands that belong to that temple. If he lives in another temple belonging to the same 'paramparawa' there is no custom of asking for maintenance from that temple. I am the incumbent of one temple, I do not ask for maintenance from another temple belonging to the same 'paramparawa', the priest who is residing in that particular land is entitled to the produce of that land. A particular temple has lands belonging to that temple. Sudassi was incumbent of four temples. Those four temples had a large number of lands. Sudassi's pupils who are living in those places are entitled to be maintained from the income of those temporalities. Sudassi's pupils cannot ask for such income. They can ask from the places where they are living. I am in Sudassanaramaya. In the other temples also there are priests.

Q. From the temporalities of the other three temples you cannot ask for maintenance? 80

A. No.

They are different temples. The benefits of those temples are taken by priests and their pupils who are living in those temples. I have no claim from those temples. I am entitled to the land belonging to Sudassanaramaya only which I got from Sudassi through Gunananda. I take the income of the lands attached to the particular temple.

Further trial on 27/6/58 and 8/7/58.

(Sgd.) .....  
District Judge.

19-3-58. 40

### Parties present

**Trial resumed.**

Mr. Advocate N. Karunaratne instructed for plaintiff.

Mr. Advocate Pandita Gunawardena with Mr. Advocate Abeyweera instructed for Defendant.

**Plaintiff's Case** — continued.

**Meeruppe Sumanatissa Thero** — Recalled — affirmed.

**Cross-examination** — continued :

<sup>10</sup> I said that Rev. Sudassi was the Viharadhipathi of 4 temples. I also said that the oldest of them was Lalpe Sudassanarama temple. Rev. Sudassi continued to be Viharadhipathi of the 4 temples up to the time of his death. But he was staying at Welihinda and he had appointed suitable persons to control those 4 temples. What I say is that he had appointed suitable persons to those temples to look after the affairs of those temples, and if those priests are found suitable they will in the event of Rev. Sudassi's death become the Viharadhipathies of those temples, but if they are not suitable they will not become the Viharadhipathies of those temples after the death of Rev. Sudassi.

<sup>20</sup> Rev. Sudassi as Viharadhipathi of those temples possessed several lands and fields belonging to those temples. Those properties were not divided among those priests, but the properties belonging to the respective temples were to be enjoyed by those temples respectively. Although he was the Viharadhipathi of those 4 temples, and appointed suitable priests to look after those temples, the properties belonging to those temples were possessed and enjoyed by those temples respectively. Those properties were not divided among those 4 priests. Those priests enjoyed respectively those properties appurtenant to those temples separately.

I cannot say what properties belonged to Sudassanarama Temple.  
<sup>30</sup> I am unable to say what properties were enjoyed by Rev. Sudassi while he was the Viharadhipathi of this temple. His successor enjoyed the properties belonging to Sudassanarama Temple.

At the time of his death Rev. Sudassi was living in Welihinda. At the latter part of his life he was living in Welihinda. At that time Rev. Gunananda was living in Lalpe Sudassanarama Temple. Rev. Gunananda used to visit Welihinda. He visited Welihinda until the death of Rev. Sudassi.

Rev. Gunananda used to come to Sudassanarama Temple for festivals and pinkamas. Rev. Gunananda did not give up visiting Welihinda.  
<sup>40</sup> His village is Meeruppe and from there he used to come and go.



No. 11  
Plaintiff's  
Evidence  
—  
Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
— Continued.

I have produced the evidence of Rev. Gunananda in the case where I sued Rev. Gunaratana (*Vide P23*). In that evidence Rev. Gunananda has said that Rev. Sudassi was 85 years old and his eye sight was not good. But I say that Rev. Sudassi was not totally blind. Rev. Sudassi's eye sight was weak. It is true that he was feeble but he was not totally blind. Rev. Atanikita Sumangala was the Viharadhipathi of these temples before Rev. Sudassi became the Viharadhipathi. It is true that Rev. Gunananda used to visit Welihinda whenever the occasion arises.

According to the present law Gunananda will become the Viharadhipathi after the death of Rev. Sudassi. I produced the deed executed in favour 10 of Denepitiya Dhammananda (*Vide P 21*).

The name of the subject matter of this action is Pehimbiyaduwa and kumbura *alias* Hirikotuveduwa. There are several lots in this land. I have not made a plan of this land for this case. I have filed this action regarding a certain corpus. In my plaint I have given the name of the subject matter as Pehimbiyagodaduwa and kumbura *alias* Hirikotuveduwa. According to me they are not the only names that refer to this land. There are several other names for this land. This land is also called Mahapittaniya. This land has been bought as 3 or 4 lots, but I do not know what names appear in those deeds. This land is also called Pehimbiyagodaduwa- 20 addara. This name suggests that is adjacent to Pehimbiyagoda duwa. Pehimbiyagodaduwa is this same land. Pehimbiyagodaduwa and Pehimbiyagodaduwa addara are 2 different lands. I cannot now remember the other names for this land. I do not know any other name by which this land is called.

I have produced 2 deeds regarding the corpus of this action. I claim the corpus of this action only on those 2 deeds.

The extent of this land is 18 acres. I am claiming the entirety of those 18 acres. There are other deeds also for the land in question. There are other deeds relating to this land which I have not produced in Court. There are 30 some old deeds relating to this land besides the 2 deeds on which I am claiming this land in this case. The 2 deeds which I have produced in this case are the 2 important deeds. I do not know how many deeds there are in the temple relating to this land in question. There are several other title deeds on which I rely for my title to this land, but I have only produced 2 deeds which in my opinion are the most important deeds for my case. Because these 2 deeds are sufficient for my case, I therefore did not think it necessary to produce the other deeds.

There are other title deeds for these 18 acres of land in the temple. All those deeds relate to this land. Those deeds are in favour of those Viharadhi- 40 pathies who were there at that time. There are various title deeds in the temple in the name of those priests who were Viharadhipathies of this temple, at that time. There are about 2 or 3 deeds besides the 2 deeds produced in this case. There are old deeds too in the temple.

I am claiming the entire 18 acre extent of this land primarily on these 2 deeds produced in the case. The other deeds relate to only small shares. These 2 deeds include those small shares mentioned in the other deeds.

I cannot say whether the other deeds are earlier to the 2 deeds which I have produced in this case. To get title to the entire 18 acre extent of land claimed by me there are a number of deeds. But the 2 deeds produced by me in this case is sufficient to cover the extent of 18 acres.

No. 11  
Plaintiff's  
Evidence  
—  
Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
—Continued.

I say that these two deeds give me title to the entire 18 acres of land claimed by me. The other deeds deal only with small shares of this land. I cannot say whether the small shares conveyed on the other deeds are included in the 2 deeds produced by me. I know how I get title to this land. I do not know what extent of land has been dealt with on the other deeds.

<sup>10</sup> To COURT :

I say that the two deeds are sufficient to give me title to the entire 18 acre extent of land claimed by me.

Those deeds dealing with small shares of this land are in the temple. Those small shares of this land have been bought by the previous Viharadhipathies during their time. Those other deeds are also in respect of this land in question. I say that there are 3 other deeds relating to this 18 acre extent of land.

<sup>20</sup> Q. The shares dealt with in those three deeds together with the shares dealt with in the two deeds produced in this case go to make up the total extent of 18 acres ?

A. Yes.

Q. If that answer is correct then these two deeds produced by you do not give you title to the entirety of the 18 acres as claimed by you ?

A. I say that these two deeds are sufficient to cover up the 18 acres claimed by me.

Pehimbiyagodaduwa does not refer to a very large land.

<sup>80</sup> According to my plaint I have given the eastern boundary of the subject matter of this action as Pehimbiyaduwa. I have not gone to that Pehimbiyaduwa. I have not found out the extent of that land. I do not know whether Pahambiyaduwa applies to a number of lands put together.

I know only this land. I do not know of any other lands in this locality. I know in general the boundaries of this land. I know the adjoining lands. I know that the land Pahambiyaduwa is adjoining this land in question, but I do not know the extent of that land.

(Shown P21) I cannot read this document. I do not use glasses.

To COURT :

Anything that is distinct and clear I can read. But this old document I cannot read.

No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
—Continued.

Q. Do you know that in P21 the name of the land is given as Pahambiyaduwa addara Wila?

A. Yes.

At the time I was asked to give other names for this land in question I had forgotten this land Pahambiya duwa addara Wila. Pahambiyaduwa addara Wila refers to the subject matter of this action. I say so because of the boundaries given in that deed.

The land to the south of this land is Ratkeretolla. I do not know what is exactly given in the deeds, but that is the name I know.

Q. Do you know the southern boundary of this land? 10

A. As far as I can remember the southern boundary of this land is Ratkeretolla. This is the southern boundary according to my observation.

The western boundary of this land according to the deed I think is Ratkeretolla.

The extent of the land conveyed on P21 is given in the deed itself. I do not know the exact extent of the land conveyed on the deed P21. That is a share out of the 18 acres claimed by me. There are several lots in this land, and we possessed all the lots put together as a whole land. From the time of my tutors and while I was a pupil we possessed this entire land. We possessed all the blocks put together as one land. I cannot say what extent of land we possessed on this deed P21. 20

I claim this land on another deed from Rajapakse and 4 others. On that deed the vendee is Talpe Sumangala Thero.

We possessed the entire land including the share conveyed on that deed too. We did not possess the shares conveyed on P21 and P22 separately. I have not studied the deeds P21 and P22. I have given them over to my lawyers and I think I was not questioned about the extent conveyed on those two deeds.

Q. You brought those two deeds to your lawyers and you do not know what land they dealt with and you are now trying to claim this land? 30

A. No. That is not correct. I am claiming this land on those two deeds.

I do not say that there is a separate portion equivalent to the shares conveyed on those 2 deeds. We possess all the lots put together.

I am claiming the share that is shown in the deed P22. I am claiming the share of the soil of this land conveyed on that deed. I did not study the deed, but I looked at that deed.

Q. Do you know that on the deed P22 there is no title to any extent ?

No. 11  
Plaintiff's  
Evidence

To COURT :

I read the deed P 22. There is an extent given in the deed P22. The extent is about 2 acres of high land.

Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
— Continued.

Adjourned for lunch.

(Intld.) .....  
*District Judge.*

After lunch interval :

**Meeruppe Sumanatissa Thero** :— recalled — affirmed.

**10 Cross-examination** — continued.

A doowa means a high land portion surrounded on all sides by fields. Watta generally means a high land. Wila is a wela. Wila can also mean a pond or a lake.

The subject matter of this action is not entirely a doowa land. It comprises of owitas and fields. In the plaint I have described this land as two doowas and a kumbura. Hirikotuwadoowa is only a name, but actually the land is not a doowa. Although in the plaint it is called a doowa, but actually it is not a doowa. It is only a name given to the land. Pahambiyadoowa and Pahambiyagodawatta is one and the same land.

<sup>20</sup> Pahambiyagoda watta is the name by which this land is called.

To COURT :

In the deeds produced by me the name Pahambiyagodawatta also appears. I knew that before I filed this case. According to me the subject matter of this action was also known as Pahambiyagodawatta.

Q. Then why did you not say so in the plaint ?

A. Because it is said in the deed as Pahambiyagodaduwa therefore I have given that name in my plaint.

I have produced 2 deeds in this case, and in both those deeds the land is not described as Pahambiyagodaduwa. In one deed the land is described <sup>30</sup> as Pahambiyagodawila and in the other it is given as Pahambiyagodaduwa. I am sure of it. I am not at all surprised if the land is described in the deeds by the name of Pahambiyagodawatta. Those are names that have come into use later. Hirikotuwadoowa is also another name in usage. In the deeds the name Hirikotuwadoowa does not appear. According to the usage in the village the land is described by that name also.

Q. Then why did you not describe in your plaint the land as Pahambiyagodawatta if that name has been in usage in the village ?

A. I do not know why.

No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
There —  
Cross-examination.  
— Continued.

Pahambiyagodawatta is the land situated in the middle of fields belonging to the temple. From the time I knew Pahambiyagodawatta it belonged to the temple. The temples have never lost their lands.

(Mr. Pandita Gunawardena produces an extract from the encumbrance register for the land Pahambiyagodawatta -- D10).

I do not know a person by the name Rajapakse Babunhamy. I do not know a person Hikgoda Kankanange Mendisappu.

I say that Pahambiyagodawatta belongs to the temple.

Q. I put it to you that Pahambiyagodawatta although it had been given to the temple had lost its rights and that land has gone to laymen?

A. At no time did the temple lose possession of that land.

The name Pahambiyagodawatta came to usage later. I cannot say from what time that name came to be used for this land in question.

I do not know whether there are no old deeds or documents for the land Pahambiyagodawatta. Pahambiyagoda addara wila is a land beyond the subject matter of this action. It is on the eastern boundary of the corpus of this action. I am quite sure of that. That land is on the eastern side of the corpus.

On one side of the land in question is Kekilladoowa. The subject matter of this action is not called by the name Kekilladoowa. The subject matter of this case is also not called by the name Kekilladoowa addara. Kekilladuwa addara also refers to the corpus of this action. No. Kekilladuwa addara is not the name of the corpus of this action, but it is the name of the land which lies on one of the boundaries of the corpus of this action.

The portion of this land adjoining Kekilladuwa is called Kekilladuwa addara. Kekilladuwa addara is a field cultivated in paddy.

Kurakkan is not sown on owita lands. Kurakkan is cultivated in owita lands and not in fields.

Q. Is the entire land which forms the corpus of this action called Kekilladuwa addara?

A. No.

Q. Is any portion of the subject matter called Kekilladuwa addara?

A. The people who cultivate it calls it by the name Kekilladuwa addara. No portion of the subject matter of this action is called Kekilladuwa addara, but the cultivators call it Kekilladuwa addara. But we do not use the name Kekilladuwa addara for the subject matter of this action.

I have not seen any documents for this land which refers to it as Kekilladuwa addara. I do not know whether the sowing extent of a bushel of kurakkan is equivalent to 6 acres. I do not know the equivalent of kurakkan sowing extent in terms of acres. I have not seen any document where the extent of a land is given as 1 bushel kurakkan sowing extent. Originally the extent was described in terms of kurunies, serus and bushels came into existence only lately. I say that Hirikotuwa duwa addara is not a land adjoining the corpus of this action, but it refers to the subject matter itself. The entirety of this land is called Hirikotuwa duwa. I said that this land is  
 10 called by several names and one such name is Hirikotuwa duwa.

No. 11  
 Plaintiff's  
 Evidence  
 -----  
 Evidence of  
 M. Sumanatissa  
 Thero —  
 Cross-examination.  
 —Continued.

Q. I put it to you that Hirikotuwa duwa is a land adjoining the corpus of this action?

A. That is this land in question.

The subject matter of this action is called Hirikotuwa duwa *alias* Pahambiyaduwa. Hirikotuwa is the name of the subject matter. I am not aware of a land called Hirikotuwa duwa addara adjoining the subject matter. I do not know of any other land by the name Hirikotuwa duwa addara.

Q. By that do you mean that the subject matter of this action is also called Hirikotuwa duwa addara?

20 A. No.

(Mr. Pandita Gunawardena produces deed 1396 of 9-12-1854 — D11 in favour of Talpe Sumangala Thero).

Q. Do you know that Rev. Talpe Sumangala Thero had got on a deed a land called Kekilladuwa addara *alias* Hirikotuwa duwa addara?

A. I am not aware of such a deed.

(Shown P1) I know this document. P1 is handed to the witness.

The defendant gives me the produce of this land twice a year.

I cannot read this document now. I have read this document sometime  
 30 back. I cannot now see what is written in this document. I know this document because it is a document given to me by this defendant sometime back.

Q. Without knowing the contents of this document how do you identify it as one that was given to you sometime ago?

A. I know the contents of this document.

Q. Without knowing the contents of this document now by what manner do you identify or say that this is the document that was given to you sometime ago?

A. I have seen it and read it.

No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
There —  
Cross-examination.  
—Continued.

Q. Now you cannot see and read this document ?

A. I cannot see it distinctly now.

Q. Can you tell by what manner you identify this document as one that was given to you sometime ago ?

(This witness has already answered this question. I therefore disallow this question.)

I cannot see distinctly the writing in this document. (Shown P2)  
I cannot read this document.

Q. How do you say that this is the document sent to you by the defendant ?

10

A. It was given to me at that time and I kept it with me.

Q. Today you cannot show any mark or sign by which you identify it as the writing that the defendant gave it to you ?

A. I know that it is a document sent to me by the defendant. I have read it and kept it in my custody all these days.

Q. I put it to you that there is nothing in this document by which you can recognise it as the writing given to you by the defendant ?

A. I can see lightly what has been written there.

(Shown P3) I cannot read this document.

(Shown P4) I cannot read this document.

20

(Shown P5 and P6) I cannot read these documents. I am old now. I cannot even read P7 and P8.

I have had several cases in this Court which were unavoidable. There are several disputes with regard to temple lands. I do not know whether I had 30 or 40 cases, but there were a number of cases. There may have been about 30 or 40 cases. Even now I have some cases which are pending. There are about 3 or 4 cases of mine pending in these courts. I am living in the temple. I know L. G. Jamis Appuhamy. He is also known as Vidane Mahattaya. He is a man from Warakapitiya. I sued him in case No. 1968. I filed that case against him and several others. That was with regard to Talagahamulla. I lost part of that case.

I also had a case against one Suwaris regarding a land called Meeruppe Palutanwatta. That case is still pending.

I filed a case against one Karoappu in regard to a dispute to a temple land. That was about 3 or 4 years ago.

I also had a case with one Mendias in regard to a land called Meeruppe Tambiliwatta.

No. 11  
Plaintiff's  
Evidence

I had another case against a priest called Dhammananda. That was a case in the M.C. for plucking a tambili fruit. That case was settled. I sustained an injury not in the head but on my chin and for that I entered hospital.

Evidence of  
M. Sumanatissa  
Thero --  
Cross-examination.  
—Continued.

That was in connection with a man who cut down some coconut branches from a tree in the temple land. I went and questioned that man, then there was an altercation between that man and another and in the course of their struggle I sustained the injury in my chin. That injury to my chin was not as a result of that man striking at me. For that injury I was in hospital.

(Shown letter dated 7-4-52) I cannot read this letter.

I cannot now recognise any document written by the defendant to me even if they are shown to me now.

Rev. Sudassi Thero appointed Rev. Gunananda Thero as Viharadhipathi subject to certain conditions. Rev. Gunananda Thero gave up possession and thereafter I took over possession of the lands. Later Rev. Gunananda Thero appointed me by writing.

20 Q. Is it because Rev. Gunananda gave it up or it is because he appointed you?

A. Because he gave up I took over possession, and after that I was in long possession, therefore I claim this land.

Rev. Gunananda Thero's appointment by Rev. Sudassi Thero was subject to certain conditions. One reason for the appointment of Rev. Gunananda is because Sudassi was old. Gunananda was appointed to manage the temple lands. I cannot now remember those conditions separately. I have seen those conditions.

On the deed P12 Akurugoda Sudassi has given to Meeruppe Gunananda.

30 'Sammatha' means by consent of the persons mentioned in the deed.

'Sammatha' in P12 also may mean by consent of the succeeding priests.

(Shown envelope) This is an envelope which contained a letter sent by me to the defendant. I have also produced in this case a number of leases. (P14 put to the witness) There are several lands called Pinwatta. There are about 10 or 12 lands in Meeruppe, Denipitiya, Warakapitiya known by the name Pinwatta.

In Warakapitiya I cannot remember how many lands belonging to the temple are known as Pinwatta. A land belonging to the temple is generally known as Pinwatta.



No. 11  
Plaintiff's  
Evidence

Evidence of  
M. Sumanatissa  
Thero —  
Cross-examination.  
—Continued.

In Warakapitiya there are fields also called Pinwatta, Pinkumbura, Pinliadda and so on. There is a land called Pinwatta in Warakapitiya. Besides the subject matter of this action there is another Pinwatta in Warakapitiya. The subject matter of this action is also called Pinwatta, that is, because it belongs to the temple, but the subject matter is not called by that name in the deeds. I have as a matter of fact not called the subject matter by that name. There is also another land belonging to the temple which is called Pinwatta.

There is no village or place called Uruwitika, but there is a village called Uriwitiya. (P14 read) Uruwitiya is also sometimes called Uruwitika. 10 Some villages are known by several names. Sometimes some people call Uruvitiya Uruwitika.

TO COURT :

But that village is not called Uruwitika. Uruwitika adjoins Warakapitiya. I have produced a number of leases in this case. I am not calling any of the lessees as witnesses for this case.

Evidence of  
M. Sumanatissa  
Thero —  
Re-examination.

**Re-examination :**

I filed this case in respect of a certain land and I have given the name that applies to the land. I have also given the boundaries of the land. Within those boundaries I claim for the temple a land in extent 18 acres. 20 The land comprises of duwa, a portion where vegetables are planted, and fields.

The field portion is larger than the high land. The extent of the field is about 10 bags of paddy sowing. I get the produce from the field portion. I remember the time when the defendant went into occupation of this 18 acre extent of land. That was in 1942. Before that I took the produce from this field. That field portion was cultivated by a number of farmers. Those cultivators cultivated the field in portions. This field was cultivated in different portions. The extents of the different portions of this field is given in kurunies. None of these portions were called by names, but those 30 portions were identified by their sowing extents in kurunies.

The defendant took over this field to be cultivated. After he took over to cultivate this field he got this field cultivated by several cultivators. The defendant gave me an account of each portion cultivated. I read through those accounts. I kept those accounts with me. Those accounts were written down by the defendant himself. I gave those accounts to my Proctor in this case.

(P6 read to witness) On the top of that writing is written Hirikotuwaduwa dated 12-8-43 — H. R. Salmanappu — Kumbura Tekkawatta addara Pahala — wapusariya 2 bush. 10 Krs. Tekkawatta is the 40 land to the West. The field referred to above is the portion of this land adjoining Tekkawatta which is on the Western boundary. H. R. Salmanappu is the cultivator of this portion. The cultivator of the next portion is L. V. Mendisappu. That portion is called Tekkawatta addara Ihala, that is, towards the northern side. The other portion is Podihamypansala Kella. This is also a portion of the subject matter. Heenappuge Kella

is also another portion of the subject matter. Another portion is Charlisge Kekilladuwa addara. This is also a portion of the subject matter.

No. 11  
Plaintiff's  
Evidence

TO COURT :

Evidence of  
M. Sumanatissa  
Thero —  
Re-examination.  
—Continued.

The defendant has distributed the working of this field among several cultivators. Kekilladuwa Ihala is also a portion of this land. The defendant has no lands in this locality. He has no land called Kekilladuwa addara. I remember the defendant sending the accounts of this filed in this manner.

Q. Did you read one of those documents ?

10 A. Yes.

He sent me accounts up to 1952.

On these accounts I put down the date I received them. These accounts were written in the handwriting of the defendant.

Q. This land of 18 acres consisting of high and low land how did the temple get it from the laymen ?

A. The previous Viharadhipathies have bought them.

Q. Have you produced the deeds on which they have bought ?

A. Yes.

TO COURT :

20 Apart from these documents some of the lands have been given to the temple without any writing.

Rev. Gunananda Thero was at one time the Viharadhipathi of this temple. He is a co-pupil of mine.

Q. When Rev. Gunananda Thero was functioning as the Viharadhipathi what did he do ?

A. He did not do anything. He was the Viharadhipathi for 2 years only.

30 Thereafter he gave up the Viharadhipathiship saying that he was unable to carry it on and went away. Thereafter I was appointed the Viharadhipathi of the temple. From that time onwards I was functioning as the Viharadhipathi of this temple up to date.

There was a case for the incumbency of this temple. That was about 25 years ago. In that case by a decree of the Supreme Court I was appointed the Viharadhipathi of this temple. In that case some other priest claimed

No. 11  
Plaintiff's  
Evidence

the Viharadhipathi of this temple. That was Rev. Gunaratana. He had some connection with the old Viharadhipathi of this temple.

Evidence of  
M. Sumanatissa  
Thero —  
Re-examination.  
—Continued

Rev. Gunaratana was a pupil of Rev. Atanikita Sumangala. In my pedigree I have given that name. Rev. Gunaratana claimed the Viharadhipathi of this temple in that case and he lost. The defendant is a pupil of Rev. Gunananda. Rev. Gunananda had 7 pupils. The senior of them was Saddhananda. Rev. Saddhananda is living in Welihinda, in our temple.

(Sgd). . . . .  
*District Judge.*

Evidence of  
D. Saddhananda—  
Examination.

**Denepitiya Saddhananda.**—Affirmed—49—Welihinda.

10

I live in the Welihinda Temple where the plaintiff resides. My tutor was Meeruppe Gunananda.

I was ordained by Meeruppe Gunananda. I was ordained in the year 1929.

I know this defendant. The defendant's tutor was also Meeruppe Gunananda. He was ordained in the year 1931 according to my recollection. He was ordained after I was ordained. Of the 2 of us I am the senior pupil of Rev. Gunananda Thero, and next to me is this defendant. Rev. Gunananda was the Viharadhipathi of Kandawatta Temple in Lalpe. That temple is called Lalpe Sri Sudassanaramaya. At the time of the death of 20 Rev. Gunananda he was the Viharadhipathi of the Lalpe Temple.

I know the Welihinda Temple. He was the Viharadhipathi of the Welihinda Temple too. He was the Viharadhipathi of that temple for 2 years. He said that he could not manage and he gave up the Viharadhipathiship of the temple. At that time he was at the Lalpe Temple. Lalpe Temple is about 28 or 30 miles away from Welihinda Temple. From the time Rev. Gunananda Thero gave up the Viharadhipathiship of Welihinda Temple, the plaintiff became the Viharadhipathi of that temple.

TO COURT :

There was no objection from anybody to the plaintiff becoming the 30 Viharadhipathi of the Welihinda Temple. According to pupillary succession, that is, Sisyanu Sisya Paramparawa, the Viharadhipathiship of Gunananda should actually come to me, that is, because I was his senior pupil. But I am not claiming that Viharadhipathiship.

I know this defendant. He is living in Warakapitiya. I have been to Warakapitiya a number of times. I think the defendant went to Warakapitiya in 1941. I cannot say where he was before that. I can remember the time he went to live in Warakapitiya. Before the defendant went into occupation of this land I knew this land in question. This land is 18 acres in extent. This land in question consists of high land and field. 40

The income from this land is taken for the Welihinda Temple. I know that very well.

No. 11  
Plaintiff's Evidence

I know that paddy from this land in question is brought to the Welihinda Temple.

Evidence of  
D. Saddhananda—  
Examination.  
--Continued.

Even after the defendant went into occupation of this land in question the Welihinda Temple gets the income from this land. I know that the defendant used to send accounts of the field portion of this land to the plaintiff in Welihinda Temple. I have seen those accounts myself.

No time now. Trial postponed for 24-9-1958.

10

(Sgd.) .....  
*District Judge.*

### Further Trial

24-9-58.

Mr. Advocate Karunaratna instructed for the plaintiff.

Mr. Advocate Pandita Gunawardena with Mr. Advocate Wijaya-suriya instructed for the defendant.

**Plaintiff's case** — (Continued).

**Denepitiya Saddhananda.**—Affirmed—Recalled.

**Examination-in-Chief** — (Continued).

I said on the last date of trial that I am residing in the Welihinda Temple. I have been residing here since 1923. I knew both Gunananda Thero and Sudassi Terunnanse. My tutor was Gunananda Thero. I am the senior pupil of Gunananda. I was ordained in the year 1929. Revd. Gunananda had other pupils besides myself — Sangananda the defendant priest, Indrasara Thero, Rewatha Sumangala and Panghasekera. Indrasara Thero was living at Warakapitiya Temple. Sangananda Thero, the defendant was ordained after I was ordained. He was ordained about two years after I was ordained and he is junior to me. I said that Gunananda Thero was the Viharadhipathi of Lalpe Sudarmaramaya and was at one time the Viharadhipathi of Welihinda Sudassanarama Temple. Gunananda was unable to perform his duties of Viharadhipathi of the Welihinda Temple and he gave it up. From the time he gave up the Viharadhipathiship of this temple, the plaintiff priest in this case became the Viharadhipathi. I know the land which is the subject matter of this case. The extent of this land is 18 acres. It includes both highland as well as lowland. I know this land fairly well from 1923 and after my residence in the temple, I know this land well. I have gone to this land. The plaintiff took the produce of this 18 acre extent of land. My recollection is that the defendant priest came to this land in 1941. The plaintiff placed the defendant priest on that land.

No. 11  
Plaintiff's Evidence

Evidence of  
D. Saddhananda—  
Examination.  
—Continued.

Q. Before 1941 did the plaintiff get the produce of this entire land ?

A. Yes.

Q. After 1941 did the plaintiff get the produce of this land ?

A. Yes.

Q. After 1941 who gave the produce of this land to the plaintiff ?

A. The defendant used to give the produce to the plaintiff.

Q. Did the defendant keep any account of the produce of this land and give it to the plaintiff ?

A. On certain occasions I have seen lists given by the defendant to the plaintiff regarding the produce of this land. 10

(Shown P1): This is in the handwriting of the defendant priest. These accounts are with regard to the field portion.

Q. Is it with regard to the subject matter of this action ?

A. This is regarding the subject matter of this action.

I know the handwriting of the defendant. (P1) is in his handwriting.

Q. Are you sure of it ?

A. I know the defendant's handwriting. At the bottom of (P1) there is a writing in ink and this is in the handwriting of the plaintiff. (Shown P2): This is in the handwriting of the defendant. This is regarding the subject matter of this action and is in<sup>20</sup> respect of the accounts of the yield by the defendant. At the bottom of (P2) there is a writing by the plaintiff and he has made an entry regarding the date of the receipt of this letter. (Shown P3): This is in the handwriting of the defendant regarding the subject matter of this action. Again the date of the receipt of this document is written in the plaintiff's handwriting. (Shown P4): This is in the handwriting of the defendant and is regarding the subject matter of this action. (Shown P5): This is in the defendant's handwriting. (Shown P6): There is a column with regard to the cultivators and the name of H. R. Solomanappu<sup>30</sup> is given and the field is Tekaaddarapahala. This Tekaaddarapahala is a portion of the same field and is cultivated by Solomanappu. The other cultivator's name is L. P. Mendisappu and the field is Tekaaddara Ihala which is also a portion of the same field. The other cultivator's name is R. A. Dingiappu. He has cultivated a portion called Kekilladuwaaddara Pahala which is also a portion of the same land. All this has been written by the defendant priest.

(Shown P7) : This is in the defendant's handwriting. (Shown P8) : This is also in the defendant's handwriting. I have seen these letters earlier also. Certain letters have been sent through somebody and certain others have been brought and handed over personally by the defendant.

No. 11  
Plaintiff's Evidence  
—  
Evidence of  
D. Saddhananda—  
Examination.  
—Continued.

**Cross-examination by Mr. Pandita Gunawardena :**

Evidence of  
D. Saddhananda—  
Cross-examination.

I was not robbed by Gunananda Thero. I was robbed by Akurugoda Sudassi Thero. By robing I am a pupil of Akurugoda Sudassi who had a number of pupils. Meeruppe Gunananda was his eldest and most senior pupil. The next pupil was the plaintiff and the next was Lalpe Pemasiri. Next to that was Somaratana and next to that was Getamana Indasara. These are the pupils of Akurugoda Sudassi. I am also a pupil of Akurugoda Sudassi. One becomes a pupil either by robing or ordination. Of the pupils of Akurugoda Sudassi, according to seniority, Meeruppe Gunananda was the most senior pupil both by robing and ordination. Considering both these factors, there are also other pupils.

I know the defendant priest. The defendant was robbed by Meeruppe Gunananda and ordained also by Meeruppe Gunananda. The defendant was ordained about 2 years after I was ordained. I was robbed in the year 1923.

20 Q. At that time was the defendant a robbed priest ?

A. No.

Q. Then what year was the defendant robbed ?

A. I cannot remember the year exactly but it was after me.

Q. How long after you were robbed ?

A. About 2 or 3 years later.

The defendant may have been robbed about 1925 or so.

Q. Anyway before you were ordained ?

A. Yes.

30 Q. Before you were ordained by Gunananda Thero, the defendant had been robbed by Gunananda ?

A. Yes.

Q. You do not claim to be a pupil of Meeruppe Gunananda by robing ?

A. No.

No. 11.  
Plaintiff's  
Evidence

Evidence of  
D. Saddhananda—  
Cross-examination.  
—Continued.

I was robed in the Welihinda Temple. At that time Sudassi Thero was residing in this temple. Out of these two temples Welihinda Sudassanaramaya and Lalpe Sudharmaramaya — the latter is accepted as the older temple.

Akurugoda Sudassi died in the year 1928. He was living up to his death in the Welihinda Temple. From the time I was robed in 1923 till his death in 1928, he was living in the Welihinda Temple.

Q. Did you know both these temples — Welihinda Sudassanaramaya and Lalpe Sudharmaramaya — before 1923 also?

A. No.

10

I was living at Denepitiya before I was robed. These two temples are about 25 miles away from Denepitiya. The Lalpe Temple is about 25 miles away from Denepitiya. Before I was robed I knew something about the Welihinda Temple. Gunananda was at Lalpe when I was robed. He too took part in my robing ceremony. He particularly participated in my robing ceremony. For a robing ceremony generally the priests of the Paramparawa take part but Gunananda attended my robing ceremony at my special request. Gunananda was at that time in the Lalpe Temple.

Q. Gunananda was a person who looked upon the Lalpe Temple as his residence, according to you?

20

A. Yes.

Q. During the period 1923 — 1928 was Gunananda always at the Lalpe Temple?

A. On certain occasions he used to come to Welihinda Temple and return.

Q. Between 1923 and 1928 what was the permanent residence of Gunananda Thero?

A. At Lalpe Temple.

Q. Is it your position that the permanent residence of Gunananda was always at Lalpe?

30

A. He was at Lalpe till 1930 and regarded that as his permanent residence.

Q. Thereafter he changed his permanent residence to Welihinda Temple?

A. From 1928 — 1930 he was permanently residing at Welihinda Temple.

He used to go to the Lalpe Temple also once a month but he was residing at the Welihinda Temple. His permanent residence was Welihinda but he occasionally used to go to Lalpe Temple also.

No. 11  
Plaintiff's  
Evidence

Evidence of  
D. Saddhananda—  
Cross-examination.  
—Continued.

Q. Whether he was at Lalpe or Welihinda, from 1928 — 1930 he was looking after the affairs of both temples?

A. Yes.

Q. There was no difficulty about doing this?

A. He had difficulty in looking after the affairs of both temples.

Gradually there were difficulties and he was not able to go about.  
10 Up to the year 1928 he was at the Lalpe Temple and then he was also attending to the affairs of the Welihinda Temple and at this time there was no difficulty in attending to the affairs of these temples. Then he decided to reside at the Welihinda Temple in 1928, and from 1928 to 1930 he was controlling the Lalpe Temple while residing at the Welihinda Temple. During this two year period he had difficulty in attending to the affairs of both Temples. Gunananda came to reside at the Welihinda Temple.

Q. In 1930, according to you, he went back to the Lalpe Temple?

A. Yes.

Q. After 1930 what was the permanent residence of Gunananda Thero?

20

A. At Lalpe Temple.

Q. Is it your position that after 1930 the permanent residence of Gunananda was always Lalpe Temple?

A. Yes.

After 1931 I had to make a declaration under the Buddhist Temporalities Ordinance. I filled up an application form and most of the priests filled up these application forms. I remember the year 1932. At that time Meeruppe Gunananda was living at Lalpe Temple.

Q. But he considered the Welihinda Temple as his permanent residence at that time?

30

A. I cannot answer this question as to what he considered to be his permanent residence.

Q. Your position is that although he was residing at Lalpe Temple, what he considered to be his permanent residence after 1932 you cannot say?

A. After 1930 as he had some difficulties he left the Welihinda Temple and came to Lalpe.



No. 11  
Plaintiff's  
Evidence

Evidence of  
D. Saddhananda—  
Cross-examination.  
—Continued.

Q. Can you say what temple he considered as his permanent residence after 1932 ?

A. The Lalpe Temple.

Q. Do you know that in 1932 in Gunananda's declaration he has given his permanent residence as Welihinda Sudassanaramaya ?

A. He may have so declared but I cannot say.

(D6 is referred to): Gunananda was robed at Welihinda Sudassanaramaya and, therefore, he may have considered this temple as his permanent residence because he was closely associated with the Welihinda Temple. I was always at the Welihinda Temple and for some time I was residing at Lalpe. Somewhere in 1942 or 1943 I was at the Lalpe Temple. I stayed for about 2 or 3 years and not for a longer period. For these 2 or 3 years I was not continuously at the Lalpe Temple but I used to visit Welihinda also.

From 1942 to 1945 I considered my permanent residence to be the Lalpe Temple and occasionally I used to visit Welihinda. During the 'vas' season I used to be away from the Welihinda Temple *i.e.* for 4 months.

After my ordination I have not constantly spent the 'vas' season outside. I have performed 'vas' outside as well as in the temple. It was only for these 2 or 3 years that I spent at the Lalpe Temple and, apart from performing 'vas' I have been at the Lalpe Temple.

I did not come to Court today with the plaintiff. I am performing the 'vas' season now in a temple at Giruwa Pattu. I remember the time I came to Court on the last trial date and I came to Court from the Welihinda Temple. I came to Court for the last trial date with the plaintiff. The plaintiff and I are on friendly terms. I remember I gave evidence on the last trial date and I went back to the Welihinda Temple after the last trial date.

A number of documents had been produced in this case and I remember having seen them in the temple. The last time I did not see these documents being brought to Court and I was outside. Sometimes when the documents were brought to the temple, I have seen them. On certain days I have seen these documents at the time they were brought to the Welihinda Temple. There is no signature in these documents.

Q. Your position is that on some occasions you have seen these documents ?

A. Yes.

Q. Assuming that the document was brought in 1940, have you seen this same document on a subsequent occasion also ?

A. I cannot remember in which year these lists were given but I can remember that I have seen these lists.

Q. That is you have seen the lists while they were in the temple ?

No. 11  
Plaintiff's  
Evidence

A. Yes.

Q. And not on the occasions the lists were brought ?

Evidence of  
D. Saddhananda—  
Cross-examination.  
—Continued.

A. Some lists I have seen when they were sent to the temple.

(Shown P1) : This is written in pencil.

Q. Can you say when you saw this document ?

A. No.

Q. You only say that you saw this at the temple at some time ?

A. I can only say that I have seen this document.

10 Q. Can you remember the occasion when you saw this particular list (P1) ?

A. No.

(Adjourned for lunch).

(Sgd.) .....  
*District Judge.*  
24-9-58.

**Denepitiya Saddhananda.**—Affirmed—recalled.

**Cross-examination** — Continued. (Shown P1).

20 Q. What you say is that there is no name of any field in this document ?

A. Yes.

I said in the morning that I cannot say when I saw this particular list.

Q. Did you see this document since the last date of trial ?

A. No.

Q. On how many occasions have you seen this document ?

A. I have seen them several times when they were given and also when they were in the temple.

Q. What you say is that a document similar to this you have seen ?

A. I have seen this list.

No. 11  
Plaintiff's  
Evidence

Evidence of  
D. Saddhananda—  
Cross-examination.  
—Continued.

Q. You do not know about this particular list ?

A. No.

Q. A list like this you have seen ?

A. Yes.

Q. With regard to any particular list you cannot speak of ?

A. No.

Q. Have you seen any list being handed over ?

A. Yes.

Q. There also you cannot speak of any particular list ?

A. No.

10

TO COURT :

I know when the list was handed over it was a list in connection with the paddy field. I cannot say definitely on how many occasions the defendant gave the paddy list ; whether it was on one occasion or on many occasions. I have seen him handing over several times. The defendant gives a list saying that it is the 'Vee' list. Sometimes the defendant sends the list through someone else.

Q. At no time have these lists been handed over to you ?

A. No.

Q. What you say is that they have been handed over to somebody 20  
in the temple ?

A. Yes.

Q. On that occasion of handing over, you have not looked into the  
list ?

A. No.

Q. Subsequently you have seen this list in the temple ?

A. Yes.

There is also some writing in (P1) in ink. This is the plaintiff's hand-writing. This is written 'Yala Mosama' and the year 1950 has also been written. I did not see this being written in ink.

30

Q. How do you say that this writing in pencil is the defendant's handwriting?

No. 11  
Plaintiff's  
Evidence

A. I know the defendant's handwriting and can recognise it.

Evidence of  
D. Saddhananda—  
Cross-examination.  
—Continued.

Q. Is there any special feature by which you can recognize it?

A. It is similar to the defendant's handwriting. I have known this field for the last about 20 years *i.e.* from about 1938. I have been to this field. I cannot say when I first went to this field. I went first to this field about 15 years ago.

10 Q. The first time you went to this field was the defendant in the temple he is claiming?

A. The defendant was not in the temple at that time.

Q. According to you, when you went to the field for the first time there were no buildings there?

A. No buildings whatsoever.

(Shown P2):

Q. This is also like one of the documents handed over by either the defendant or by some other person to the temple?

A. Yes.

In (P2) also there is no reference to any name nor is there any signature<sup>20</sup> of any party. The body of (P2) is in purple ink and in blue-black ink, there is an endorsement at the bottom. I say this endorsement is in the handwriting of the plaintiff on 31-1-1951. In this it is written: 'Mas Mosama.'

In P1 the endorsement is only Hirikotuweduwa. In (P2) it is Hirikotuweduwa *alias* Pehimbiyagodaduwa kumbura. (Shown P3): This document has two endorsements. This also does not contain the name of any field except for the endorsements. According to me, this has been written by the plaintiff. In none of the documents P1 — P3 is the name given in the defendant's handwriting. There is an endorsement in P3<sup>30</sup> giving the No. of the Magistrate's Court case and 26-3-1953 Rs. 240/- has been received. There was an M.C. case at that time. That was the time when there was a dispute between the plaintiff and the defendant in respect of this property. I did not come to Court in connection with that case. (Shown P4):

There is no name of the field in this document also (Shown P5): There is no name of the field in the body of the document. The money given for the 3 years — 1947, 1948 and 1949 — is shown in this. There is an endorsement in this to the effect "divide a portion for the improvement of the land."

No. 11  
Plaintiff's  
Evidence

Evidence of  
D. Saddhananda—  
Cross-examination.  
—Continued.

I said that I first went to this field sometime before the defendant went there.

Q. On how many occasions had you gone before the defendant went there ?

A. There is a road over this land and that road goes through the land and I have been going along this road several times.

Q. Do you know that there are several Owitas and field portions ?

A. Yes.

Q. Before the defendant went to this land, how much of field was cultivated ?

10

A. I cannot say.

Q. Have you been across this land after the defendant went to reside there ?

A. I have gone along the road across the land and also I have gone to the place where the defendant was residing.

This temple is called Keththaramaya. Whenever I go for pinkamas, I used to stay in this temple. I have stayed overnight in this temple ; as a matter of fact, for several days.

Q. According to you, the defendant has got some of these fields cultivated ?

20

A. Yes.

Q. After the defendant went there, your position is that the defendant has got them cultivated ?

A. Yes.

Q. As a matter of fact, after the defendant went there he has asweddumized a much larger portion and converted that into a field ?

A. I cannot say whether the defendant has asweddumized any portion into a field. I do not know because they had been cultivated as fields earlier.

I cannot say whether a larger area had been cultivated after the defendant went there. The defendant has planted coconut and cinnamon.

Q. I put it to you that before the defendant went there cultivable portion was only about 8 bushels ?

A. I do not know.

Q. Before the defendant went there what extent was cultivated as a field, you cannot say ?

A. I cannot say.

Q. The defendant's position is that he had asweddumized and was cultivating about 10 bags paddy sowing extent ?

A. I do not know.

Q. You know that the defendant has got the highland portion planted with coconut and cinnamon ?

A. Yes.

<sup>10</sup> There are a number of owitas and the defendant has planted coconut and cinnamon in these owitas and the defendant has taken the produce of the coconut and cinnamon on the owitas. From the time the defendant was there he has taken the produce of the coconut and cinnamon, from the time they started to bear.

Q. At first the defendant built a 7 cubits house and went into residence ?

A. Yes.

Q. After that he put up a number of buildings ?

A. Yes.

<sup>20</sup> There is a Dharmasalawa also put up by the defendant. There was a Pinkama with regard to the opening of this Salawa about 10 years ago. After the Pinkama there was a Pooja ceremony. There is also a 'Bo-Maluwa' and also a Viharage. The Viharage is in the portion taken from the Crown. There is no Viharage on this land. In the land taken from the Crown there is a Viharage which is in the process of being completed. In the Salawa there was a shrine room but it is not existing now. Now it is a weaving centre. A part of this was used as a shrine room formerly. I do not know whether a statue is kept in the Bo-Maluwa. I went to this place about 3 years ago.

<sup>80</sup> Q. Is it correct to say that after the institution of this case you have not gone to this land ?

A. Yes.

I know that before this civil case was filed in this Court there was a case in the Magistrate's Court. After the dispute arose in the Magistrate's Court, I have not gone to this land.

Q. You will admit that the defendant has put up at considerable expense buildings on this land ?

A. He has only put up a Hall.

No. 11  
Plaintiff's  
Evidence

Evidence of  
D. Saddhananda—  
Cross-examination.  
—Continued.

(Shown D7): Welihinda Sri Saddhananda Thero is myself. This is the name against the Alawaka discourse. I remember there was a Pinkama in 1955 at Lalpe Kandawatta. These were the notices printed in connection with that Pinkama. I also got one notice. I know this document. In January, 1956, I have preached a sermon titled 'Alawaka Soottra.' On 11-3-1956 Sangananda Thero's name appears. This is a discourse by the defendant priest. The plaintiff's name also appears as one of the preachers.

Q. Do you know the area on which this temple Keththaramaya stands?

A. Yes.

10

Q. What is the extent of that area?

A. About 18 acres.

Q. Does the field extent of 18 acres comprise Keththaramaya Vihare Bhoomi?

A. Keththaramaya Vihare Bhoomi is separate and the lands belonging to the Keththaramaya Vihare is separate. There is a separate land for the Viharage. The whole land is not known as the Vihare Bhoomi.

Q. What is the extent of the Keththaramaya Vihare Bhoomi?

A. About one acre. This land is adjoining the Aramaya.

20

Q. Apart from these occasional visits you have referred to, you have not gone to this land for the purpose of supervising the cultivation of either the lowland or the highland at any time?

A. I did not go when the land was cultivated. I know this land mostly by the name of Hirikotuveduwa. It is also called Mahapittaniya.

Q. As a matter of fact, is it your position that it is known better by the name Mahapittaniya than by any other name?

A. Both names are being used and mostly it is called Hirikotuveduwa.

I do not know the boundaries of this land. I do not know the names of the lands surrounding this land. I do not know the names of anyone of these lands. I said that this extent of 18 acres has several portions. I cannot say how they are divided into these portions. I cannot say the extent of these several portions. I know the names of certain portions.

Q. Are you able to identify the names of the portions you know on the ground?

A. I cannot.

Q. You only know that certain portions are known by certain names ?

A. Yes.

No. 11  
Plaintiff's  
Evidence

Evidence of  
D. Saddhananda—  
Cross-examination  
—Continued.

BY COURT :

Q. How do you know that ?

A. I heard it being said.

This is what I heard in the temple. (Shown P6): The first column in this document has the name of the cultivators. The second column the name of the fields and under this, there are the names of certain fields. As I  
10 have already said I cannot identify these names on the ground and these are the names I heard in the temple. There is a Pansalakela but I cannot say which Pansalakela.

(Shown P7): In this document the name of the field is not given at all nor in P8. The Rev. Gunananda died in the year 1944. He died in the Lalpe Temple.

Q. After him who has functioned in the Lalpe Temple and who has been in charge of this temple ?

A. Pemasiri Thero is looking after it. He is the person who is working as the Chief of the place and he is called the Viharadhipathi of this temple.  
20

Q. You recognise Pemasiri Thero as the Viharadhipathi of the Lalpe Temple ?

A. Yes.

Q. You never claimed to be the Viharadhipathi of the Lalpe Temple ?

A. No.

Q. You have at no time claimed any interests in the Lalpe Temple ?

A. I did not claim any rights.

Q. I take it you have never the intention of being the Viharadhipathi of any of these temples ?

A. I do not like to behave in such a way as to cause trouble to my senior priest. If the occasion arises, I may have to stake my own claim. At present I have no intention of claiming the Viharadhipathiship of Lalpe Sudarmaramaya.  
30



No 11  
Plaintiff's  
Evidence

Evidence of  
D. Saddhananda—  
Cross-examination.  
—Continued.

- Q. Even to Welihinda Sudassanaramaya, you do not claim the Viharadhipathiship?
- A. I did not claim at any time.  
For the present I do not have any intention of claiming the Viharadhipathiship of this temple.
- Q. Regarding these two temples — Lalpe Sudarmaramaya and Welihinda Sudassanaramaya — for the present you have no intention of claiming?
- A. For the present I do not have any such intention. I also belong to the same Paramparawa as Sudassi Thero and I am entitled to be maintained from the income of the temporalities that belong to Sudassi Thero.
- Q. All the pupils and pupillary successors of Sudassi Thero have a right to claim maintenance from the temples that belong to Sudassi Thero?
- A. Those priests who are living in various places have to maintain themselves from the produce of those respective temples.

Sudassi Thero was the incumbent of four temples and there were a number of lands and fields that belong to these four temples.

- Q. The pupils of Sudassi Thero are entitled to be maintained from those temples?
- A. Those who are residing there have the right to be maintained from the income of those temples?
- Q. Have you the right to be maintained from the lands that belong to the temples of Sudassi Thero?
- A. I have the right.
- Q. More so, has Sumanatissa the plaintiff priest?
- A. Yes.

I know what is meant by Sisyanu Sisya Paramparawa. The succession to this temple is by the tenure known as Sisyanu Sisya Paramparawa, where the senior pupil succeeds the tutor unless there is an appointment.

- Q. Do you know how Gunananda Thero was the senior pupil of Sudassi Terunnanse?
- A. Yes.

**Q.** Do you also know that Sudassi had appointed Gunananda to succeed him as the incumbent of this temple?

**A.** Yes.

This appointment was subject to certain conditions. I know the fact that the appointment was made and the deed was written but I did not read the deed.

(Shown P12): This is the deed given by Sudassi Thero in respect of the Viharadhipathiship to Gunananda Thero. One of the conditions is that the appointment should be made by the consent of all.

<sup>10</sup> **Q.** When Gunananda died in 1944, was there a meeting of the priests thereafter, to your knowledge?

**A.** There was an occasion when some of the priests assembled but other than that, there was no meeting.

When a priest of some paramparawa dies the priests of this paramparawa usually gather but apart from this, nothing else took place.

**Re-examination.**

(Shown P1 — P8)

**Q.** Are you familiar with the handwriting of the defendant?

**A.** Yes.

<sup>20</sup> **Q.** Are those documents in the handwriting of the defendant?

**A.** Yes.

**BY COURT :**

**Q.** Have you and the defendant priest been living together at the same time?

**A.** We used to stay for a day or two in the same place.

**BY COURT :**

**Q.** Apart from that has the defendant personally written to you?

**A.** On certain occasions the defendant has sent me letters.

I said that I had seen some of these lists delivered to the temple and I also <sup>80</sup> said that the defendant himself had come and delivered some of these lists to the temple.

No. 11  
Plaintiff's  
Evidence

Evidence of  
D. Saddhananda —  
Cross-examination.  
—Continued.

Evidence of  
D. Saddhananda —  
Re-examination.

No. 11  
Plaintiff's  
Evidence

Evidence of  
D. Saddhananda—  
Re-examination  
—Continued.

Q. Can you say whether these are the lists that were delivered to the temple ?

A. I cannot say which of these lists have been delivered to the temple.

Q. You said that on some occasions you were witnessing the delivery of the paddy lists to the temple ?

A. Yes.

Q. Is there any one list from the lists you are holding in your hand that you can say was delivered at the temple ?

A. I cannot remember well whether any particular list was handed over at any particular time but I only know that this is in the <sup>10</sup> handwriting of the defendant.

I said that I witnessed the delivery of these lists. I have seen these lists in the temple. I cannot say definitely which is the particular list as there are a number of lists in the temple.

I said that the Rev. Gunananda had a number of pupils. I mentioned my name as one of his pupils. Indasara Thero and the defendant are other pupils. I said that I was the most senior of his pupils.

Q. In point of seniority you said that the defendant priest is junior to you ?

A. Yes.

20

Q. What about Indasara Thero ?

A. He is also junior to me.

Q. Is Indasara Thero senior or junior to the defendant ?

A. Both of them have been ordained on the same day.

I said that I made a declaration under the Buddhist Temporalities Ordinance. I produce an extract from the Bhikku Register marked P25. This is an extract from the Bhikku Register with regard to my Upasampada Ordination. I was questioned about the priest who ordained me. I point out to Court that the name of the Revd. Gunananda is given as one of the robing tutors. I said that Sudassi Thero had four temples and one is the <sup>30</sup> Welihinda Temple. I am residing at the Welihinda Temple. Welihinda Temple has certain temporalities.

Q. How are you maintained ?

A. I am being maintained by the Welihinda Temple.

Q. Do you get any maintenance from any of the other three temples ?

No. 11  
Plaintiff's  
Evidence

A. No.

Q. Do you give any financial help to the priests residing in the other temples ?

Evidence of  
D. Saddhananda—  
Re-examination.  
—Continued.

A. Sometimes when they ask we used to give.

Q. Is there any regular payment as such ?

A. No.

Q. Apart from these three temples, if any outside temple asks for help, will you give ?

<sup>10</sup> A. Various temples come for help to Welihinda Temple.

I said that Gunananda Thero gave up the Viharadhipathiship of the Welihinda Temple. This was in 1930.

Q. According to Sisyanu Sisya Paramparawa you claim to be the senior pupil of Gunananda ?

A. Yes.

Q. Why do you not claim the Viharadhipathiship as the senior pupil of Gunananda Thero ?

A. There are more eligible and powerful priests — people who are more versed in other matters.

<sup>20</sup> (With permission of Court Mr. Pandita Gunawardena asks) According to me, I was out of Welihinda from 1942 — 1945 (Shown P25) :

Q. At the time of the declaration in this document, where had you been ?

A. At the time of the declaration I have given the address of the place where I was residing as Meetotamulla, Dematagoda.

Q. So that in March 1942, you have been at Dematagoda ?

A. This was the time I was studying at Dematagoda. I was at Dematagoda for about 4 years.

<sup>30</sup> Though I was studying at Dematagoda, I used to come to the temple and stay for about a month or two.

Q. Apart from such occasional visits, your residence was at Dematagoda.

A. I was attending the Maligakanda Vidyodaya Pirivena at Dematagoda and only for the holidays I come to the temple.

No. 11  
Plaintiff's  
Evidence

Evidence of  
D. Saddhananda—  
Re-examination.  
—Continued.

In (P25) the ordaining tutors are given. The name of the first person given is that of Sudassi Thero. I was four years at the Vidyodaya Pirivena from 1932 — 1936.

*District Judge.*

24-9-58.

Evidence of  
L. L. Cornelis  
Appuhamy —  
Examination.

**L. L. Cornelis Appuhamy** — Affirmed — 58, Cultivator, Warakapitiya.

At one time I was a headman also. I know this land which is the subject matter of this case. There are fields and highland planted with coconut, cinnamon and vegetables. There are koratuwas which are deniye lands. I have known this land for about 25 — 30 years. I know the Welihinda 10 temple. I know the defendant. I remember the time the defendant came to this land. I know the land before the defendant came to this land.

**Q.** Who took the produce of the entirety of this land before the defendant came to reside on this land ?

**A.** Sumanatissa, the plaintiff priest.

**Q.** After the defendant came who took the produce of this land ?

**A.** The produce was taken to the Welihinda Temple.

I know the field portion of this land. This was roughly in 1944 or 1945 about 7 or 8 bags paddy sowing extent. I do not know anything about this field after 1944 or 1945. 20

**Q.** Was it cultivated by one man or a number of cultivators ?

**A.** By a number of cultivators.

I can mention the names of certain goiyas. H. R. Solomon, Pahala Vitanage Carolis who is dead and Mahagamage Don Juwanis. Prior to 1945 a person called Yapa also worked. After the defendant priest went there, Solomon and Patty Mahatmaya cultivated this field.

**Q.** You do not know in what way they cultivated ?

**A.** No.

I know the portion called Kekilladuwa Addara. Kekilladuwa is to the South of this land and this is the boundary of the subject matter. Kekilla- 30 duwa is adjoining this field. Adjoining Kekilladuwa is a portion of this field.

**Q.** Do you know the portion of this field called Kekilladuwa Addara Pahala ?

**A.** I do not know.

By COURT :

Q. Do you know that there is a portion of field called Kekilladuwa Addara Pahala ?

A. I do not remember this portion.

Q. What do you call the portion of this field adjoining Kekilladuwa Addara Pahala ?

A. I call it Kekilladuwa Addara.

I said there are certain fields belonging to the Welihinda Temple. There are certain portions called Kekilladuwa Addara Pansalakela and Maha-  
10 pittaniya and several people are working these several portions.

Q. Who takes the produce of all these portions ?

A. Welihinda Sumanatissa Thero, the plaintiff.

Q. From when till when can you say that the plaintiff has taken the produce of this field ?

A. For about 25 years.

I said that the defendant came and stayed there at one time. I remember the time he came. After that also the produce of this field was taken by the Welihinda Temple.

#### Cross-examined.

20 In respect of the fields at Warakapitiya there is a Vel Vidane. There was a person called Girigoris who was the Vel Vidane and now he is dead. Now there is a person called James Appuhamy. Those days I collected the acreage taxes in respect of these fields. — 1942, 1943, 1944 and 1945 — during the control period. I collected the acreage taxes for the first six months of 1945 and after that I retired from service. I was not dismissed from service. There was a police inquiry in regard to 8 bags of paddy taken into custody by me and only two bags were given. I resigned at the time the inquiry was pending.

Q. You were dismissed from service ?

80 A. I was not dismissed. I sent in my resignation.

Q. You did not want to face that inquiry ?

A. I did not go for the inquiry.

I cannot remember whether the 8 bags belonged to Kirigoris Abeykoon, Vel Vidane. There was no owner to these 8 bags of paddy. I did not produce 2 bags from the 8 bags. I can point out the boundaries of this field. I

No. 11  
Plaintiff's  
Evidence  
—  
Evidence of  
L. L. Cornelis  
Appuhamy—  
Examination.  
—Continued.

Evidence of  
L. L. Cornelis  
Appuhamy —  
Cross-examination.

No. 11  
Plaintiff's  
Evidence

Evidence of  
L. L. Cornelis  
Appuhamy —  
Cross-examination.  
—Continued.

can point out the portions worked by different parties. I know the boundaries of this land. To the North is Heendeniye Wekandiya. Heendeniye Wekandiya is not several fields away from this land. There is no stretch of fields between this field and Heendeniye Wekandiya.

One Jacolis worked formerly this portion and the temple was taking the produce. I am talking of the period prior to 1945. I am talking of the period between 1940 and 1945. I think Jacolis is dead. I have not seen him recently. Jacolis has not come as a witness today. Carolis is dead. Solomon has not come to give evidence today. I gave the names of the cultivators who worked earlier. Solomon is alive and Patty Mahatmaya is also alive. They have not come to Court today nor on any previous dates of trial. The defendant priest is living on the subject matter for about 16 years or more. I cannot say exactly who took the produce of the highland. I personally do not know who took the produce of the highland. I know that the defendant took the produce but I do not know whether the defendant gave the produce to the Welihinda Temple or not. This land consists of both fields and highland portions.

Q. Do you know that the defendant was taking the produce of both the highland and lowland?

A. Yes.

Q. Apart from this you do not know anything else — about other things?

(Mr. Advocate Karunaratne objects to this question):

Q. What the defendant did with the produce of the highland and lowland portions, you personally do not know?

A. I know that when I was officiating as the V. H. the defendant was in the temple. I have seen coconuts being taken to Welihinda.

Q. Plaintiff's position is that the produce of the highland the defendant took?

A. There is a man called Sandoris who is working in the Welihinda Temple and he used to take a cart and take the coconuts and paddy.

Q. According to you, the produce of the highland portion was also taken to Welihinda Temple?

A. On certain seasons they have been removed to the Welihinda Temple.

Q. During what years was the produce of the highland portion being taken to the Welihinda Temple?

A. I have seen it being taken in 1944 or 1945.

Q. If the plaintiff says that the defendant was allowed to take the produce of the highland portion, is it correct?

No. 11  
Plaintiff's  
Evidence

A. I do not know but I have seen Sandoris taking the produce and when I meet him on the way I used to ask Sandoris from where he was taking the coconuts and paddy.

Evidence of  
L. L. Cornelis  
Appuhamy —  
Cross-examination.  
—Continued.

No time. Further trial on 18-11-1958.

(Sgd.) .....  
*District Judge.*  
24-9-58.

10

18-11-1958.

Trial resumed.

Same appearance of Counsel for parties as before.

Parties present.

**Plaintiff's case — continued.**

**L. L. Cornelis Appuhamy — Affirmed — recalled.**

**Cross-examination — by Mr. Advocate Pandita Gunawardena — continued.**

I know Kettaramaya. I live about  $\frac{1}{2}$  mile away from Kettaramaya. I am not a dayakaya of this temple. I used to attend pinkamas in that temple once in a way. The last pinkama I attended in that temple was about 3 years ago, and that was with regard to a meeting.

There is a preaching hall in that temple. That preaching hall was built by Punciappuhamy. I knew that that preaching hall was built round about the year 1942. At that time this defendant priest went to reside there. It is this Defendant-priest who got that preaching hall built. There may have been a pinkama in connection with that preaching hall, but I did not go for that pinkama. Since I last went to that temple I did not go there thereafter.

I know the Welihinda Temple. I have been to this temple. I went to this temple recently. I have been to this temple during the life time of Rev. Gunananda. That was about 15 or 20 years ago. I saw Rev. Gunananda in this temple. I used to meet him occasionally in this temple. I saw him in this temple when he had come from Lalpe. I saw him in this temple about 20 years ago.

I have also been to the Lalpe Temple. I know all these temples.

I know Rev. Sumanatissa the plaintiff in this case. I received summons in this case for today. No. I got summons in this case on the first date of



No. 11  
Plaintiff's  
Evidence  
—  
Evidence of  
L. L. Cornelis  
Appuhamy —  
Cross-examination.  
—Continued.

trial. After that I did not get summons in this case. The Plaintiff-priest has asked me to come to Court. I met the priest on the way and he asked me to come to Court today. I met the Plaintiff-priest on the road and I came to Court along with him today. On some days I come to Court by bus.

I have known the Defendant-priest for about 20 to 30 years. The Defendant-priest is from our village Warakapitiya. That is where this temple is situated. I have known the Defendant-priest as a resident of Warakapitiya for about 20 to 30 years. In a general way I know the present residing place of the Defendant-priest. 10

At that time this land was planted with vegetables in koratuwas. There was no permanent plantation in this land.

After he came he planted some coconut plants on the land and he also put up a building on the land. All the buildings on this land were put up after this Defendant-priest came to reside in this land. Now this land consists of a number of buildings appurtenant to this land. There is also a weaving school in this land. But that is on another portion which belongs to the Crown. There is an Avasa in these premises. There is a preaching hall. There may also be a small Bo-tree on this land, but I cannot remember it. I did not go to this temple since 1945 up to date. 20

Evidence of  
L. L. Cornelis  
Appuhamy —  
Re-examination.

### Re-examination.

I know that some fields are worked. There is also the highland portion of this land. The plantations on the highland portion consists of cinnamon and vegetable plots, and in some places coconut has been planted. Those coconut trees are about 15 to 20 years old. I cannot give the extent of the cinnamon plantation.

Plaintiff's case closed reading in evidence P1 to P25.

*District Judge.*

## No. 12

### Defendant's Evidence

30

No. 12  
Defendant's  
Evidence

### Defendant's case.

Mr. Advocate Pandita Gunawardena calls.

Evidence of  
W. Sangananda  
Therunnanse —  
Examination.

Warakapitiye Sangananda Therunnanse — Affirmed — 47 — Kettaramaya, — Warakapitiya.

I am the Viharadhipathi of Kettaramaya. My tutor was Meeruppe Gunananda, and his tutor was Akurugoda Sudassi. Akurugoda Sudassi was the Viharadhipathi of several temples, namely Welihinda Sudassanaramaya, Lalpe Sudarmaramaya, Akurugoda Nagarukkaramaya and Warakapitiye Tribhumikaramaya. 40

Of these temples the oldest is Lalpe Sudarmaramaya. This is an ancient temple. The next oldest temple is Welihinda Sudassanaramaya. This was founded 7 generations prior to Akurugoda Nagarukkaramaya, and the other temple was made thereafter. The Viharadhipathi of these temples would go according to the Rule of Succession "Sisyanu Sisyā Paramparawa." I know the rule of succession. That is from the tutor to his senior pupil unless an appointment is made. The senior pupil of Akurugoda Sudassi was Meeruppe Gunananda. I have produced a declaration under the Buddhist Temporalities Ordinance in regard to Meeruppe Gunananda —  
 10 D6, wherein it is stated that Akurugoda Sudassi is his robing tutor, and the robing has taken place in the year 1892. I draw the special attention of Court to cage 17 of D6 where it is stated that Meeruppe Gunananda's permanent residence is Welihinda Sudassanaramaya. I say that I am the senior pupil of Meeruppe Gunananda. I was robed by him in the year 1926. I was ordained by Meeruppe Gunananda.

No. 12  
 Defendant's  
 Evidence  
 —  
 Evidence of  
 W. Sangananda  
 Therunnanse —  
 Examination.  
 —Continued.

I produce the declaration made by me under the Buddhist Temporalities Ordinance — D12. In D12 my robing tutors are given as Akurugoda Sudassi and Meeruppe Gunananda, and the robing ceremony had taken place in Welihinda Temple. The ordination has been performed by the  
 20 same 2 priests.

In cage 17 I have given my permanent residence as Welihinda Sudassanaramaya.

This declaration was made in June 1932. At that time I was a student in the Muchalinda Pirivena at Matara. I was robed in 1926, and after that I went for studies to the Muchalinda Pirivena in Matara. I was there from 1926 to 1936. I was studying for a period of 10 years in that pirivena.

In 1936 I went to Lalpe to spend the 'vas' season. Thereafter I was studying in Kataluwa for 3 years in the Vidiyawasa Pirivena till 1939; thereafter I went to Colombo and studied up to 1942.

30 Kataluwa and Colombo were not my permanent residences. For purposes of my studies I went there. My permanent residence is Welihinda Sudassanaramaya.

In 1942 I came back to Welihinda Sudassanaramaya, and from there I came to Kettaramaya. But at that time there was no Kettaramaya there. After I left Welihinda Sudassanaramaya after 1942 I came to live on the land where I am at present residing. But at the time I came to live on this land there was no building on the land.

Thereafter I put up a house on the land with the help of my dayakas. At the time I came to live on this land it was abandoned. Some of my  
 40 dayakas came and invited me to come and live on this land. At that time there were a few coconut trees on the land.

Various people used to take the nuts from the coconut trees on this land at that time, because the land was in an abandoned state.

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 Defendant's  
 Evidence  
 ———  
 Evidence of  
 W. Sangananda  
 Therunnanse —  
 Examination.  
 —Continued.

After I came to live on the land I put up a house on it with the assistance of the dayakas. I put up a 7 cubits house on the land at first. While residing in that building, I put up a preaching hall on the land. I completed the preaching hall in the year 1944. After completing the preaching hall I held a ceremony and a poojawa. That preaching hall was dedicated by pouring pirit pan. It was dedicated to me and the Sangha. By that time this institution was named Kettaramaya.

At the time I went to the land it was known as Kettaramaya, but it was confirmed by that name after the poojawa. After that I built the Bokotuwa. A wall was erected round the Bo-tree. Then an image house like 10 thing was built with the image of Lord Buddha for the offering of flowers. Subsequently a foundation was laid to put up a Viharaya. That foundation is still there. The walls of that Viharaya was built up to a height of about 12 feet. I am residing in a portion of the building which is meant as a preaching hall. There are rooms in that preaching hall and I am living in one of those rooms.

Subsequently the dayakas obtained an acre extent of land from the Crown. That is in the name of the Dayakas. There are buildings in that portion of land. There is a Vihara and a meeting hall in that portion of land. The Rural Development Society meets there. The Society meetings are 20 held there. There are also 2 wells in that portion of land.

I put up the 7 cubits house in the year 1944 in the high land portion.

I have also planted coconut and cinnamon on this land. There are also arecanut and jak trees in this land. These were planted by me. The entire extent of the land on which I am now residing is about 7 acres, of which 4 acres are contiguous lands, and the rest are lands here and there.

The portion of the high land where Kettaramaya stands is about 4 acres on either sides of the road. That is what I referred to as the 4 acre block. The other extents of lands are towards the South and East. There is also a portion of low land or paddy fields amidst these high land portions. 30 The extent of the low land or paddy fields is about 15 bushels, that is about  $7\frac{1}{2}$  acres.

When I went there in 1942 the fields were overgrown with weeds and small shrubs. There were 8 bushels of cultivable field here and there. Various people in that area were cultivating those fields. I do not know to whom the paraveni share from those 6 to 8 bushels of paddy sowing extent were given. From time to time I was given a share from those 6 to 8 bushels of cultivable land.

People in that area enjoyed those fields saying that there was no individual owner, but they also used to give me paddy from those fields from 40 time to time. After I went to reside there I started to improve the place. After the temple was established there, the produce from those fields were given to the temple. The rest of the field I asweddumised. I asweddumised about 7 bushels paddy sowing extent. Those 7 bushels extent of paddy land are worked once a year or once in 2 years. Those 7 bushels extent which I

asweddumised were not worked or cultivated by anybody prior to that. I know the boundaries of this land. It is called Mahapittaniya *alias* Kekilladuwa. There is another high land called Pehimbiyagoda. It is situated in the centre of the subject matter of this action.

No. 12  
Defendant's  
Evidence  
—  
Evidence of  
W. Sangananda  
Therunnanse —  
Examination.  
—Continued.

(Shown P21). The name of the land given in this deed is Pehimbiyagoda addara willa. This name is not used in the village. I am not aware whether this name was used for the land where I am now residing. The eastern boundary is given as Pehimbiyagoda Duwa Mawatta. Mawatta means a road, but there is no road on the eastern side of this land. There is a road<sup>10</sup> by the side of Pehimbiyagoda Duwa. Pehimbiyagoda duwa is situated in the centre of the land where I am residing. On the eastern side the eastern boundary is not Pehimbiyagoda duwa. On the eastern side there is no road. Pehimbiyagoda duwa is in the centre of the land. A portion of P21 is torn and a part of it cannot be read. The western portion of it is torn.

On the South the boundary is given as Kekilladuwa Mawatta, but there is no road on the South of this land. There is no Kekilladuwa on the south as a boundary.

On the North there is no land called Heendeniya Wewakandiya.

Wekandiya is a bund. There is a land called Heendeniya, but that<sup>20</sup> land is situated far away from this land. That land is about 10 yards away from the subject matter of this action. Between the subject matter of this action and Heendeniya, there is an ela, a road and a high land portion.

Q. Do you say that the boundaries in P21 applies to the subject matter of this action ?

A. No.

(Shown P21) : In this the name of the land is given as Pehimbiyagodawatta. The land where I live is also called Pehimbiyagodawatta. No. The land on which I am residing is not called Pehimbiyagodawatta. In this deed no boundaries are given. (*Vide* para. 2 of the amended plaint)<sup>30</sup> The name of the land is given as Pehimbiyagodawatta. No. The name of the land is given as Pehimbiyagoda duwa, and not as Pehimbiyagodawatta. Therefore I say that P22 does not refer to my residing land. Near my temple there are other lands belonging to Welihinda Temple.

To COURT :

I do not know to whom the land on which I reside belonged.

The deed P22 does not apply to my residing land. On those 2 deeds the Welihinda Sudassanaramaya cannot get my residing land.

Those 8 bushels extent of paddy land had been worked from time to time prior to my getting it worked. I cannot say exactly what happened to the<sup>40</sup> paddy from those 8 bushels of paddy land prior to that. That is because I was carrying on my studies at various places.

No. 12  
Defendant's  
Evidence

Evidence of  
W. Sangananda  
Therunnanse —  
Examination.  
—Continued.

Q. Is it true that you came to reside in Kettaramaya with the permission of the Plaintiff-priest?

A. No — I deny that.

Now I know that the Plaintiff has a deed from Rev. Gunananda. I came to know about it after this case was filed. Prior to that I do not know about it.

Akurugoda Sudassi had given a deed to Rev. Gunananda. Akurugoda Sudassi had given it to his senior pupil. Akurugoda Sudassi was succeeded by his senior pupil Rev. Gunananda. (Shown Deed P12): In this deed of succession to the 4 temples is given, and Gunananda is appointed as the 10 Viharadhipathi of these 4 temples subject to certain conditions. Rev. Gunananda is the senior pupil of Akurugoda Sudassi. One of the conditions imposed in that deed is that after his demise with the consent of the Sangha the Plaintiff-priest should succeed to the Viharadhipathiship.

But I say that the Plaintiff-priest is not a pupil of Rev. Gunananda. The Plaintiff-priest and Rev. Gunananda are brother priests. A brother priest cannot give or bequeath a temple to another brother priest.

I say that the deed P12 is not a valid deed. When the Plaintiff-priest was appointed there was no consent of the Sangha obtained. After the death of Rev. Gunananda I say that I am the lawful successor of these 4 temples 20 being the senior pupil of Rev. Gunananda. Rev. Gunananda died at Lalpe Temple. In 1933 the Plaintiff-priest sued another priest Rev. Gunaratana for the Viharadhipathiship of Welihinda Sudassanaramaya. In that case the mode of succession was accepted as 'Sisyanu Sisya Paramparawa'. I say that I am the lawful successor of Rev. Gunananda. After Rev. Gunananda's death Watarakkagoda Pemasiri took over Welihinda Temple. He is a brother priest of Rev. Dharmasiri and they are living at Lalpe Sudarmaramaya.

I did not object to it.

At the time of the death of Rev. Gunananda the Plaintiff-priest was at 30 Welihinda Sudassanaramaya.

Since that time the Plaintiff-priest was looking after the affairs of Welihinda Sudassanaramaya. At that time I was residing in Kettaramaya and looking after its affairs of which I am the Viharadhipathi. Welihinda Sudassanaramaya was being looked after by the plaintiff and Lalpe Sudarmaramaya was being looked after by Rev. Pemasiri and Rev. Dharmasiri.

Warakapitiye Thribumikaramaya was being looked after by Rev. Indasiri. Rev. Indasiri is a pupil of Rev. Gunananda. He is junior to me. From the time Rev. Gunananda died up to date I have been residing in Kettaramaya as the Viharadhipathi of that temple. My tutor died in Lalpe 40 Sudarmaramaya. It is not true to say that he abandoned Lalpe Sudarmaramaya at any time prior to his death. (Shown P13 dated 26-12-30) This is a deed by which the Plaintiff-priest says that he became the incumbent

of this temple. I deny that the Rev. Gunananda abandoned his rights in that temple or that he surrendered them to me. I point to D6 that in the year 1932, 25th March, Rev. Gunananda has given his permanent residence as Welihinda Sudarmaramaya. He used to visit this temple 3 or 4 times a month. I have heard about it. At that time I was staying in the pirivena on account of my studies. The plaintiff and I belong to the same paramparawa, that is because the plaintiff is a co-pupil of my tutor Rev. Gunananda. I have also taken the produce from the high land as well as from the low land. I utilise that income for my own use as well as to improve the place and to maintain the priests who visit this temple and also to help the priests who went out on studies. Sometimes I used to help the priests in their financial needs. I have also given a little of the income to Sudassanaramaya.

No. 12  
Defendant's  
Evidence  
—  
Evidence of  
W. Sangananda  
Therunnanse —  
Examination.  
—Continued.

I produce D8 and D9. These are letters addressed to me by the plaintiff from Welihinda Sudassanaramaya. There is a land called Hirikotuwe duwewatta. This land is some distance away from the subject matter of this action. I produce the final decree entered in P411 — D13 for the land called Hirikotuwe duwewatta. Welihinda Sudassanaramaya has rights in that land. Welihinda Sudassanaramaya did not intervene in that partition case. In that case no rights went to Welihinda Sudassanaramaya, that is, because no one from Welihinda Sudassanaramaya came forward and claimed rights in that case.

The portion of land in which I am residing as the Viharadhipathi of Kettaramaya is known as Mahapittaniya *alias* Kekilladuwa addara. I paid the huhandiram taxes in respect of this land. I produce the receipt for the year 1949 — D14.

I was sued by the plaintiff in this case in the M.C. Matara in the year 1952 and in 1954. As a result of those cases this action has been filed.

(P10 relates to a case instituted against me by the plaintiff in the year 1953). In that case I was charged for appropriating 10 bags of paddy from Hirikotuweduwa. In that case a settlement was arrived at and I agreed to pay the value of the paddy. I did that on the advise of my Proctor who said as there was no dispute to my residing land to give that amount.

In 1954 I was sued again (*Vide* P9). In that case also a settlement was arrived at and I undertook to give Rs. 100/- as security and to remain in possession and the plaintiff to file an action in the Civil Court.

P14 relates to a deed of lease in the year 1938. That is for the land called Pinwatta. That deed P14 does not relate to this land in question. The lessee on P14 has not been summoned for this case by the plaintiff as a witness.

P15 also relates to a deed of lease in respect of 2 lands called Potuketiya and Iddagoda Ketiya.

This deed P15 does not apply to the subject matter and the lessee on that deed of lease has not been summoned as a witness for this case by the plaintiff. In P15 the lessee is one Don Juwanisappuhamy.

No. 12  
Defendant's  
Evidence

Evidence of  
W. Sangananda  
Therunnanse —  
Examination.  
—Continued.

In P15 the 2nd land appears to be Pehimbiyaduwa and kumbura. This name does not apply to my residing land. The boundaries in P15 does not apply to this land on which I am residing.

P17 also relates to a deed of lease. The lessee on P17 is one Heenappu. He has also not been summoned as a witness for this case by the plaintiff. In P17 the name of the land is given as Pehimbiyaduwa and kumbura. P17 does not refer to my residing land. This is a deed of lease executed in 1946, and in 1946 I say that nobody possessed any portion of my land apart from me. Although a man called Heenappuhamy is alleged to have taken a lease of my residing land, nevertheless no man by that name or as a matter of fact, no other person other than I possessed the land on which I am now residing since 1946. (Shown P1) This is written in pencil. I cannot say whose handwriting this is exactly. I did not give this to the Plaintiff-priest.

We keep accounts in the 'avasa' where I am residing, that is, in Ketta-ramaya.

(Shown P2) This is written in ink. I cannot say exactly whose handwriting this is.

To COURT :

Here and there the writing appears to be similar to my handwriting, but I cannot say whose handwriting this is.

I cannot accept this as my handwriting. In P1 the Plaintiff-priest has written in ink. I am familiar with the Plaintiff-priest's handwriting. In P2 there is also a statement at the bottom in a different kind of ink. This has been done by the Plaintiff-priest. (Shown P3) At the bottom of this too there is something written. That is in Plaintiff-priest's handwriting. This has been written after this case was instituted.

There is a big difference in the writing in the body of P3 and the statement written at the bottom of it.

(Shown P4) The body of this is written in pencil. I cannot say whose handwriting this is. Even in this the plaintiff has written something. I did not give such a letter like this to Sudassanaramaya. There was no occasion for me to give such a writing like this to the Plaintiff-priest. I deny that I have given a writing like P4 to Sudassanaramaya.

To COURT :

(Shown P1 to P8).

Q. Is there any document among these written by you ?

A. I do not accept the position that the signature appearing in any of these documents were written by me.

Documents similar to these were kept by me in my temple. As it was common property I therefore kept certain accounts.

No. 12  
Defendant's  
Evidence

To COURT :

I said that documents similar to these were kept in my temple. I suggest that those documents may have been stolen from my temple.

Evidence of  
W. Sangananda  
Therunnanse —  
Examination.  
—Continued.

I say that I had no occasion to give such documents to the temple. These documents do not bear my signature. In sending these documents to the plaintiff I normally would have sent them under a covering letter.

The Plaintiff-priest has several other troubles with the villagers.

10 I have spent on the buildings and improvements effected by me in these premises. For the preaching hall alone I have spent about Rs. 12,000/-, and on the Bo-kotuwa I spent about Rs. 200/- and Rs. 150/- on the house which I originally built. That house is still there. There are buildings on the portion acquired from the Crown, and they are worth about Rs. 8,000/-. Most of this money is my money. I got some of the money from some of my relatives and the dayakas also helped me financially. Welihinda Sudassanaramaya never gave me any financial assistance to put up these buildings or to effect the improvements on this land.

No time now. Trial adjourned for 2-2-59.

20

*District Judge.*

2-2-59

Mr. Advocate Karunaratne instructed by Messrs. Keuneman for plaintiff.

Mr. Advocate Wijesuriya instructed by Mr. S. Samarasinghe for defendant.

This is a partly heard case by the permanent District Judge. Trial refixed for 21-4-59.

(Sgd.) .....  
*District Judge.*

30

5-4-60.

Plaintiff present.

Defendant present.

Mr. Advocate N. Karunaratne instructed by Messrs. Keuneman for plaintiff.

Mr. Advocate Pandita Gunawardena with Mr. Advocate Wijaya-suriya instructed by Mr. Samarasinghe for defendant.



**Trial Resumed.**

No. 12  
Defendant's  
Evidence

Evidence of  
W. Sangananda  
Therunnanse —  
Examination.  
—Continued.

**Mr. Pandita Gunawardena** — calls.

**Warakapitiye Sangananda Terunnanse** — Affirmed — Recalled.

I know this Rev. Saddananda. The robing tutor of Saddananda was Akurugoda Sudassi Thero. I was robed by Gunananda. I was presented for ordination by Gunananda earlier than Saddananda was ordained by Gunananda.

Evidence of  
W. Sangananda  
Therunnanse —  
Cross-examination.

**Cross-examination.**

I know that Saddananda was ordained by Gunananda.

**Q.** You were ordained later than the ordination of Saddananda? <sup>10</sup>

**A.** Yes.

**Q.** In point of time you were ordained later than Saddananda?

**A.** Yes.

**Q.** Your tutor present in your ordination was Akurugoda Sudassi?

**A.** Meeruppe Gunananda. It is given in my certificate.

My date of robing was 16th May 1926.

**Q.** Saddananda was robed on 15th May 1924?

**A.** Maybe.

I was presented for ordination by Sudassi and Gunananda according to the certificate. At that time Sudassi was dead. I was ordained in the name of both. Gunananda had a pupil called Indasiri.

**Q.** He was in charge of Warakapitiya Temple?

**A.** There are two temples in Warakapitiya.

There is a Warakapitiya temple. He was in charge of Tribhumikaramaya Temple. To the present land I went in 1942. Indasiri was in Warakapitiya temple from a long time, long before I went to this temple. He is junior to me. Indasiri has been robed by Gunananda.

**Q.** That was done long before you were robed?

**A.** No; after I was robed.

He was robed in June, 1926. I cannot produce any document to show <sup>30</sup> that Indasiri was robed in June, 1926, but I can remember well.

Q. Indasiri was ordained before you ?

A. He was ordained on the same day.

Q. Somehow or other he went in charge of a temple long before you ?

A. After he was ordained, he was kept in a temple and he is still there. He is in charge of that temple now.

Q. You have no document to show that he was ordained on the same day as you were ordained ?

A. It can be shown from the ordination certificate. I do not have his ordination certificate.

10 At times I have been in Lalpe Temple. It was from Lalpe Temple that I came to Matara for studies. I was in Matara for about 10 years. When I came to Matara I was about 13 years old. At the time when I was in Lalpe Temple Gunananda was living.

Q. That is why you were there in Lalpe Temple before you came for your studies ?

A. I did not stay there long. I was there for about 2 or 3 months.

I was 12 years and a few months old when I was robbed. Within a few months of my robing I came to Matara. From Matara I went to Lalpe. I was in Lalpe for about 4 months. From there I went to Kathaluwa.

20 Q. You went almost directly from Matara to Kathaluwa ?

A. Yes.

Q. There you stayed for a period of three years ?

A. Yes.

Then I went to Colombo. I stayed in Colombo from 1939 to 1942. From 1926 to 1942 I have been out of Lalpe Temple excepting for occasional visits. I was in various places such as Matara, Kathaluwa and Colombo.

Q. For 17 years you were away from Welihinda Temple ?

A. When I come for holidays I stay a few days there also.

30 Q. Very often you go to Lalpe because your ordained priest was there ?

A. I stay in all four temples.

When I come for the holidays I stay in all four temples. When I finished my studies in Colombo in 1942 I came to Welihinda Temple. There I stayed

No. 12  
Defendant's  
Evidence

Evidence of  
W. Sangnanda  
Therunnanse —  
Cross-examination.  
—Continued.

No. 12  
Defendant's  
Evidence  
—  
Evidence of  
W. Sangananda  
Therunnanse —  
Cross-examination.  
—Continued.

for a short time. The land that the plaintiff is claiming is not more than 14 acres in extent. There is high land and low land portions. At the time in 1942 when I came to Welihinda Temple I do not know who was taking the produce from this land. Even before I do not know who was taking the produce. I do not know anything about this land those days.

Q. That is why you do not know who was taking the produce from this land?

A. Yes.

Q. In 1942 somehow or other you happened to take up residence in this land?

10

A. Yes.

I went there from Welihinda Temple. I went there and a house was put up. I am an ordained Buddhist priest.

Q. Are you going to tell us today that you went to this land not with the permission of the plaintiff from Welihinda Temple?

A. I went with his permission (Kametta athuwa)

I do not know of particulars about this land.

Q. It was the plaintiff who asked you to go and reside on this land?

A. The dayakayas asked me to go.

Q. Was it not the plaintiff who asked you to go and reside on this land?

A. (The witness is wavering) It was not the plaintiff who asked me to go and reside on this land.

Q. You asked permission from the plaintiff to go and reside?

A. I asked the plaintiff whether he would like me residing somewhere else and he said "Yes".

Q. The Plaintiff-priest did not ask you where you were going to reside?

A. He asked me.

Q. Then you said that you are going to reside on this land?

A. Yes.

30

To COURT:

Q. So the plaintiff agreed?

A. Yes.

## Cross-examination—Continued.

No. 12  
Defendant's  
Evidence

Q. A little while ago you said that the dayakayas asked you to go there ?

A. It was after the dayakayas invited me that I asked the plaintiff.

Q. You know that the properties belonging to this temple are administered by the priest in charge ?

A. Yes.

I know who a dayakaya is. Dayakaya of a temple is a person who gives Dana and helps and sees to the interest of the temple and who improves the temple.

Q. You find a number of dayakayas in a temple ?

A. Yes.

Q. It is a congregation ?

A. Yes.

Q. Have they got any right to temple property ?

A. No.

Q. Have they any right to instal a priest on a land belonging to any temple ?

A. No.

20 Q. Why do you say that dayakayas invited you to this land ?

A. Because this was not a land that was possessed peacefully by the temple. This was in dispute.

I do not know anything about this land before 1942. Before 1942 I do not know whether the temple had possession of this land or not. Even after I went people of the village were cultivating this land the subject matter of this action. Still they are cultivating. After I went there, I was given a share of the produce by the dayakayas.

Q. You did not ask them who got this share before you went there ?

A. I could not find out as to whom they had given a share earlier.

30 I do not know that a share had been given to any paraveni shareholder. I went in 1942 and the people started giving me a share.

Evidence of  
W. Sangananda  
Therunnanse —  
Cross-examination.  
—Continued.

No. 12  
Defendant's  
Evidence

Evidence of  
W. Sangananda  
Therunnanse —  
Cross-examination.  
—Continued.

Q. That is part of the paraveni share ?

A. I do not know whether it was for paraveni share or for charity.

In 1942 I did not get. In 1943 I got a little. In 1943 two people gave me shares.

Q. From those two people did you inquire whether they gave a paraveni share to anybody else before you went there ?

A. I did not ask.

Q. Why didn't you ask ?

A. They did not tell me that they gave any share to anybody.

Q. Up to date do you know whether you were given a share as paraveni or as owner ?

A. A share is given now on the footing that the temple is the owner.

They said that they did not give a share earlier to anybody.

Q. Then why did you tell us that you could not find out who was given a share ?

A. That is by mistake.

Q. Different cultivators cultivated different portions ?

A. In 1942 there wasn't much.

In 1945 the Government was about to acquire this land and distribute among the villagers as an abandoned land. I intervened and said that I would get it cultivated.

Q. In 1948 who were the people who cultivated this field ?

A. I got it cultivated in 1948.

The cultivators at that time were H. R. Solomon Appu, L. P. Mendis Appu, H. R. Heenappu, H. K. Podihamy, H. R. Charlis, R. A. Don Andiris, H. K. Abaran, R. A. Dingiri Appu and R. H. Juwanis. They worked different portions of this field.

Q. For instance Solomon worked about 16 kurunies ?

A. He worked about 14 kurunies.

Mendis worked about 12 to 13 kurunies ; Podihamy also 3 to 4 kurunies. H. A. Charles worked about 4 kurunies. Heenappu worked one bag of paddy sowing extent. Charlis worked a little over a bag. Andiris also worked a little

over a bag. Abaran worked 5 kurunies. Dingiri Appu worked about 16 kurunies. Juwanis also worked about 16 kurunies. Those portions that are worked by different people have been given different names for identification.

No. 12  
Defendant's  
Evidence  
—  
Evidence of  
W. Sangananda  
Therunnanse —  
Cross-examination.  
—Continued.

Q. Solomon worked a portion called Tekkawatte Addarapahala?

A. It is called Nidanwela.

Mendis worked a portion close to that. Podihamy worked a portion called Mahapittaniya. There is a portion called Lindagawakelle. Heen Appu worked that portion. Andiris worked Pitakella. Charles worked  
10 Kekilladuwaaddara Ihala. Dingiri Appu worked Kekilladuwaaddara Pahala. Abaran worked Pehimbiyagoda Pahala. In 1953 the Plaintiff-priest brought a case against me in the Magistrate's Court. The charge against me was that I misappropriated the produce of these fields. The charge was for criminal misappropriation.

Q. You paid the amount that was due on the produce to the complainant in that case and compounded the case?

A. Yes, I paid the plaintiff the value of the paddy.

That was in respect of Hirikotuveduwa Kumbura.

(Shown P5)

20 Q. This is your handwriting?

A. It is similar to my handwriting. I cannot say whether it is my own writing.

I can recognise my handwriting. I deny that this is my handwriting.

Q. You deny that you sent accounts of the produce of this field to the Plaintiff-priest from 1946?

A. I did not send accounts.

Q. You never wrote and gave accounts to the Plaintiff-priest with regard to the produce from the paddy fields?

A. No; I did not.

30 Q. Did you have accounts similar to these accounts and keep in your temple?

A. I did not have accounts similar to these.

Q. You told us on the last date that you have accounts similar to these and that they may have been stolen from the temple?

A. I have lost some papers.

No. 12  
Defendant's  
Evidence

Evidence of  
W. Sangananda  
Therunnanse —  
Cross-examination.  
—Continued.

I had some lists similar to these and they have been lost.

Q. You have told that lists similar to these have been in your temple and they have been stolen?

A. I said that some lists have been stolen.

TO COURT:

Q. Do you say that any of these lists have been in the temple and stolen from the temple?

A. There were lists, but not lists giving such details.

**Cross-examination — Continued.**

(Shown P6)

10

Q. You deny that this is your writing?

A. They are not mine. They are similar to mine.

In this list there is the name of Goiya. The name of the field is there against his name.

Q. Just now you told us that there was a man called Solomon Appu who was a cultivator?

A. Yes.

Q. You gave the names of 10 cultivators and those names are in this list?

A. They cultivated different portions of the field?

20

In another column the sowing extent is given. There is another column giving 'mul aswenna.'

Q. In the other one the owner's share, seed paddy and amount due to the temple are given?

A. Yes.

Q. You got these shares given in this list when you were residing on this land?

A. I cannot say whether I have received the exact shares.

(Shown P5)

Q. Did you give any money to the Plaintiff-priest by the sale of paddy from this field?

A. At times he took some money.

Q. Did you give any money to the Plaintiff-priest by the sale of paddy?

No. 12  
Defendant's  
Evidence

A. Yes, from time to time I have given him by selling paddy.

I say that P5 is not in my handwriting. From the balance I have used some for the improvement of the land, the fields and have better yields.

Evidence of  
W. Sangananda  
Therunnanse —  
Cross-examination.  
—Continued.

To COURT :

Q. Did you suggest to the plaintiff that this land should be surveyed ?

A. I did not tell him.

This list is not mine. I did not suggest to survey the land.

**Cross-examination** — Continued.

10 Q. When you filed answer you said that this case cannot go to trial without a plan ?

A. Yes, I said so then.

Q. From 1948 to 1949 Rs. 1,190/- had been given for the paraveni share in this list ?

A. It is given in the writing.

Q. This is obviously a document written after 1949 ?

A. Yes.

Q. You were residing on this land in 1947, 1948 and 1949 ?

A. Yes.

20 Q. Can you explain why anybody besides yourself should write that a certain amount of money has been spent on the improvement of the property and it is showing good results, when you were residing on this land and taking the produce ?

A. I do not know for what purpose it has been written.

Shown letter dated 27-9-53 marked P26 — That is my signature. That is a letter written by me to the plaintiff.

Q. You have stated in this that the plaintiff saw the headman and took a report with regard to your taking the produce from the land ?

30 A. Yes, I came to know from the headman.



No. 12  
Defendant's  
Evidence

Evidence of  
W. Sangananda  
Therunnanse —  
Cross-examination.  
—Continued.

Q. You are asking him not to go to Court and to accept the paddy in your hands ?

A. Yes.

Q. You say that you had sent a list earlier ?

A. Yes.

Q. Those are the lists that I showed you just now ?

A. After the case I sent a list.

Q. You say in this letter that you sent a list to the plaintiff giving accounts of paddy ?

A. That is correct.

10

Q. Those are the lists that I showed you ?

A. They are not the lists for 1953.

Those are the lists for 1947 and 1948. I have stated in this letter that I have sent a list showing accounts of paddy. The lists shown to me are not those lists.

TO COURT :

Q. You have got a big temple apart from this, just adjoining this land ?

A. No. I do not have. It belongs to dayakayas.

Q. There is a large building like a temple ?

A. That is the residing house.

20

Q. You say that you have sent a list that you have got for paraveni a 1/10th share ?

A. Yes.

Q. That is from these fields ?

A. Yes.

Q. So why do you deny that you were giving the produce to the plaintiff all this time ?

A. I gave him a share.

Q. You referred to the plaintiff taking a report from the headman ?

A. Yes.

30

Q. By the time you wrote this letter to the plaintiff, the plaintiff has instituted a case in the Magistrate's Court. That is why you have said that you had already gone 3 times to Court ?

No. 12  
Defendant's  
Evidence

—  
Evidence of  
W. Sangananda  
Therunnanse —  
Cross-examination.  
—Continued.

A. There were two cases.

Q. One case was pending at that time ?

A. Yes.

(Shown letter dated 1-9-52 marked P27)

Q. This is your signature ?

A. Yes.

10 Q. What is that " Inna Idama " mentioned in this letter ?

A. It is this land the subject matter of this action.

I have stated in this letter that I am paying rent for the land on which I am living today. I have stated so because I am residing on this land. I have to pay about Rs. 400/- to Rs. 500/- a year. The adjoining land called Tekkawatte had been blocked out and given to different people. There is a preaching hall, a vihare and legumge in one acre block. The preaching hall is a cadjan shed. There are two wells and there is a latrine.

Q. Everything that is required by a priest is there on that block ?

A. Not everything.

20 Adjoining this one acre block given by the Crown, is the subject matter of this action.

Q. In that there is everyting for a priest to reside and you are in fact residing there ?

A. I live there as well as in the other land.

I gave instructions to file answer in this case.

Q. You say that the land on which you are residing is not Pehimbiyagoda, but Kekilladuwaaddara ?

A. It is called Kekilladuwaaddara or Mahapittaniya.

30 Q. Can you produce any document to show that there is a land called Kekilladuwaaddara or Mahapittaniya ?

A. It has been called Kekilladuwa.

No. 12  
Defendant's  
Evidence

Evidence of  
W. Sangananda  
Therunnanse —  
Cross-examination.  
—Continued.

Q. You said in P6 that there are different names to different portions of the field ?

A. Yes.

Q. You said that there is a portion called Mahapittaniya worked by Charles ?

A. Yes.

Q. That is part of the same field ?

A. Yes.

Q. There is no portion called Mahapittaniya belonging to you ?

A. No.

10

To COURT:

Q. What is the annual income from the high and low land ?

A. About Rs. 600/-.

Q. Is that for the paraveni ?

A. Yes.

**Cross-examination** — Continued.

I am taking the produce of this land now. I take the income and spend on the case.

Q. Before that you took the income and a part of it you utilised to improve this land ?

20

A. Yes, I used a portion to improve the land, I did not spend to improve the buildings.

I have no income of my own.

Q. The buildings are put up by subscriptions from dayakayas ?

A. I did not take any income from the land to put up the buildings. I got a portion from my relations.

Q. You have collected from various people ?

A. Yes.

I have about 7 acres of paddy land and I get a share.

Q. You are not eating up the entirety of that paddy ; you sell also ?

A. Yes.

No. 12  
Defendant's  
Evidence

Q. You utilised that money also for putting up those buildings ?

A. A little I spent on the buildings.

Evidence of  
W. Sangananda  
Therunnanse —  
Cross-examination.  
—Continued.

The price of 12 kurunies of paddy would be Rs. 13/-. 8 kurunies will make one bushel.

Q. The Government pays Rs. 12/- for a bushel ?

A. No. We cannot sell for that price.

### Re-examination.

Evidence of  
W. Sangananda  
Therunnanse —  
Re-examination.

<sup>10</sup> I was asked about Indasara. Indasara is younger to me. I heard the plaintiff giving evidence.

Q. Was it at any time suggested that Indasara was senior to you ?

A. I cannot remember.

Warakapitiye Indasara is younger to me.

Q. Was there any occasion for you to get any document regarding Indasara ?

A. No.

I said that up to about 1942 I was at various places. I was undergoing a course of instructions. I got my holidays during that time and I came to <sup>20</sup> Welihinda as my permanent place of residence. I stated in evidence that the boundaries referred to in the plaint did not apply to the land that I am possessing. I was also asked about the M.C. case. I gave a certain amount to the plaintiff on settlement.

Q. What made you to pay that money ?

A. That was a separate land. That was for Hirikotuveduwa.

Q. Who was in possession of Hirikotuveduwa ?

A. After the partition case the owners are possessing that.

Q. Then why did you give some money to the plaintiff ?

A. The M.C. Case came up before the partition case. Subsequently <sup>30</sup> the land was partitioned.

I also stated that before I went to this land in 1942 I was at Welihinda. Then I happened to come here.

No. 12  
Defendant's  
Evidence

Evidence of  
W. Sangananda  
Therunnanse —  
Re-examination.  
—Continued.

Q. How was it initiated ?

A. When dayakayas told me I wanted to go.

Then I informed my superiors, relations and everybody. I also informed the plaintiff. By ordination he is much senior to me. I admit that I sent those letters.

I sent P27 on 1st September, 1952. At that time there were little differences. I refer to page 3 of that letter. At the time I went I do not know whether there was any income to the temple. Subsequently I improved this temple. Now the hall is worth about Rs. 12,000/-.

Shown P18.—This is in my handwriting.

10

(Sgd.) .....  
*District Judge.*

Evidence of  
Piyadasa M.  
Aratchy —  
Examination.

**Piyadasa M. Aratchy**—Affirmed—Village Headman, Warakapitiya.

I know the temple where this Defendant-priest is residing. That is called Mahapittaniya. The name of the temple is Kettaramaya. That temple was founded by the Defendant-priest.

Q. What was the first building put up there ?

A. I do not know. I heard that there was a wattle and daub shed at first.

There was also a preaching hall. When I came to know that wattle and daub shed was there. I do not know who put up that shed. People say that it was put by the defendant priest. I came to know about this shed about 1945 or 1946. I became headman in 1946. I had no occasion to find out particulars about this property. In 1946 the defendant was residing on this land. He had a pupil in that temple. I cannot remember the name of that pupil. There was no other priest senior to him. The Defendant-priest was in charge of that temple from 1946. That temple is on high land.

Q. In that high land where the wattle and daub house was, was there any other building ?

30

A. No.

Q. Is there any other place of worship ?

A. There is a preaching hall.

There is a Bo-tree and people worship there. There is an image room in the hall. To my knowledge the preaching hall has been improved and there is a parapet wall round the Bo-tree. I cannot remember when that wall was put up. That was done after 1946. That parapet wall was put

up by the Defendant-priest. I know the Plaintiff-priest. I have not seen the plaintiff in this temple after 1946. There had been pinkamas in this temple. Dayakayas had Bana preaching. Priests were brought from outside to this temple.

No. 12  
Defendant's  
Evidence  
—  
Evidence of  
Piyadasa M.  
Aratchy —  
Examination.  
—Continued.

On those occasions even I did not see the Plaintiff-priest. I know the high land portion. There is a coconut plantation there. The produce was taken by the Defendant-priest from 1946 to my knowledge. I do not know who took the produce before 1946. After 1946 about 100 coconut plants have been planted on this land. The Defendant-priest got them  
10 planted. The Defendant-priest supervised the plantation on the high land portion. I know the field portion. That field portion the Defendant priest got cultivated. The Plaintiff-priest did not come to supervise the field portion at any time. The cultivated portion is a little more than in 1946. About 15 or 16 bushels can be sown now. In 1946 about 10 to 12 bushels could be cultivated. I cannot remember well. It was improved by the Defendant-priest and nobody else. To my knowledge nobody asserted title to this land. The plaintiff had complained that the cultivators had not paid their paraveni share. That was in 1953 or 1954. Before 1953 or 1954 the Plaintiff-priest did not assert any claim to this field portion or  
20 high land. For the first time complaint was made in 1953/54.

**Cross-examination.**

Evidence of  
Piyadasa M.  
Aratchy —  
Cross-examination.

Shown report P28 — This is a report given by me. The complainant is this Plaintiff-priest. The complaint is against the cultivators of the subject matter of this action. The name of the land is given as Hirikotuwe-duwa. I questioned the Goyias and came to know that it was entrusted to goiyas by the defendant. There is a block of land on which certain buildings have been put up adjoining the subject matter of this action. There is a hall and number of other buildings. The Defendant-priest resides there also. He stays there as well as here. A number of dayakayas give alms  
30 to the temple. It was brought daily.

Q. There is no necessity for the priest to go round ?

A. At times he sends a pupil to bring dana. There is no necessity for him to go round the village.

He accepts dana from the villagers.

**Re-examination.**

Evidence of  
Piyadasa M.  
Aratchy—  
Re-examination.

I have stated in my report that I have made inquiries. The man Andrayas said that the plaintiff never gave a field to him. All goiyas said so.

They said that they had informed the defendant and worked the fields. That was what all of them against whom complaint was made said.  
40 They said that the Defendant-priest entrusted the fields to them and they worked. I did not meet some of them.

(Sgd.) .....  
District Judge.

Further hearing on 7-4-60.

(Sgd.) .....  
District Judge.

7th April, 1960.

No. 12  
Defendant's  
Evidence

Evidence of  
L. V. Jamis  
Appuhamy —  
Examination.

Parties present.

Appearances as before.

**Mr. Advocate Pandita Gunawardena** — *calls*.

**L. V. Jamis Appuhamy**—Affirmed—65 years, Vel Vidane, Warakapitiya.

I know the temple where the defendant is residing at present. That is within my division. That temple is called Kettaramaya. I remember the time the defendant went to reside there. That was about 18 years ago. The temple is built on the land called Mahapittaniya. At the time the defendant went to reside there, there were no buildings on that land. Before 10 defendant went there, he was at Welihinda. When he came here I made a residing house for the defendant. That was about 7c. Before he came, that building was not there.

**Q.** Who asked him to come ?

**A.** As there was no temple close by, we dayakayas invited him.

Then the defendant came there, he resided in the residing house we put up. Thereafter there was a pinkama, this was offered to the defendant then. We gave alms. The dayakayas gave the residing house to the defendant.

We had a pinkama and offered the building to him. It was given 20 as a pujawa to him. Since then the defendant is residing there up-to-date.

After the defendant came there, other buildings were put up. There is the Dharmasalawa, that cost about Rs. 15,000/-. It was put up by the defendant. There is also a bo-kotuwa, that is a parapet wall round the Bo-tree.

There are field portions belonging to this temple. Earlier there were about 6 or 7 bushels of paddy sowing extent, today there are about 14 bushels of paddy sowing extent. The extra portion has been asweddumised by the defendant. After the defendant came there, the produce of the field is taken by defendant. There is high land also. Defendant has planted 30 some coconut trees on a certain portion of high land, more than 100 coconut plants. For planting a coconut plant, about Rs. 10/- the defendant spent, that was also to look after it. I have not given a person to plant coconuts. On this land about 1/2 acre has been planted with cinnamon by defendant. There is no other plantation.

Before defendant came there this land was in jungle, it was neglected. There was no one residing there. It goes under water also. Now it is improved.

No. 12  
Defendant's  
Evidence

I know the plaintiff priest. After the defendant came here, I have not seen the plaintiff there.

Evidence of  
L. V. Jamis  
Appuhamy —  
Examination.  
—Continued.

To COURT :

I go to the temple rarely, but I have not seen the plaintiff there.

**Cross-examination by Mr. Advocate Karunaratne :**

Evidence of  
L. V. Jamis  
Appuhamy —  
Cross-examination.

I know the defendant very well. He is my father's brother's son. I know this land in dispute. This land did not belong to me at any time. As this land was in jungle it was offered by dayakayas to the defendant: (Witness smiles and he is not at all serious). There was coconut but there was no cinnamon earlier. There were a few old coconut trees on this land. I own properties. This place belongs to the Welihinda temple, and it was abandoned and it was in jungle. We got another land close by and we have offered it to some other priest.

By the side of this land there is another land on which there are temple buildings, the legumge, and preaching hall and other buildings are there on that land.

I have planted about 2,000 coconut trees. I planted them about 30 years ago. That cost me about Rs. 20,000/- to plant these trees. It was my father's estate. 30 years ago coconuts were very cheap. I am not paying income tax. Still I do not get a good income from those trees though there is rubber and coconut.

There is a land called Liyanamulla in Uruwitiye. There was a dispute between plaintiff and me to that field. Complaint was made against me to the Headman in 1948 to the effect that I was taking the produce of that field.

**Re-examination.**

Q. Plaintiff priest has had a number of cases with people in the village ?

Evidence of  
L. V. Jamis  
Appuhamy —  
Re-examination.

A. Yes.

(Sgd.) .....  
*Additional District Judge.*  
7-4-60.

**Lenaduwe Lokuge Nandias**—Affirmed—45 years, Cultivator —Warakapitiya.

Evidence of  
L. L. Nandias—  
Examination.

I know the temple called Kettaramaya. I live about one-fourth mile from this temple. I go to that temple often. I remember the time



No. 12  
Defendant's  
Evidence

Evidence of  
L. L. Nandias —  
Examination.  
—Continued.

the defendant came there. Before he came there, there was nothing on the land. It was in jungle, abandoned. In a corner of that land, there was a small portion of paddy field. On the high land, this side, there was nothing. That field portion the villagers worked, I do not know who took the paraveni share.

This was an abandoned land, the dayakayas and the villagers got together and invited the defendant to come and reside there. Thereafter a small residing house was built for the defendant. There was a pinkama held also in the preaching hall which was built. This was offered to the defendant. From that time the defendant has been in that temple. 10 The defendant resided there and improved the land by planting coconuts and cinnamon. Today there are about 80 to 100 coconut trees. The defendant asweddumised about 7 or 8 acres of paddy sowing extent. The produce of the high land and the field the defendant took. The pinkamas have been held there under the defendant as the chief. No other priest attended to the temple matters other than the defendant.

A pinkama was held and it was offered to the defendant.

Q. Some 'gathas' were also recited there?

A. Yes.

Evidence of  
L. L. Nandias —  
Cross-examination.

**Cross-examination.**

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I know the land which is the subject matter of this action. I have no rights in this land. I was one of the dayakayas who offered this land to the defendant. This land belongs to the Welihinda temple. All the villagers offered this land to the defendant. I did not offer but I participated in the pinkama. I have lands. I have not had an occasion to offer a land of mine to the temple. From this land the defendant does not give me any share of the produce. I do not get a share of the paddy. I do not work in this field. To give evidence today I did not get a cent from the defendant. From the defendant I have not borrowed any money, never. As we want the temple I have come to give this evidence. 30

**Re-examination. Nil.**

(Sgd.) .....  
*Additional District Judge.*  
7-4-60.

Mr. Advocate Pandita Gunawardena closes his case reading in evidence D1 to D14.

Addresses on 6-6-60.

(Sgd.) .....  
*Additional District Judge.*  
7-4-60.

## Addresses To Court

11th July, 1960.

Appearances same as before.

Addresses**Mr. Pandita Gunawardena submits :**

Plaintiff, in this action, seeks for a declaration of title to the properties mentioned in para. 2 of the amended plaint. The original plaint was amended on 13th March, 1956, describing the plaintiff as Controlling Viharadhipathi of the temple known as Sudassanarama Temple, Welihinda. The defendant is challenging the position that the plaintiff is the Viharadhipathi of the Welihinda Temple (Sudassanaramaya). The defendant also challenges the plaintiff's title to the property in question. The plaintiff has set out the devolution of the Viharadhipathiship and states that he is officiating as Viharadhipathi from the year 1930. Plaintiff also takes up the position that Rev. Gunananda, the defendant's tutor, who was a predecessor in the line of Viharadhipathi of this temple, has waived and surrendered his right to be the Viharadhipathi of Sudassanaramaya. Plaintiff further states that any claim by the defendant is prescribed in law. The defendant has

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20 joined in issue with the plaintiff on several points.

He refers to the issues 38 and 39 at page 14 of the proceedings.

The defendant's position is that, although plaintiff may have functioned as Viharadhipathi for a certain period, he is not the lawful Viharadhipathi of Sudassanarama Temple. According to the rule of succession, plaintiff cannot be the lawful Viharadhipathi. Therefore he cannot oust another person. Plaintiff cannot acquire a prescriptive right to the post of Viharadhipathiship. Usurper cannot oust the person who is legally entitled to that post, and cannot assert to himself the right which he has not got. 'Controlling Viharadhipathi' is defined in the Buddhist Temporalities Ordinance as one who is entitled to control the temporality. For the control of the

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40 temporality, plaintiff must first be the lawful Viharadhipathi. He refers to section 3 and 4 of the Buddhist Temporalities Ordinance. According to the Gazette Notification No. 7971 certain temples were exempted and provision was made for public trustees to be appointed apart from the Viharadhipathi. Viharadhipathi writes to the Public Trustee nominating a person as controlling Viharadhipathi (may be a layman or himself) and such person does not become the Controlling Viharadhipathi but Trustee. By virtue of the Statutory law, Viharadhipathi himself becomes the controlling Viharadhipathi. Section 4 of the Buddhist Temporalities Ordinance shows what are not exempted from the entire operation of the Ordinance. In law, there can be a Viharadhipathi apart from a Trustee. 'Controlling Viharadhipathi' is a technical term and it applies only to certain Buddhist temples. By virtue of the fact that the Viharadhipathi is given the control of the temporality, he becomes the Controlling Viharadhi-

pathi. The Ordinance of 1909 did not make provision for the appointment of any Controlling Viharadhipathi, but only trustees have been appointed. That was done away with as they started robbing the temple properties.

The plaintiff has not given sufficient proof that this is one of the temples that is exempted and one that the law applies and that he is entitled to control. The plaintiff must show Court that he is the person as provided in law entitled to control the temporalities. Gazette should have been made available to Court to show the temples in which Trustees have been appointed and the temples Trustees have not been appointed. If the plaintiff is not entitled to be the Viharadhipathi, no provision of the law <sup>10</sup> will vest in him to be the Viharadhipathi.

He refers to para. 5 of the plaint. In law the plaintiff is not the Viharadhipathi of the temple. As a matter of fact, there is a concession on that point when the plaintiff raises this in reference to para. 3 because the very fact that Rev. Gunananda abandoned makes him the Viharadhipathi. If not for that abandonment, the plaintiff would not have become the Viharadhipathi.

With regard to the line of succession: To begin with there is an admission that the rule known as Sisyanu Sisya Paramparawa comes into effect in the appointment of a Viharadhipathi. This rule is not the one <sup>20</sup> that should be availed of. The legal authorities take up the position that the Sisyanu Sisya Paramparawa rule of succession is a general rule. One position is clear that when a tutor dies, the incumbency devolves on pupils and the senior pupil becomes the chief. In this instance Rev. Akurugoda Sudassi was admittedly the Viharadhipathi of the temple at one time. Rev. Sudassi had also two other temples Nagarukkaramaya and another. He had been Viharadhipathi of two temples, Lalpe Sudarmaramaya and Sudassanaramaya. Of these four temples, he built two and the other two devolved on him. He submits that he was the Viharadhipathi of these four temples and resided in the ancient temple—Lalpe Sudarmaramaya. <sup>30</sup> Rev. Sudassi has executed a deed appointing Rev. Gunananda to succeed him and on the death of Rev. Gunananda nominating the plaintiff as Gunananda's successor. The subsequent appointment was challenged on the ground that if the rule of succession is admitted no person in the middle of that line can vary that succession by appointing a pupil. Rev. Gunananda and plaintiff are co-pupils of Rev. Sudassi. He refers to P12. In P12 Rev. Gunananda has been referred to as his senior pupil and appointed as Viharadhipathi of the four temples of which Rev. Sudassi was Viharadhipathi. There is another clause which could have been availed of in the appointment of a successor to Rev. Gunananda. According to that clause, <sup>40</sup> the next senior pupil should be by consent appointed Viharadhipathi. He submits that this clause is inoperative. Viharadhipathi who functions as such under the law of succession called Sisyanu Sisya Paramparawa cannot alter it by stipulation when it comes to his senior pupil, who lawfully gets it. That will be altering general law that prevails with regard to the devolution of Viharadhipathship. He cannot once having appointed the senior pupil, appoint another pupil to succeed senior pupil because soon after the death of the senior pupil the rights go to the pupil of the senior pupil. Plaintiff has tried to raise the question of abandon-

ment. Once Rev. Gunananda became the Viharadhipathi the pupil of Rev. Gunananda should be the next Viharadhipathi. In order to get over that the question of abandonment was raised that at a certain time Rev. Gunananda abandoned the Viharadhipathiship. If he abandoned, he did so for his pupil. Another position arises : On the latest interpretation of the law, it will not be his co-pupil who gets it. He submits that this is inoperative as Rev. Gunananda has functioned as Viharadhipathi up to the time of his demise. That is further borne out by the fact that when Rev. Gunananda gave the particulars for the registration of Bhikkus under Section 41 of the Buddhist Temporalities Ordinance, he gave the permanent residence as this temple. He refers to clause 17 of D6. D6 is dated 1931 and the abandonment took place in 1930 or thereabout. Issue 3 referred to. This issue was later altered. Rev. Gunananda had not abandoned his rights in 1930 as claimed on behalf of the plaintiff because in 1932 he has given his permanent address as this temple called Welihinda Sudassanaramaya. He refers to page 25 of the proceedings "At the time of ordination Meeruppe Gunananda was resident at Welihinda Sudassanaramaya." He refers to page 27 of the proceedings with regard to the fact that Lalpe Temple is the oldest temple. If that was so, the incumbent would have resided in the most ancient temple. Mere residence in Lalpe Temple will not deny his claim for the Viharadhipathiship of the other temples. It was appropriate for him to stay in Lalpe Temple because it was the oldest temple. If a person leaves the oldest temple and lives in a new temple, the question will come that he has abandoned the oldest temple. One is led to the conclusion that he resided there controlling all the temples. Even on that factor, the abandonment cannot be supported. He refers to pages 31 and 32. The evidence there is conclusive of the fact that Rev. Gunananda never abandoned the Welihinda Temple. If he did not abandon the Welihinda Temple Rev. Gunananda in law was the Viharadhipathi of these 4 temples. This was a difficult proposition for the plaintiff to overcome. He refers to page 17 of the proceedings where the plaintiff says that formerly the succession was according to seniority. This question seems to deviate from the admission in page 6. He did not plead this position in this case or in the other case which was filed earlier. He refers to the proceedings from page 17 to page 72. The climax of that admission is at page 21 :

Q. You do not claim to be the robed or ordained pupil of Gunananda Thero ?

A. No.

The plaintiff has failed to prove by documents or in the evidence that he is the lawful Viharadhipathi. If the plaintiff was not the pupil of Rev. Gunananda then the position is that he cannot claim the succession to Viharadhipathiship. The next question is who is the senior pupil of Rev. Gunananda. Plaintiff tried to show that the defendant was not the senior pupil of Rev. Gunananda but there is another pupil called Rev. Saddananda. That is false because on the documents it is clear that Rev. Saddananda was only ordained by Rev. Gunananda. Defendant was both robed and ordained by Rev. Gunananda and the robing of the defendant was much earlier than the robing of Rev. Saddananda. Rev. Saddananda's evidence

No. 18  
Addresses to Court.  
—Continued.

begins at page 48. He gives his date of ordination as 1929. He refers to page 48 and 53, and 54. He had admitted that the defendant was robbed earlier than he was robbed. He refers to D12 at page 76. There is no question that defendant is the senior of the two. If the defendant had filed this action against the plaintiff seeking to be the Viharadhipathi and to eject the plaintiff from the Welihinda Temple, then the prescriptive law will operate against him. Plaintiff not being the lawful successor to these properties, cannot oust the defendant. He cannot be an imposter. He submits that whatever rights the defendant has lost, there is no right for the plaintiff to eject him unless the lawful Viharadhipathi.

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He cites 49 N.L.R. Page 325  
16 N.L.R. Page 408  
22 N.L.R. Page 226  
2 Supreme Court Circular Page 26  
59 N.L.R. at page 79  
56 N.L.R. at page 284 where only the Viharadhipathi  
can appoint only a pupil and not a stranger.  
56 N.L.R. 322 relevant page 323 (most important).  
The lawful successor is referred to at page 225.

Three year prescriptive rule does not seem to be challenged by Justice 20  
Gratiaen. According to the law of Trustees, it would appear that this  
question of right of action being prescribed in 3 years will not be a very  
sound proposition. If the actual position of a Buddhist Viharadhipathi  
is considered, he is a trustee, and as Trustee of the Sangika properties his  
rights cannot be prescribed in three years. The three year prescriptive rule  
opens a certain amount of doubt. He refers to 56 N.L.R. page 414 relevant  
pages 415 and 416. Adikari may appoint all the pupils, but one can succeed.  
He cites 56 N.L.R. pages 417 and 418. With regard to the fact that one  
becomes senior by robing he cites 42 N.L.R. page 361 ; 39 N.L.R. page 251.

When there is no evidence of renunciation, the succession is only under 30  
Sisyanu Sisya Paramparawa. With regard to the question of abandonment  
he cites 51 N.L.R. page 372, and also 57 N.L.R. page 372. There must be  
cogent evidence of abandonment. P13 is not an abandonment of rights,  
but a strong assertion of rights. He cites 59 N.L.R. page 259. He also  
cites 57 N.L.R. page 447. He states that there is no question of renuncia-  
tion. 59 N.L.R. page 289 at page 296. During one's life-time one cannot  
appoint another and it must be in the form of a Last Will. 57 N.L.R. page  
518.

The plaintiff comes to Court for a declaration of title to two lands 40  
which he calls Pehembiyagodaduwa and Ududuwekumbura. He refers  
to P21. In P21 the name of the land is Pehembiyagodaaddaraowita and  
no boundaries are given. This deed does not apply to the land in question.  
There is an admission on that by the plaintiff. He refers to page 39 of the  
proceedings. The cross-examination with regard to the identity of the  
land started at page 33. The land referred to in P21 is out side the corpus  
of this action. According to Section 41 of the Civil Procedure Code,  
there must be a plan to identify the land. There is an admission by the  
plaintiff himself that P21 does not apply to the lands in question. The

only other deed the plaintiff has is P22. There the name of the land is Pehembiyagodawatta. With regard to Pehembiyagodawatta, plaintiff's evidence at page 36 is helpful. At page 37 he says that the extent is not given in P22, but he says '2 acres.' Plaintiff comes to Court to vindicate title to a land in extent 18 acres. None of these deeds, P21 or P22 gives the extent or the boundaries. One of the deeds he admits does not apply to this land and the other deed he says refers to only 2 acres. Page 34 of the evidence referred to. He cannot get title to these lands on the two deeds produced by him when he says that there are two other deeds in respect of the subject matter. Page 35 of the proceedings referred to. Plaintiff claims this land of 18 acres consisting of 'owitas' and 'wattas.' The corpus he claims is Pehembiyagodaduwa. In the plaint he has claimed a 'duwa.' There is evidence to show that Pehembiyagodawatta was the subject matter of other actions. He refers to D10. The defendant has taken up the position that he is residing on the land called Mahapittaniya. Though the plaintiff claims Mahapittaniya, plaintiff's deeds do not apply to Mahapittaniya. He submits that the defendant also established a temple and that he is the first incumbent of that temple. He refers to D8 and D9, where the plaintiff has referred to this temple as Kettaramaya in Warakapitiya. It has been recognised by plaintiff as a temple. Even if the plaintiff is entitled to get the produce of the land, plaintiff is not entitled to get the incumbency of Kettaramaya. There was no temple originally here. Defendant, having established this temple, cannot be ejected therefrom. D7 referred to. In D7 plaintiff is referred to as Viharadhipathi of Sudassanarama Temple. In the same document the defendant is described as Kettaramadipathi. Temple consists of the buildings that are constructed and the defendant is entitled to the temple. He refers to issues 33 to 36 with regard to the fact that the defendant had built the temple and had been its Viharadhipathi. He cites 59 N.L.R. page 420. If there was a temple and the defendant had been placed there as Viharadhipathi, for a declaration of title plaintiff is the Viharadhipathi. Plaintiff's witness Saddananda stated that the defendant constructed this temple. Even if the plaintiff gets a declaration of title to the land, he is not entitled to get the defendant ejected from the temple. Kettarama Temple is primarily dedicated for worship. Plaintiff has not constituted the action in such a form to get an ejection against the defendant. Plaintiff has not contributed anything towards the construction of the temple. He refers to para. 8 of the amended plaint. Plaintiff has admitted in his evidence that the defendant put up the buildings which the plaintiff says was from the income from the land. It had been so without objection up to 1953. Even in 1953 the income was put to the use of this temple. If the defendant refused to send the income to the plaintiff on the request of the plaintiff, then there is a cause of action. On the present pleadings there is no cause of action. Plaintiff has pleaded that the defendant wrongfully appropriated the income, but the evidence is that he improved the temple with the income. As the defendant is the lawful incumbent of the temple the plaintiff cannot get the defendant ejected. The defendant came to this land with the permission of the plaintiff and with the income from the land he put up the temple on the basis of a *bona fide* improver.

Plaintiff and defendant are Bhikkus of the same paramparawa. There is no question that the defendant is also a pupil of Rev. Gunananda

and the question of maintenance arises. In view of the lack of evidence on behalf of the plaintiff, defendant's position is not disputed. If the defendant took a part of the income and used to improve the temple, it will not be a cause of action for the plaintiff. If the defendant is entitled to maintenance from the income of the property, plaintiff cannot say that the defendant wrongfully appropriated the income. The cause of action has arisen because of the defendant's wrongful appropriation of the income. Plaintiff does not give any kind of maintenance to the defendant in this case. He refers to page 87 where the evidence of the defendant is recorded. At page 90 the manner in which the defendant came to reside there is recorded. Defendant stated that a share of the income was sent to the plaintiff, and that will not wipe off the rights of the defendant. On the plaintiff's own showing he is entitled to only a part of this field because a large part of it has been asweddumized by the defendant, and after he went there. He refers to page 96. The mere writing of a letter will not constitute him as lawful Viharadhipathi. Even if the defendant went there with the permission of the plaintiff and if the defendant refused to give the income, there is no legal estoppel. Plaintiff has not shown that he is the lawful Viharadhipathi, of this temple.

Mr. Advocate Karunaratne submits that the action has been brought in respect of the land described in the plaint. At page 5, plaintiff has stated "I know the land called Hirikotuveduwa *alias* Pehembiyagodaduwa." There is no doubt whatever with regard to the identity of the land. There is no necessity for a plan because an action can proceed to trial with regard to an immovable property without a plan. There is no requirement that a plan is a requisite to an action. According to the Civil Procedure Code the subject matter has to be described by metes and bounds; the boundaries are given and there is no necessity for a plan.

With regard to this land, he refers to the documents which will give a true picture of the relationship between the plaintiff and defendant. It is admitted that the defendant is also a priest of the Paramparawa to which the plaintiff belongs and they were residing in the Welihinda Temple and that somewhere in 1942 the defendant came to the temple and went and took up residence on the subject matter.

There is a dispute with regard to the manner the defendant went to this land. The defendant had tried to make out that he went there independently of the plaintiff. It has been clearly established by the evidence of the plaintiff and by the documents that has been produced in this case, P1 to P28, that the defendant had gone there with the leave and licence of the plaintiff. Defendant's evidence in this case is not true. At one stage he tried to make out that he did not go there with the permission of the plaintiff and also tried to deny certain documents which he had written to the plaintiff. On that evidence the Court should characterise him as a very untrustworthy and unreliable person. Whatever the allegation is, there is a duty of a Buddhist priest to be truthful. Defendant was trying to conceal the truth. According to the evidence of plaintiff, defendant went to the subject matter with the permission given by him and the defendant gave the income from the produce. From 1942 up to 1953, defendant was maintaining accounts and it was in 1954 that the defendant for the

first time appropriated the income from this land. Defendant had the audacity to deny that these letters were written by him. He refers to P26 and P27. Defendant admitted the writing and the signature on these letters, where it is stated that the defendant went to this temple with the permission of the plaintiff. Therefore, the Court will have no hesitation in holding that the defendant went there with the permission of the plaintiff. There is no dispute to the title with regard to this land. Defendant says that this land belongs to the Welihinda Temple and he does not claim any part of the temple. Under Section 116 of the Evidence Ordinance, anybody

<sup>10</sup> who enters a property, has no right to deny the title of the person who put him in possession or dispute the title of the person who put him in possession. He cites 55 N.L.R. page 46. If the defendant wants to contest the title, defendant must first leave the premises. He refers to page 90 of the proceedings: "the land that the plaintiff is claiming is not more than 18 acres in extent." There is no dispute with regard to the land that is claimed by the plaintiff. The limits of the land are identified by the boundaries that are given. He refers to pages 91 and 93 of the proceedings. Defendant claimed the land by some other name and that name appears to be the name given to one of the koratuwas. One name that he gave was Mahapittaniya.

<sup>20</sup> He stated that that portion was worked by Charles. The other name was Kekilladuwaaddara, according to the list that the defendant submitted. Defendant tried to make out that this is a different land, but according to the statement of accounts, the name of this land is given as forming a portion of the subject matter. He refers to P10 the Magistrate's Court case. That case was compounded. He refers to P11 which forms part of P10. There are various other documents from 1930 up to 1953 including some of the letters written by the defendant showing that the plaintiff has been functioning as Viharadhipathi of this temple. It is common ground that Rev. Akurugoda Sudassi was the Viharadhipathi of this temple and

<sup>30</sup> appointed the senior pupil Rev. Gunananda as Viharadhipathi of these four temples. Rev. Sudassi made the condition that if Rev. Gunananda fails to perform the duties of Viharadhipathi, he could appoint a brother priest who conforms himself to the Vinaya rules. In pursuance of that direction, Rev. Gunananda by P12 of 1930 appointed the plaintiff as the Viharadhipathi of Welihinda Temple. On P12 and P13 the plaintiff is the lawful Viharadhipathi. If a tutor priest can appoint any of his pupils or anyone to succeed him, there is nothing to prevent the tutor appointing a certain person and give directions that if he is not willing to perform the duties he can appoint another. The tutor himself could have appointed

<sup>40</sup> one or the other. That is not against the Buddhist Ecclesiastical law or decisions in Court.

There is a clear case of abandonment in this case. Rev. Gunananda was admittedly at one time the Viharadhipathi of both Welihinda Temple and the Lalpe Temple where he was residing. It is in evidence that Rev. Gunananda was living in Lalpe Temple and often visiting Welihinda Temple. In 1930 Rev. Gunananda renounced his rights, by a notarial document. Immediately after the deed was executed there was a case with regard to the incumbency of this same temple between the plaintiff who is the incumbent and the predecessor of the defendant's tutor priest. In that case

<sup>50</sup> plaintiff was declared to be the lawful Viharadhipathi. Plaintiff has got a declaration that he is the lawful Viharadhipathi. By Decree in D.C. 8777



No. 13  
Addresses to Court.  
—Continued.

(S.C. Judgment in that case marked D4) plaintiff was declared the lawful Viharadhipathi of the Welihinda Temple. In case 8777 Rev. Gunananda has given evidence. His evidence appears on the back of P23. The case with regard to the incumbency of this temple was going on when Rev. Gunananda was living. In his evidence in Case 8777 Rev. Gunananda states "I am the incumbent of the Lalpe Temple." Again he states in that case "I gave the plaintiff a deed as I was living 30 miles away. After 2 years I found it difficult to manage the Welihinda Temple." Each one of these facts goes to prove that Rev. Gunananda deliberately renounced his rights to this temple. After Rev. Gunananda renounced, plaintiff was functioning as Viharadhipathi. This goes to prove that Rev. Gunananda after he renounced never exercised any rights in this temple. By D4 plaintiff was declared entitled to be the lawful Viharadhipathi of this temple. With regard to the renunciation he cites 51 N.L.R. page 372. Abandonment is a question of fact. He cites 57 N.L.R. page 372 and 445. D7 referred to. D7 shows how the defendant was making preparations to claim title to this property as Viharadhipathi of this property. D7 (pamphlet) has been printed in 1955 one and half years after the institution of this case. This is an attempt made by the defendant to create some evidence.

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According to Section 20 of the Buddhist Temporalities Ordinance, all properties, movable and immovable, are vested in the Viharadhipathi of the temple. How can another priest belonging to the same 'paramparawa' set up any interest in that property in conflict with the interests of the Viharadhipathi? Defendant is not entitled to remain without the permission of the plaintiff even if he has made any improvements. Any improvement that the defendant has made will be with the licence of the plaintiff and that improvement will accrue to the owner of the soil. Another point of view is that if a priest sets up title or does any disobedient act against the Viharadhipathi that would constitute contumacy and 'parajika'. If a priest acts against the 'Vinaya' rules, that itself is a cause of action for the Viharadhipathi to have him ejected. On the general law, any improvement will accrue to the soil. If there is nothing to show that the money that had been spent on any improvement is money other than that he got from this land, defendant has no right whatever to remain in these premises.

Mr. Advocate Pandita Gunawardena submits that D4 is a judgment against a third party and not against the defendant in this case. Defendant's predecessor was Rev. Gunananda and there is nothing against Rev. Gunananda in that judgment.

(Sgd.) ..... 40

*Additional District Judge.*

11-7-60.

Judgment on 2nd August, 1960.

P1 to P9 are tendered.

## Judgment of the District Court

## JUDGMENT

This is an unholy contest between two holy persons. The matters for my determination are as follows:—

1. Whether the plaintiff is the lawful Viharadhipathi and as such is he entitled to a declaration of title to the properties described in the amended plaint, and
2. Ejection of the defendant therefrom for disobedience and contumacious conduct.

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Both parties were agreed at the trial that Akurugoda Sudassi Terunanse was at one time was the Viharadhipathi of this temple amongst other temples. It was also admitted that his pupils were Gunananda, Sumanatissa, the plaintiff, Pemasiri, Somaratana and several other junior priests. It was further admitted that the succession to the temple in question is governed by the rule known as Sisyanu Sisya Paramparawa.

Reverend Akurugoda Sudassi by his deed No. 6654 of 29-10-28 P12 appointed his senior pupil Meeruppe Gunananda as the Viharadhipathi of Welihinda Sudassanaramaya. After the demise of Meeruppe Gunananda the then living senior pupil of Sudassi was to be appointed the Viharadhipathi by common consent. Meeruppe Gunananda by deed No. 2038 of 26th December, 1930 P13 surrendered the Viharadhipathiship of Sudassanaramaya to Meeruppe Sumanatissa. Akurugoda Sudassi was the Viharadhipathi of four temples: Welihinda Sudassanaramaya, Lalpe Sudharamaramaya, Akurugoda Nagarukkaramaya, and Warakapitiye Tribhumikaramaya. Sudassi was residing at his main and oldest temple Lalpe Sudharamaramaya and his other pupils had been in charge of the other three temples.

Mr. Advocate Pandita Gunawardena for the defendant stated that Sudassi could not have appointed the plaintiff to succeed Gunananda by P12 and in turn Gunananda could not have surrendered his rights in Welihinda Temple to the plaintiff on P13. He also contends further that the defendant being the senior pupil of Gunananda by robing is entitled to the Viharadhipathiship of Welihinda Temple and the plaintiff is a trespasser and thereupon his action must fail. A Viharadhipathi of a temple is entitled to appoint by deed or last will any of his pupils, not necessarily the senior pupil, to succeed him in office. The appointee cannot be a stranger, but a bhikku of the same paramparawa. The plaintiff is a bhikku of the same paramparawa. Sudassi could have appointed the plaintiff to be the Viharadhipathi in preference to Gunananda. If that is so I fail to see reason why Sudassi cannot appoint Gunananda and Sumanatissa his co-pupils by deed P12. It also appears to me that Gunananda had renounced or abandoned his rights in Welihinda Temple in favour of the plaintiff by P13.

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No. 14  
Judgment of the  
District Court —  
21-12-60  
—Continued.

The present plaintiff had filed an action against one Gooneratane Unnanse of Welihinda Temple for a declaration that he is the rightful Viharadhipathi of Welihinda Temple—P23. In that case Meeruppe Gunananda has given evidence. Gunananda Unnanse has said that after two years of his management of Welihinda Temple he found that it was difficult to manage Welihinda. Therefore he appointed the plaintiff to exercise the powers of incumbent and he only paid occasional visits to Welihinda Temple. It has been held in Punnananda Vs. Welivitiye reported in 51 New Law Reports, page 372, that :—

“ The abandonment by a priest of his rights to <sup>the</sup> incumbency of a 10  
Buddhist Temple does not require any notarial deed or other prescribed formality, but is a question of fact, and the intention to abandon may be inferred from the circumstances. The abandonment of an incumbency by a priest operates to deprive his pupils of their rights of pupillary succession. ”

In the instant case by deed P13 Gunananda had renounced his rights in favour of the plaintiff and from the year 1930 to all purposes the plaintiff had been the Viharadhipathi and has enjoyed the income and profits of all the temporalities attached thereto and Gunananda in P23 too had admitted the position. The Industry of Counsel on both sides has led to the citation of a 20  
large number of authorities to which I need not refer to. In P12 Akurugoda Sudassi in appointing his senior pupil has said that if he is unable to perform the duties of Viharadhipathi he could appoint a brother priest who conform to the ‘ Vinaya ’ rules. Plaintiff had exercised proprietary rights in respect of the lands attached to Welihinda Temple. He has leased out the lands attached to this temple on P14, P15, P16 and P17. Though not quite relevant for my decision, plaintiff has been declared the Viharadhipathi of the Welihinda Temple by the Supreme Court in its decree produced marked P19 in D.C. Matara Case No. 8777. This decree does not necessarily 30  
bind the defendant, but it shows that the plaintiff was the active person who was exercising rights in respect of the Welihinda Temple. Plaintiff also had been allotted as incumbent of Welihinda Temple certain share in the land called Karadiya which was the subject matter of D.C. Matara Case No. 14009 — *Vide* Final decree produced marked P20.

Plaintiff said that he placed the defendant in charge of the land in dispute in the year 1942. Before the defendant went into occupation of these lands, the lands had been leased out, and the land owner's share had been given to him by the various cultivators. But after the defendant took up residence the defendant managed these properties and sent the plaintiff an account of the income as shown in letters P1, P2, P3, P4, P5, 40  
P5, P6, P7 and P8. Defendant at first said that he came to reside on the temple in dispute at the invitation of the Dayakayas ; but later he was forced to admit that he came with the permission of the plaintiff. In one breadth the defendant denied that he wrote the accounts lists P1 to P8 and sent them to the plaintiff. He said that he had in his temple some receipts like P1 to P8 which appeared to have been stolen. He had to admit finally with great reluctance and after hard cross-examination that these letters were written by him to the plaintiff. He admitted that he wrote a letter dated 9-1-52 P20 to the plaintiff. In that letter he said that he was placed in this temple by the plaintiff. He also admitted that the 50

account particulars were sent by him to the plaintiff. In about the year 1953 the defendant failed to pay the income to the plaintiff. Thereupon the plaintiff had to sue the defendant in the Magistrate's Court of Matara. Then the defendant wrote letter dated 27-9-53 P26 to the plaintiff stating that he has not committed such an offence to be punished by a court of law. In that he also says that the action is a sort of revenge for a letter he had written to the plaintiff. He entreats the plaintiff not to go to action, but that he is prepared to return the 26 bushels and five kurunies that he had received as seed paddy. Plaintiff charged the defendant in the year <sup>10</sup> 1954 in M.C. Matara Case No. 35526 (P9) for the return of the Paraveni share of the Maha Crop of the value of Rs. 420/-. The matter has been settled and the amount due as the value of the paddy was paid to the plaintiff.

No. 14  
Judgment of the  
District Court —  
21-12-60  
—Continued.

There is no doubt in my mind that the defendant was managing this property under the plaintiff and he was giving the paraveni share to the plaintiff till the year 1954 or so. I place no reliance on the evidence of the defendant. Sorry to say that he cut a very pathetic figure in the box. He was prevericating and dodging when he was giving evidence. To use the language of the Bhikkus he was giving evidence “අමරා වික්‍රමය” or as slippery as an eel. But there is something to his credit. He has <sup>20</sup> improved the temple Kettaramaya and the lands and fields adjoining. He has put up some building on a highland portion with the income of these lands and the assistance of the Dayakayas. The defendant is not personally entitled to these buildings. They accede to the temple lands. Defendant was drawing a red-herring across the trail.

The last submission made by the defendant was that the plaintiff has failed to prove title to the land which is in extent 18 acres. Plaintiff said that the land he claims consists of high and lowland which is about 18 acres in extent. The different portions have different names. The defendant in his account particulars P1 to P8 has shown that he had received ground <sup>30</sup> rent from various persons from the various lots. Plaintiff said that the entire land was called Pehembiyagoda duwa and kumbura *alias* Hirikotuwe-duwa and that was the general name given to the various allotments. Plaintiff had leased out these various allotments. Deed No. 5657 of the year 1817 P21 and P2 of 1842 describe the land Pehembiyagodaduwa addara with the boundaries, but the extent is not given in acres. Plaintiff said that the boundaries take in the entire land that he claims which is about 18 acres in extent more or less. I am satisfied that the plaintiff has satisfactorily proved that he is entitled to the land that he claims against the defendant. The defendant is residing on a portion of the land that the <sup>40</sup> plaintiff claims and he has proved title to it. Plaintiff also is asking for ejectment of the defendant from these premises. The defendant has denied plaintiff's title. The defendant has appropriated to himself the income of these lands. He contumaciously is disobeying the plaintiff. Therefore I hold that the defendant has forfeited his rights to residence in this temple Kettaramaya. Though he has put up some buildings on the disputed land, he has constructed them with the income of the temple lands and the assistance of the Dayakayas and therefore he is not entitled to compensation nor to retain possession of them. It appears to me that the defendant has also put up some Avasas and a preaching hall on a Crown land which

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 District Court —  
 21-12-60  
 —Continued.

the Dayakayas have purchased for him adjoining the temple. He can well retreat to that Asram and live there.

Therefore I answer the issues as follows :—

1. Yes.

2. Yes.

3. Yes.

3(a) Yes.

3(b) Yes.

4. Yes.

5. Yes.

10

6. Does not arise. The defendant has gone into occupation with the permission of the plaintiff and was rendering an account of the income.

7. Yes.

8. Yes.

9. Yes.

Rs. 500/- a year from March, 1954 till plaintiff is restored to possession as agreed upon.

10. Yes.

11. Yes.

12. Yes.

20

13. Yes.

14. Yes.

15. Does not arise.

16. Yes.

17. Is a valid deed.

18. Needs no answer in view of answers to issues 16 and 17.

19. It is answered in the affirmative. Therefore plaintiff can maintain this action.
20. No.
21. Yes.
22. Yes.
23. Yes.
24. No. Because they are constructed with the income of these lands and the assistance of the Dayakayas.
25. Yes.
- 10 26. Yes ; because he had excess income and had agreed to give them according to the account particulars sent.
27. Yes.
28. He has forfeited his right.
29. No.
30. Yes.
31. No.
32. No compensation is due.
33.  
&
- 20 34. Even if it is a " temple " the defendant has forfeited his rights to be there.
35. He has only managed these properties for the plaintiff.
36. No.
37. Yes.

No. 14  
Judgment of the  
District Court —  
21-12-60  
—Continued.

Before I part with this record I would like to make one or two observations with regard to the rule of succession in Buddhist Ecclesiastical Law.

First with regard to the rule of succession known as Sisyanu Sisya Paramparawa. I have not been able to find in the whole of Tripitaka the use of this word Sisyanu Sisya Paramparawa in the way it is being inter-

No. 14  
Judgment of the  
District Court —  
21-12-60  
—Continued.

preted by our Courts. In fact this word is *non est*. According to the present day construction of this word Sisyana Sisyā Paramparawa by our Courts it has come to mean from pupil to pupil. That is when the first Viharadhipathi dies he is succeeded by his senior pupil and so on. *Vide* also The Buddhist Commission report, page 126. “Sisyana Sisyā” are made up of two words : Sisyā and Anu Sisyā. Sisyā is the pupil and Anu Sisyā is the co-pupil or allied pupil. Secondly no where in the Tripitaka do we find that a Viharadhipathi is by right entitled to make a disposition of the temple property by act *inter vivos* or by last will because no Bhikku can acquire movable or immovable property except the five requisites. 10 When he dies all his properties go to the Sangha or to the Chapter he belongs. Buddha’s last will is quite of a different type from that of the present day Bhikkus.

“ වය ධම්මා සංඛාරා අස්ඵලාදේන සම්පාදෙඨාති අයං  
කමාගතස්ස පච්ඡිමා වාවා ”.

“ Decay is inherent in all component things.  
Work out your salvation with due diligence.”  
This is the last will of the Tatagatha.

*Vide* Digha Nikaya, Parinibbana Suttha, Page 281.

The rule of succession needs review and restatement.

20

This is the last will of the Tatagatha.

Therefore I enter judgment for plaintiff.

1. Declaring him the Viharadhipathi and as such entitled to the premises in dispute,
2. For ejection of the defendant therefrom,
3. Declaring the plaintiff entitled to damages as already agreed upon ; and
4. Declaring the plaintiff entitled to the costs of this action.

(Sgd.) N. EDIRISINGHE,  
*Additional District Judge.*

21-12-60. 30

## Petition of Appeal to the Supreme Court

IN THE SUPREME COURT OF THE DOMINION  
OF CEYLONMEERUPPE SUMANATISSA TERUNNANSE  
Viharadhipathi of Sudassanarama Temple,  
Welihinda.

S.C. 639 (F)

*Plaintiff.*

1960

10

Vs.

No. L/289.

WARAKAPITIYE SANGANANDA TERUNNANSE  
of Warakapitiya.*Defendant.*

Between

WARAKAPITIYE SANGANANDA TERUNNANSE  
of Warakapitiya.*Defendant-Appellant.*

and

20

MEERUPPE SUMANATISSA TERUNNANSE  
Viharadhipathi of Sudassanarama Temple,  
Welihinda.*Plaintiff-Respondent.*

To

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

On this 23rd day of December, 1960.

The Petition of Appeal of the Appellant abovenamed appearing by  
Sepala Samarasinghe, his Proctor, states as follows:—

30 1. In the above styled action the Plaintiff Thero sued the Defendant  
Thero for a declaration of title the land described in the plaint, ejectment  
and damages.

2. The Plaintiff Thero claimed to be entitled to the said land on the  
ground that it is one of the lands forming the temporalities of Sudassanarama  
Temple and that the plaintiff is the present lawful Viharadhipathi of the  
said Viharaya.

3. The Defendant Thero, on the other hand, stating that he was in  
possession of a field called Kekilladuwaaddara *alias* Mahapittaniya as the  
lawful Viharadhipathi of the temple called the Kettaramaya which he  
40 himself had established thereon.



No. 15  
Petition of Appeal  
to the Supreme  
Court —  
28-12-60  
—Continued.

4. The defendant set up two other defences to justify his possession of the said land *viz.* that he had improved the said land and that he was entitled to maintenance out of the income of the said land among other lands belonging to the said temple and the Sudassanarama Temple of which the plaintiff claimed to be the Viharadhipathi.

5. At the trial which commenced on 20th September, 1957, the main point of contest was whether the Plaintiff or the Defendant was the lawful Viharadhipathi of the aforesaid Viharaya and thirty one issues were suggested and accepted by Court for the purpose of the trial.

6. The trial which commenced on 20th September, 1957 was concluded<sup>10</sup> only on 11th July, 1960, and judgment was delivered on 21st December, 1960.

7. On 21st December, 1960, the learned trial Judge gave judgment for the plaintiff with costs declaring him to be the Viharadhipathi, for damages as agreed upon by the parties and ejectment.

Aggrieved by the said judgment, the Appellant appeals to Your Lordships' Court on the grounds following among others that may be urged at the hearing of this appeal.

1. The judgment is against the weight of the evidence adduced and contrary to law.

2. It is submitted that the evidence on record does not justify the<sup>20</sup> learned Judge's finding that Gunananda Thero had renounced or abandoned his rights in the Welihinda Temple in favour of the plaintiff by P13. It is submitted that there should be cogent evidence for the learned Judge to hold that the said Thero abandoned all his rights to the office of Viharadhipathiship of the said main temple including the satellite temple by an unequivocal act such as an instrument of renunciation or abdication.

3. It is submitted that the said Thero so long as he lived in any one of the temples without such an act of renunciation continued to be vested with all the immovable and movable properties of the temple and on his death, the defendant priest, became entitled to the office of Viharadhipathi<sup>30</sup> as a pupil of the said Thero according to the rule of succession governing the said temple.

4. It is submitted that the said Gunananda Thero could not in law have appointed his co-pupil to be a Viharadhipathi while he was still alive for there could not have been the two Viharadhipathies at the same time in this particular temple and the said Deed No. 6654 of 1928 therefore could in law operate only as a delegation of the "right of management" only but not as a "transfer" of the office of the Viharadhipathiship and the right of ownership in the properties belonging to the temple.

5. It is submitted that the law pertaining to the appointment of<sup>40</sup> priests as Viharadhipathies by deed does not permit the appointment of a pupil as Viharadhipathi and at the same time grant to him the power to change the rule of succession by appointing whomsoever he desires in the event of his not being able to perform the duties of the said office. It is submitted that the deed P12 therefore could not in law confer upon the

appointee a right to appoint a co-pupil and thus act contrary to the law of succession governing the said temple and thereby deprive the lawful pupils of the appointor to their right of succession. It is submitted the learned Judge's findings in respect of P12 and P13 is therefore wrong.

No. 15  
Petition of Appeal  
to the Supreme  
Court —  
28-12-60  
—Continued.

6. It is submitted that on the learned Judge's finding that the Defendant Thero had improved the land in suit, he should have been declared entitled to the compensation due therefore and the learned Judge's further finding that he is not personally entitled to the said compensation cannot be supported in law.

10 7. It is submitted that the learned Judge's finding that the defendant is contumaciously disobeying the plaintiff is incorrect and that he should therefore be ejected from the 'avasa' called the Kettaramaya is also wrong.

8. It is also submitted that in view of the answer of the learned Judge to issues No. 22, 23 and 24 the plaintiff is not entitled to damages and ejection, as prayed for in the plaint and granted to the plaintiff in the judgment.

9. It is submitted that the plaintiff has also not proved his title to the land in suit and that the action should have therefore failed.

WHEREFORE the Appellant prays that Your Lordships be pleased—

- 20 (1) to reverse the findings of the learned trial Judge and order that the Plaintiff's action be dismissed with costs ;
- (2) or in the alternative declare :
- (a) that the defendant is the lawful Viharadhipathi of the Sudassanarama Temple in Welihinda and/or the temple called Kettaramaya described in paragraph 12 of the amended answer of this defendant.
- (b) that the plaintiff is not entitled to the damages he has claimed and the order of ejection prayed for by him in the plaint and granted to him in the judgment ;
- 30 (c) the defendant, in any event, is entitled to compensation for the improvements he has caused to be made to the land in suit and that he is entitled to remain in possession of them until he is compensated for the same and ;
- (d) that the defendant in any event is entitled to be maintained out of the income of the land in suit and other temporalities belonging to the said Sudassanarama Temple in Welihinda.
- (3) For such other and further relief as to Your Lordships' Honourable Court may seem meet.

(Sgd.) S. SAMARASINGHE,  
*Proctor for Defendant-Appellant.*

40

Settled by :—  
MR. K. MAMPITIYA,  
*Advocate.*

Decree of the District Court

DECREE

IN THE DISTRICT COURT OF MATARA

MEERUPPE SUMANATISSA TERUNNANSE  
Viharadhipathi of Sudassanarama  
Temple, Welihinda.

*Plaintiff.*

*Vs.*

No. L/289.

10

WARAKAPITIYE SANGANANDA TERUN-  
NANSE of Warakapitiya.

*Defendant.*

This action coming on for disposal before N. Edirisinghe, Esquire, District Judge of Matara, on the 20th day of September, 1957 and on the 19th day of March, 1958 in the presence of Mr. Advocate Karunaratne instructed by Messrs. B. E. and G. P. Keuneman, Proctors on the part of the Plaintiff and of Mr. Advocate Pandita Gunawardena with Mr. Advocate R. H. E. de Silva instructed by Mr. S. Samarasinghe, Proctor on the part of the Defendant, on the 8th day of 1958 in the presence of Mr. Advocate N. Karunaratne 20 instructed by Messrs. G. E. & G. P. Keuneman, Proctors on the part of the Plaintiff and of Mr. Advocate Pandita Gunawardena with Mr. Advocate Abeyweera instructed by Mr. S. Samarasinghe, Proctor, on the part of the Defendant, on the 24th day of September 1958, and on the 18th day of November, 1958 in the presence of Mr. Advocate Karunaratne instructed by Messrs. G. E. & G. P. Keuneman, Proctors on the part of the Plaintiff and of Mr. Advocate Pandita Gunawardena with Mr. Advocate Wijesuriya instructed by Mr. S. Samarasinghe, Proctor on the part of the Defendant and on the 21st day of December, 1960 on which day the judgment was delivered.

30

It is ordered and decreed that the Plaintiff be and he is hereby declared the controlling Viharadhipathi and the Chief Incumbent of Sudassanarama Temple in Welihinda and as such entitled to the high and low land called Pehembiyagodaduwa and kumbura *alias* Hirikotuweduduwa situate at Warakapitiya in Weligam Korale of Matara District, Southern Province and bounded on the North by Heendeniya Wekandiya, East by Pehembiyaduwa, South by Kekilladuwa, West by Ratkeretolla and Tekkawatta and containing in extent about 18 acres.

It is also ordered and decreed that the defendant be ejected from the aforesaid premises and the plaintiff be placed in quieted possession thereof. 40

It is further ordered and decreed that the defendant do pay to the Plaintiff as damages Rs. 500/- per year from March, 1954 till the plaintiff is restored to the possession as agreed upon.

No. 16  
Decree of the  
District Court —  
23-3-61  
—Continued.

It is further ordered and decreed that the Defendant do pay to the Plaintiff costs of this action as taxed by the officer of this Court.

This 23rd day of March, 1961.

Drawn by,

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

(Sgd.) .....  
*District Judge.*

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**No. 17**

No. 17  
Judgment of the  
Supreme Court —  
15-5-63

**Judgment of the Supreme Court**

S. C. 639/1960 (F).

D. C. Matara Case No. 289/L.

WARAKAPITIYE SANGANANDA TERUN-  
NANSE of Warakapitiya.

*Defendant - Appellant.*

*Vs.*

MEERUPPE SUMANATISSA TERUNNANSE,  
Viharadhipathi of Sudassanarama  
Temple, Welihinda.

*Plaintiff - Respondent.*

20

*Before :* SANSONI, J. and HERAT, J.

*Counsel :* A. F. WIJEMANNE for the Defendant - Appellant.

H. WANIGATUNGA with KARAWITA for the Plaintiff - Respondent.

*Argued on :* May 6th, 1963.

*Decided on :* May 15th, 1963.

SANSONI, J.

The Plaintiff, who claims to be the lawful Viharadhipathi of Sudassanarama Temple in Welihinda, has sued the Defendant, who is also a Buddhist

monk, for a declaration of title in respect of a certain land and for ejection and damages. The Defendant denied that the Plaintiff was the lawful Viharadhipathi of Sudassanarama Temple ; he claimed that he was himself entitled to that position, although he made no claim in reconvention in that respect. The learned District Judge has held in favour of the Plaintiff and given him judgment as prayed for in his plaint. The Defendant has appealed.

It is not in dispute that at one time Akurugoda Sudassi was the Viharadhipathi of that temple and three other temples known as the Lalpe Sudaramamaya, Akurugoda Nagarukkaramaya and Warakapitiye Tribhumikaramaya. His senior pupil was Meeruppe Gunananda. The plaintiff was also a pupil of his, and he had other pupils as well, but all of them were junior to Gunananda. In 1928 Sudassi executed a deed in favour of Gunananda granting him " full authority to manage, administer and hold the office of Adikari " of the four temples subject to certain conditions.

Meeruppe Gunananda in due course became the Viharadhipathi of the four temples, and he executed in the plaintiff's favour deed P13 of 1930 containing the very same terms to be found in deed P12. The deed, however, was only in respect of the Welihinda Temple. It contains the same conditions as those appearing in P12.

One question that arises on this appeal is the effect that deed P13 has on the rights of the Plaintiff and the Defendant respectively. The first point to be stressed is that the plaintiff is only a co-pupil of Gunananda while the Defendant, it is common ground, is the senior pupil of Gunananda. It is quite clear on the authorities that, if deed P13 is to be regarded as an appointment of his successor as Viharadhipathi, Gunananda had no right to divert the succession from his own pupils and appoint the plaintiff to succeed him.

The Plaintiff's Counsel and the learned District Judge have regarded deed P13 as an act by which Gunananda abandoned his rights as Viharadhipathi of the Welihinda Temple, but I am unable to share this view. There are no words in P13 which convey the idea of such abandonment. On the contrary, Gunananda has made provision in it for his pupils to exercise their rights in the temple and that is inconsistent with an abandonment of his rights. Further, it is not the Plaintiff's case that deed P12 which is exactly in the same terms as deed P13, was an act of abandonment by Sudassi. For if that had been his case, Gunananda would have lost his claim to succeed Sudassi as Viharadhipathi. I think the more reasonable view to take of the deed P13 is that it was an appointment of the Plaintiff by Gunananda to act for him as *de facto* Viharadhipathi of Welihinda Temple because Gunananda was residing in another temple. The defendant, at the time when deed P13 was executed, would have been only 19 years old and it was therefore only natural that Gunananda should ask an older priest to manage this Temple on his behalf.

But the Plaintiff's Counsel urged us also to consider the evidence given by Gunananda in an earlier case brought by the present Plaintiff against a third party in respect of this Temple. That evidence was given in 1935. Gunananda there said that he gave this deed to the Plaintiff as he was living 30 miles away. He added "I was giving the deed not temporarily. After two years I found it was difficult to manage Welihinda." This evidence may well mean that Gunananda found it more convenient to appoint a deputy to look after the affairs of this temple because he could not look after them from 30 miles away.

No. 17  
Judgment of the  
Supreme Court —  
15-5-63  
—Continued.

<sup>10</sup> The law is clear that although a renunciation by a monk of his right to be Viharadhipathi may be inferred from facts and circumstances, such an inference will not be drawn if the matter is left in a state of doubt. It is quite usual for a monk who is the Viharadhipathi of several temples to give charge of one or more of those temples to other monks, who would normally reside in and look after those temples and their temporalities. It is not always convenient for a Viharadhipathi to look after temples which are situated some distance away from the temple in which he resides, and he may appoint managers or deputies for this reason. Any acts of possession or management by such appointees are referable to that appointment; they <sup>20</sup> would all be on behalf of the lawful Viharadhipathi and would not give the appointee any claim to that title.

In this case, it would seem that the plaintiff has managed the affairs of the Welihinda Temple for many years, and that the Defendant recognised him as *de facto* Viharadhipathi. But that would not enable the plaintiff to call himself or to be declared controlling Viharadhipathi, because he is not a pupil of Gunananda. His action must fail because he cannot establish the title upon which he claimed to bring this action.

I would therefore set aside the judgment under appeal and dismiss the Plaintiff's action with costs in both Courts.

80

(Sgd.) M. C. SANSONI,

*Puisne Justice.*

HERAT, J.

I agree.

(Sgd.) KINGSLEY HERAT.

*Puisne Justice.*

Decree of the Supreme Court

S. C. 639/60 (F)

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

MEERUPPE SUMANATISSA TERUN-  
NANSE Viharadhipathi of Sudassana-  
rama Temple, Welihinda.

*Plaintiff.* <sup>10</sup>

*Vs.*

WARAKAPITIYE SANGANANDA TERUN-  
NANSE of Warakapitiya.

*Defendant.*

WARAKAPITIYE SANGANANDA TERUN-  
NANSE of Warakapitiya.

*Defendant - Appellant.*

*Against*

MEERUPPE SUMANATISSA TERUN-  
NANSE Viharadhipathi of Sudassana-  
rama Temple, Welihinda.

<sup>20</sup>

*Plaintiff - Respondent.*

Action No. 289/Land.

District Court of Matara.

This cause coming on for hearing and determination on the 6th and 15th May, 1963, and on this day, upon an appeal preferred by the Defendant - Appellant before the Hon. Miliani Claude Sansoni, Puisne Justice and the Hon. Kingsley Herat, Puisne Justice of this Court, in the presence of Counsel for the Defendant - Appellant and Plaintiff - Respondent.

It is considered and adjudged that the judgment under appeal be and <sup>30</sup> the same is hereby set aside and the Plaintiff's action is dismissed with costs in both Courts.

(*Vide* copy of judgment attached).

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the 14th day of June, in the year One Thousand Nine hundred and Sixty Three and of Our Reign the Twelfth.

(Sgd.) B. F. PERERA,  
*Deputy Registrar, Supreme Court.*

**Application for Conditional Leave to Appeal to the Privy Council**  
**IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

**IN THE MATTER OF AN APPLICATION FOR CONDITIONAL LEAVE TO APPEAL  
TO HER MAJESTY IN COUNCIL UNDER THE APPEALS (PRIVY COUNCIL)  
ORDINANCE**

**MEERUPPE SUMANATISSA TERUNNANSE,**  
Viharadhipathi of Sudassanarama  
Temple, Welihinda.

10

No. S.C. 639/1960 (F)  
D.C. Matara No. 289/L.

*Plaintiff - Appellant-  
Petitioner.*

*Vs.*

**WARAKAPITIYE SANGANANDA TERUN-  
NANSE of Warakapitiya.**

*Defendant - Respondent.*

**To :**

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

<sup>20</sup> On this 13th day of June, 1963.

The petition of the Petitioner abovenamed appearing by P. A. D. SAMARASEKERA, his Proctor showeth as follows :—

1. Feeling aggrieved by the judgment of Your Lordships' Court pronounced on 15th May, 1963 setting aside the judgment of the District Court of Matara entered in favour of the petitioner, the petitioner is desirous of appealing from the said judgment of Your Lordships' Court to Her Majesty in Council.

<sup>30</sup> 2. The said judgment of Your Lordships' Court is a final judgment and the matter in dispute on the appeal is of the value of over Rs. 5,000/- and/or the appeal involves directly or indirectly a claim or question to or respecting property of the value of over Rs. 5,000/- to wit Rs. 9,000/-.

3. The petitioner has duly given the respondent notice of the petitioner's intended application to Your Lordships' Court for leave to appeal from the said judgment of Your Lordships' Court to Her Majesty in Council.



No. 19  
Application for  
Conditional Leave  
to Appeal to the  
Privy Council —  
13-6-63.  
—Continued.

WHEREFORE the PETITIONER prays that Your Lordships' Court be pleased to grant the petitioner :—

- (a) Conditional leave to appeal to Her Majesty the Queen in Council from the said judgment dated 15th May, 1963 ;
- (b) His costs and such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) P. A. D. SAMARASEKERA.  
*Proctor for Plaintiff-Appellant-  
Petitioner.*

No. 20  
Statement of  
Objections of the  
Defendant-  
Respondent —  
16-1-64.

No. 20

10

**Statement of Objections of the Defendant - Respondent**  
**IN THE HONOURABLE SUPREME COURT OF THE ISLAND**  
**OF CEYLON**

IN THE MATTER OF AN APPLICATION FOR CONDITIONAL LEAVE TO APPEAL  
TO HER MAJESTY IN COUNCIL UNDER THE APPEALS (PRIVY COUNCIL)  
ORDINANCE

MEERUPPE SUMANATISSA TERUNNANSE,  
Viharadhipathi of Sudassanarama  
Temple, Welihinda.

S.C. Application  
No. 283/63.

*Plaintiff - Appellant - Petitioner.*

20

Vs.

No. S.C. 639/1960 (F)  
D.C. Matara No. 289/L.

WARAKAPITIYE SANGANANDA TERUN-  
NANSE of Warakapitiya.

*Defendant - Respondent.*

To :

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

30

On this 16th day of January, 1964.

The statement of objections of the Defendant - Respondent abovenamed appearing by his Proctor, T. D. M. Samson de Silva to the Plaintiff-Petitioner's

application for conditional leave to appeal to Her Majesty the Queen in Council from the judgment of Your Lordships' Court dated 15th May, 1963 states as follows :—

No. 20  
Statement of  
Objections of the  
Defendant-  
Respondent—  
16-1-64.  
—Continued.

1. This Defendant - Respondent objects to Petitioner's application dated 13th June, 1963.

2. Judgment in this case was delivered by Your Lordships' Court on 15th May, 1963 dismissing the Plaintiff-Petitioner's action with costs.

3. The Plaintiff - Petitioner has filed petition and affidavit in Your Honourable Court on 13th June, 1963 begging for conditional leave to appeal to Her Majesty the Queen in Council from the said judgment dated 15th May, 1963.

4. The Plaintiff - Petitioner is not educated in English and does not know to read and write English, the language in which his affidavit accompanying the petition has been drawn up, but the jurat thereto does not state that the contents thereof had been read over and explained to the Affirmant in his own language *i.e.* Sinhalese and that he appeared to understand the contents thereof.

5. The Defendant - Respondent states that the Plaintiff - Petitioner's application for leave is bad in law in as much as his affidavit accompanying the petition does not conform with the requirements in Law.

WHEREFORE the DEFENDANT - RESPONDENT prays :—

- (a) that Your Lordships' Court be pleased to refuse the Application of the Plaintiff - Petitioner for Conditional Leave to Appeal to Her Majesty the Queen in Council from the said judgment dated 15th May, 1963 ;
- (b) His costs ;
- (c) For such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) T. D. M. SAMSON DE SILVA,  
*Proctor for Defendant - Respondent.*

**Minute of Order granting Conditional Leave to Appeal to the  
Privy Council**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Conditional Leave to  
Appeal to the Privy Council under the Rules set out in  
the Schedule to the Appeals (Privy Council) Ordinance.

MEERUPPE SUMANATISSA TERUNNANSE  
Viharadhipathi of Sudassanarama  
Temple, Welihinda.

10

S.C. Application  
No. 283/63.  
S.C. Appeal  
No. 639 of 1960 (F)  
D. C. Matara.  
Case No. 289/L.

*Plaintiff-Appellant-Petitioner.*  
Vs.

WARAKAPITIYE PANGNANANDA TERUN-  
NANSE of Warakapitiya.

*Defendant - Respondent.*

The application of Meeruppe Sumanatissa Terunnanse, Viharadhipathi 20  
of Sudassanarama Temple, Welihinda, for Conditional 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 15th day of May,  
1963 in S.C. 639 (Final) of 1960 D.C. Matara Case No. 289/L, having been  
listed for hearing and determination before the Honourable Thusew Samuel  
Fernando, Q.C., Puisne Justice, and the Honourable Ponnuduraisamy Sri  
Skanda Rajah, Puisne Justice, in the presence of H. Wanigatunga, Esquire,  
Advocate for the Plaintiff-Petitioner and A. F. Wijemanne, Esquire, Advocate  
for the Defendant - Respondent, order has been made by Their Lordships  
on the 7th day of May, 1964 allowing the aforementioned application for 30  
Conditional Leave to Appeal to Her Majesty the Queen in Council.

(Sgd.) N. NAVARATNAM,  
*Registrar of the Supreme Court*  
(Acting).

**Reasons for granting Conditional Leave to Appeal to the  
Privy Council**

No. 22  
Reasons for granting  
Conditional  
Leave to Appeal  
to the  
Privy Council —  
22-5-64.

APPLICATION FOR CONDITIONAL LEAVE TO APPEAL TO HER MAJESTY  
IN COUNCIL UNDER THE APPEALS (PRIVY COUNCIL) ORDINANCE

S. C. Application No. 283/1963

*Parties :* MEERUPPE SUMANATISSA TERUNNANSE

*Petitioner*

*Vs.*

<sup>10</sup> WARAKAPITIYE SANGANANDA TERUNNANSE

*Respondent.*

*Present :* T. S. FERNANDO, J. and SRI SKANDA RAJAH, J.

*Counsel :* H. WANIGATUNGA, for the petitioner ;

A. F. WIJEMANNE, for the respondent ;

*Argued and Decided on :* 7th May, 1964.

*Reasons delivered on :* 22nd May, 1964.

T. S. FERNANDO, J.

At the conclusion of the argument on this application we granted leave to appeal subject to the usual conditions, but, in view of the novelty of the point raised on behalf of the respondent, decided to set down later the reasons for our order.

The respondent objected to the granting of the Petitioner's application for conditional leave to appeal to Her Majesty in Council, and based his objection on the ground that the application was bad in law in as much as the affidavit which was attached to the petition did not conform to requirements of law.

The affidavit had been drafted in the English language. The petitioner did not dispute that he is a person who is not able to understand writing in the English language. The respondent pointed to section 439 of the Civil Procedure Code which requires that an affidavit, in a situation such as this, shall at the time of affirmation be interpreted to the affirmant in his own language (which in the case of the Petitioner is the Sinhalese language) and that the jurat shall express that it was so interpreted to him in the presence of the justice of the peace and that he appeared to understand the contents

No. 22  
Reasons for grant-  
ing Conditional  
Leave to Appeal  
to the  
Privy Council —  
22-5-64.  
—Continued.

thereof. The jurat of the affidavit which was attached to the petition presented to Court by the Petitioner is in the undermentioned form :—

“ Read over signed and affirmed to at Weligama on this 12th day of June 1963 ”

It was not seriously doubted that the affidavit is not in the form required by Section 439 of the Civil Procedure Code and that it should be rejected.

Did the rejection of the affidavit militate against the granting of the application of the petitioner? Rule 1 (a) of the Rules in the Schedule to the Appeals (Privy Council) Ordinance confers a right of appeal in certain speci- 10  
fied circumstances. Rule 2 requires any party desirous of appealing to make application to the Supreme Court by petition within a stated time. The Rule is silent as to any requirement of affidavit evidence. The petition presented by the petitioner contained statements which, if true, entitled him to a grant of leave upon conditions set out in Rule 3. The correctness of the statements in the petition could have been ascertained, if necessary, by this Court by merely calling for and examining the final judgment of this Court and/or the record of the court of trial.

In the present instance the correctness of the statements in the petition was not challenged by the respondent who based his objection solely on the 20  
defect in the affidavit which, according to him, left this Court without proof of the correctness of the statements in the petition. Learned Counsel for the respondent referred to Chapter XXIV of the Civil Procedure Code relating to summary procedure. Section 376 of the Code requires that a petition upon which an application or action of summary procedure is instituted shall be supported by affidavit etc., as may be requisite to furnish *prima facie* proof of the material facts set out in the petition. I am aware that there exists a practice of applications to the Supreme Court for leave to appeal to Her Majesty in Council being supported by affidavit. I wish to say nothing to deter that practice being continued; but the question now before 30  
us is whether the absence of an affidavit is fatal to the granting of the leave. In order to support the objection, learned Counsel for the respondent argued that an application for leave to appeal to Her Majesty in Council is an application of summary procedure attracting to it compliance with the provisions, *inter alia* of Section 376 of the Civil Procedure Code. We found ourselves unable to agree with that argument of Counsel.

The burden of satisfying this Court that the petitioner was entitled to a grant of leave was, no doubt, on the petitioner himself. The presentation of an affidavit may be one form of discharging that burden, and an applicant might ordinarily be advised to take that step. It is, however, quite a 40  
different thing to say that the absence of an affidavit is fatal to a grant of leave. In this case it was not alleged by the respondent that the appeal proposed is not one from a final judgment of this Court where the matter in dispute on the appeal is upwards of Rs. 5,000/- in value. There was no attempt at any stage to controvert the statements in the petition, and I could find no legal bar in these circumstances to an acceptance of the statements in the petition as being correct.

Learned Counsel for the respondent suggested that the petitioner will not be left without some remedy as Rule 32 of the Rules in the Schedule to the Appeals (Privy Council) Ordinance recognises his right to petition Her Majesty in Council direct even where he has failed to comply with those rules. Such a circumvolant and, if I may add, expensive step would have become necessary only if we had not been satisfied that the petitioner's case fell within Rule 1(a). As I have stated already, we were so satisfied and, it is permissible to add, we found some comfort in the circumstance that thereby we were advancing the prosecution of a citizen's legal right rather than deny-  
 10 ing it.

(Sgd.) T. S. FERNANDO.

*Puisne Justice.*

SRI SKANDA RAJAH, J.

I agree.

(Sgd.) P. SRI SKANDA RAJAH,

*Puisne Justice.*

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No. 23

Application for Final Leave to Appeal to the Privy Council

No. 23  
 Application for  
 Final Leave to  
 Appeal to the  
 Privy Council —  
 30-5-64.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

20

IN THE MATTER OF AN APPLICATION FOR FINAL LEAVE  
 TO APPEAL TO HER MAJESTY THE QUEEN IN HER PRIVY  
 COUNCIL

MEERUPPE SUMANATISSA TERUNNANSE,  
 Viharadhipathi of Sudassanarama  
 Temple, Welihinda.

S.C. 639/(F)/1960

*Plaintiff - Appellant - Petitioner.*

D.C. Matara 289/L

*Vs.*

30 S.C. Application  
 No. 283/63  
 (C. L. A.)

WARAKAPITIYE PANGNANANDA TERUN-  
 NANSE, of Warakapitiya.

*Defendant - Respondent.*

No. 23  
Application for  
Final Leave to  
Appeal to the  
Privy Council —  
30-5-64.  
—Continued.

To:

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

On this 30th day of May, 1964.

The Petition of the Petitioner abovenamed appearing by P. A. D. SAMARASEKARA, his Proctor, respectfully sheweth as follows :—

1. The Petitioner on the 7th day of May, 1964 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 15th day of May, 1963 in S.C. 639(F)/ 1960 D.C. Matara Case No. 289/L. 10

2. The Petitioner has in compliance with the conditions on which such leave was granted deposited a sum of Rupees Three Thousand (Rs. 3,000/-) with the Registrar of the Supreme Court and hypothecated the said sum by Bond on the 23rd day of May, 1964, and has further deposited with the said Registrar a sum of Rupees Three hundred (Rs. 300/-) in respect of the amounts and fees mentioned in Section 4 (2) (b) and (c) of the Appeals (Privy Council) Ordinance.

3. The Petitioner has also given to the Respondent notice of this application for Final Leave to Appeal on the 28th day of May, 1964 in the following terms :— 20

“ TAKE NOTICE that I, Meeruppe Sumanatissa Terunnanse, Viharahipathi of Sudassanarama Temple, Welihinda, the Applicant for Conditional Leave to Appeal to Her Majesty the Queen in Council in S.C. Application No. 283 of 1963, have complied with the conditions subject to which such leave was granted by the Honourable the Supreme Court by its order dated 7th day of May, 1964 and that I shall make an application to the said Court for Final Leave to Appeal within three days from today. ”

4. The abovementioned Notice was given to the Respondent by sending it by Registered Post to his last known address.

WHEREFORE the petitioner prays :— 30

(a) that your Lordships' Court be pleased to grant him Final Leave to Appeal to Her Majesty the Queen in Council from the judgment of Your Lordships' Court pronounced on the 15th day of May, 1963 ;

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

(Sgd.) P. A. D. SAMARASEKARA,

*Proctor for Plaintiff-Appellant-Petitioner.*

**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 THE RULES  
SET OUT IN THE SCHEDULE TO THE APPEALS (PRIVY  
COUNCIL) ORDINANCE.

10

MEERUPPE SUMANATISSA TERUNNANSE  
Viharadhipathi of Sudassanarama  
Temple, Welihinda.

S.C. Application  
No. 176 of 1964.

Vs.

*Plaintiff-Appellant-Petitioner.*

S.C. Appeal           WARAKAPITIYE PANGNANANDA TERUN-  
No. 639 of 1960(F) NANSE of Warakapitiya.

*Defendant - Respondent.*

D.C. Matara  
Case No. 289/L

The application of Meeruppe Sumanatissa Terunnanse, Viharadhipathi  
<sup>20</sup> of Sudassanarama Temple, Welihinda, 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 15th day of May, 1963  
in S.C. 639 (Final) of 1960 D.C. Matara Case No. 289/L, having been listed  
for hearing and determination before the Honourable Ponnuduraisamy Sri  
Skanda Rajah, Puisne Justice, and the Honourable Anthony Christopher  
Augustus Alles, Puisne Justice, in the presence of H. Wanigatunge, Esquire,  
with H. L. K. Karawita, Esquire, Advocates for the Plaintiff-Petitioner  
and there being no appearance for the Defendant-Respondent, order has  
<sup>80</sup> been made by Their Lordships on the 27th day of August, 1964 allowing  
the aforementioned application for Final Leave to Appeal to Her Majesty  
the Queen in Council.

(Sgd.) N. NAVARATNAM,

*Registrar of the Supreme Court.*



P 21  
Deed of Transfer  
No. 416—  
1-4-1817.

P 21

Deed of Transfer No. 416

Translation.

No. 416.

The purport of this transfer deed caused to be written and granted on 1st April, 1817 is as follows :—

That I, Adiriyā de Silva Rajapakse, Vidana Arachchirala, holding the office of Vidana Arachchi of Warakapitiya (vender) for the purpose of selling the land called Pehembiyagoda Addara wila in extent..... Amunums of Paddy sowing situated at Warakapitiya held by me on a deed inquired into who would purchase same then Dhammananda Thero of Welihinda Temple promised to buy the said land.

Therefore, I do hereby sell the said land called Pehimbiyagoda Addara bounded as per title deed which is in my possession, on the East by Pehembiyagoda Doowe Mawatha, West by.....torn..... South by Kekilla Duwamawatha, North by Heendeniya Wekandiya in extent.....Amunums of Paddy sowing for the sum of 25...dollars.

And as the said Vendee has paid the sum out of the Sangika money of the temple I do hereby empower the said vendee to utilise the income of the said land for the use and benefit of Sangha who arrive to the said temple from four directions to be taken into use according to the rights of Vinaya.

Further I, my children, grand children, heirs, relatives etc. shall not claim any right, or dispute to the said premises duly sold.

Thus this transfer deed was caused to be written, signed and granted by me to the said vendee.

(Sgd.) Illegibly.

WITNESSES :

(Sgd.) Illegibly (Sgd.) Illegibly (Sgd.) Illegibly (Sgd.) Illegibly (Sgd.) Illegibly 30

..... Written by D. M. Johanis de Silva Deveni Gurunnanse of Denepitiya Palliya.

(Sgd.) .....

Translated by me :

(Sgd.) .....  
Sworn Translator,  
D.C. Matara.

Deed of Transfer No. 4362

P 22  
Deed of Transfer  
No. 4362—  
8-11-1842.

Translation.

No. 4362 Transfer Deed.

We, Rajapakshage Elias Jayawardene Kankanama do Don Abaran retired Police Vidane do Luwis and do Balahamy all of Warakapitiya in Weligam Korale (Vendors), do hereby acknowledge to have duly received the sum of 15 shillings sterling from Talpe Sumangala Thero of Welihinda Temple, Weligam Korale (Vendee) out of the money of the said temple by  
10 sale and transfer unto him all the soil and fruit trees of Pehembiyagoda watta situated at Warakapitiya and held by us by paternal inheritance.

Therefore having received the said sum we do hereby renounce all our rights, title and interests which we have and had in and to the said premises duly sold and do hereby empower the said vendee and his successors etc. to hold and possess the same absolutely for ever.

Thus this transfer deed was caused to be made signed and granted by us on this 8th November, 1842.

(Sgd.)

20                    1st (seal)            2nd (seal)            3rd (seal)            4th (seal)  
                          Intld.                    Intld.                    Intld.                    Intld.

WITNESSES :

(Sgd.) DON MATHES

(Sgd.) Illegible

Accordingly Don Johunnes de Silva, Notary Public of Denepitiya on 8-11-1842.

(Sgd.) D. JOHUNNES,  
                          *Notary Public.*

(SEAL)

Translated by me :

80 (Sgd.) .....  
                          *Sworn Translator,*  
                          D.C. Matara.

D 11  
Deed of Transfer  
No. 1396 —  
19-12-1854

Deed of Transfer No. 1396

Translation.

Transfer Deed  
No. 1396.

That I, Kattadige Babeappu of Warakapitiya in Weligam Korale, Matara District, Ceylon, (Vendor), do hereby acknowledge to have received in full a sum of four pounds and fifteen shillings (4£. 15s. 0d.) sterling from Talpe Sumangala Therunnanse of Welihinda Temple (Vendee) in Weligam Korale aforesaid by sale and transfer of the following premises unto him 10 the said Vendee to wit :—

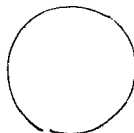
- (1) All that the field called Kekilladuweaddara *alias* Kirigotuwaduwa addara situated at Warakapitiya aforesaid for a sum of 3 Pounds sterling present lawful money of Ceylon.
- (2) All that the bare land called Kekilladuwe watta adjoining to the aforesaid land containing in extent about one bushel of kurakkan sowing situated at the said Village, for a sum of one pound and fifteen shillings sterling and which said premises being asweddu- mized by me are held and possessed by right of maternal ancestral inheritance.

20

And I the said vendor having received the said consideration in full do hereby renounce all rights, title and interest etc. held by me and my heirs etc. in and upon the said field and the land hereby sold, and do hereby empower the said vendee or his descendants etc. to hold and possess the same from this date together with the right to deal therewith whatsoever he or they may please.

Thus this Transfer Deed is caused to be written, signed, sealed and granted by me the said vendor Babeappu unto the said vendee Talpe Sumangala Therunnanse at Pelana on this 19th day of December, 1854.

(Sgd.) Thus



Seal.

30

I, D. L. D. G. Kasinada of Matara District, Notary Public, do hereby, certify and attest etc. X X X X X X X X X X X

X X X X X X X X X X X

Date of attestation.

19th December, 1854 at Pelana.

(Sgd.) D. L. D. G. KASINADA,  
Notary Public.

SEAL.

Translated by :

(Sgd.) .....  
Sworn Translator,  
District Court.  
6-2-56.

40

## ' Adhikari ' Deed No. 6654

P 12  
' Adhikari ' Deed  
No. 6654 —  
29-8-28

Deed No. 6654.

Know all men by these presents that I, Akurugoda Sudassi Sthavira, Viharadhipathi of Welihinda Sudassanarama in Weligam Korale do hereby declare :

Whereas Adhikariship of the following four Viharas described in the Schedule hereto namely: Welihinda Sudassanaramaya, Lalpe Sudhar-maramaya, Akurugoda Nagarukkaramaya and Warakapitiya Thribumi-<sup>10</sup>karamaya having being held by me and which were under my administra-tion and management and finding it difficult to carry on the said manage-ment because of my feeble state of health and old age and whereas Meeruppe Gunananda Thero being my chief pupil who knows Dhamma Vinaya well and who acts accordingly and who is quite fit to fill up the said post it is my desire to appoint him to the said office.

Therefore know all men by these presents that I the aforesaid Akuru-goda Sudassi Sthavira, Viharadhipathi of Welihinda Sudassanaramaya, do hereby grant, assign, convey and assure unto the said Meeruppe Guna-nanda Thero full authority to manage, administer and hold the office of the<sup>20</sup> Adhikariship of the four Sangha Aramas described in the schedule hereto together with all the movable such as relics, caskets and other articles of worship appertaining thereto inclusive of all chaityas, images, Dhamma preaching halls, lands, fields etc. appertaining and belonging thereto of which I am the Adhikari thereof.

Therefore the said Gunananda Thero shall hold from this date the Adhikariship in and over the said premises and administer and manage the same in accordance with Dhamma Vinaya subject to the following conditions :—

That the aforesaid Meeruppe Gunananda who has been appointed<sup>80</sup> Adhikari as my chief pupil and my other pupils Meeruppe Sumanatissa, Warakagoda Pemasiri, Getamanne Devananda, Getamanne Somaratana, Getamanne Indasara and those who are not ordained yet: Denipitiye Sadhananda, Dematagoda Jinalankara, Warakapitiye Pannananda, Uru-pitiye Rewatha, Galetambe Indasara, Warakapitiye Sumanasara and Muru-thamune Sumana shall work for the upliftment of Dhamma and to the benefit of others by educating them in Dhamma.

Further that Sangha visiting the aforesaid places subjected to the said Adhikariship shall be looked after in the manner of a " Kapakaru "

P 12  
 ' Adhikari ' Deed  
 No. 6654 —  
 29-8-28  
 —Continued.

and out of my pupils those who are learned and who can preach shall act and assist in Adhikari management and the others shall be given a befitting education by Meeruppe Gunananda aforesaid and he shall do everything for their uplift.

Further that after the demise of aforesaid Meeruppe Gunananda Thero who is appointed Adhikari by these presents, the Senior pupil who is versed in Dhamma and Vinaya and who is just shall be selected as Adhikari by the common consent of the other pupils.

That if the Bhikku who should be appointed to the said Adhikariship according to seniority happens to be one who is weak and incapable of performing the Sasanika acts another who is younger shall be appointed as Adhikari with his consent who is capable of performing the aforesaid duties.

Further if these Adhikaris acted wrongly the aforesaid Sangha shall be assembled inclusive of Dayaka Laymen and a justifiable judgment shall be arrived at by them.

That if any of my pupils acts dishonestly to the Chief Sisyaaanusisyas and contrary to the laws of Dhamma he should be given advice and failing that he shall be given suitable punishment and if that too fails he shall be expelled from the aforesaid stanas. 20

Further that the Adhikari priest in the performance of great Sanghika acts shall do so with the consent of the other pupils.

Further I, the aforesaid Meeruppe Gunananda Sthavira having agreed to the aforesaid conditions, do hereby accept the office of Adhikariship aforesaid with thanks to my affectionate tutor by subscribing my signature to these presents.

### *The Schedule*

1. All that soil and fruit trees and all the buildings standing thereon of the premises called Sudassanarama situated at Welihinda in Weligam Korale bounded on the North by High Road and Ela, East by High Road, South by Medakoratuwa, West by water course ela, containing in extent about six acres.

2. All that soil and fruit trees and all the buildings standing thereon of the premises called Sudhassanaramaya, situated at Lalpe in Kanda-badapattu, Matara District aforesaid bounded on the North by Dola, East

by Delmandiya, North by Viharehena, West by Bogahahena containing in extent about five acres.

P 12  
' Adhikari ' Deed  
No. 6654 —  
29-8-28  
—Continued.

3. All that soil and fruit trees and all the buildings standing thereon of the premises called Nagarukkharamaya situated at Akurugoda in Weligam Korale aforesaid bounded on the North by Wela, East by Owita, South by High Road, West by land belonging to D. D. Ratnasekara and others containing in extent about three acres.

4. All that soil and fruit trees and all the buildings standing thereon of the premises called Thribumikaramaya situated at Warakapitiya in the said Weligam Korale bounded on the North by Maragahahena, East by Attudawage watta and Welinambage watta, South by land belonging to Matheshamy and others of Palliyage watta, West by land belonging to Simon de Silva Weerasuriya containing in extent about one acre.

In witness whereof, we the aforesaid, do hereby set our hands to these presents and two others of the same tenor and date as these on this 29th day of August, 1928 at Welihinda.

WITNESSES :

(Sgd.) Illegibly.

(Sgd.) ALLIS APPUHAMY.

(Sgd.) GUNANANDA.

(Sgd.) D. S. A. GUNAWARDENE  
in English.

(Sgd.) F. W. GUNASEKARA,  
*Notary Public.*

I, Francis Wickremaratne Gunasekara, Notary Public, practising at Weligama, do hereby certify and attest (Normal Attestation).

Date of attestation :

29th August, 1928.

(Sgd.) F. W. GUNASEKARA,  
*Notary Public.*

Translated by me :

(Sgd.) .....

*Sworn Translator,*  
D.C. Matara.  
13-7-60.

## ' Adhikari ' Deed No. 2038

## Deed No. 2038

I, Meeruppe Gunananda Sthavira, Viharadhipathi of Welihinda Sudassanarama Vihare, do hereby disclose :—

That out of the four places called and known as Welihinda Sudassanarama Vihare, Lalpe Sudharmarama Vihare, Akurugoda Nagarukkarama Vihare and Warakapitiye Thribumikarama of which Vihares I am the Adhikari by right of Deed No. 6654 of 29th August, 1928 attested by N.W. Gunasekara, Notary Public, it is my desire that Meeruppe Sumanatissa Thero <sup>10</sup> who is residing at Welihinda Sudassanarama Vihare aforesaid should be appointed Adhikari thereof as he is the fit person, to assume the duties of the said office.

Therefore know all men by these presents that I, Meeruppe Gunananda Sthavira, Viharadhipathi of Sudassanarama Vihare, do hereby, give, grant, convey and assure unto the aforesaid Meeruppe Sumanatissa Thero the full power to act as Adhikari of the Sangharama described in the schedule thereto and over all the movables such as Relics, Caskets and other objects of worship together with books, brassware etc. and all the immovable properties appertaining thereto and belonging to the said Vihare and to <sup>20</sup> have and to hold the same from this day the aforesaid properties as Adhikari thereof subject to the following conditions :—

That along with my brother pupil Meeruppe Sumanatissa Thero whom I have appointed as Adhikari, Warakagoda Pemasiri, Getamanne Devananda, Getamanne Somaratana, Getamanne Indasara, Denipitiye Sardhananda, Dematagoda Jinalankara, Warakapitiye Pannananda, Uru-pitiye Rewatha, Galetambe Indasara, Warakapitiye Sumanasara and Warakapitiye Dayananda and these Sisyas and Anusisyas shall do all act of Vinaya in accordance with the customs I am adhering to.

Further the Sangha visiting the aforesaid places subjected to the said <sup>30</sup> Adhikariship shall be looked after in the manner of a " Kapakaru " and out of my pupils those who are learned and who can preach shall act and assist in the Adhikari management and the others shall be given a befitting education by aforesaid Meeruppe Sumanatissa Thero and he shall look after their uplifts in life and shall keep them in suitable places, shall advise those who are disobedient and shall always act for the uplift and advancement of the Loka Sasana by gaining the credit of the Upasakas who are attached thereto.

Further that after the demise of the said Meeruppe Sumanatissa Thero who is appointed Adhikari by these presents the Senior pupil who is versed <sup>40</sup> in Dhamma and Vinaya and who is just shall be selected as Adhikari by a Common Council of the other pupils. But if the said Senior pupil who is to be appointed to the said Adhikariship happens to be one who is weak and incapable of performing the Sasanika acts, another who is younger, shall be appointed as Adhikari with his consent who is capable of performing the said duties.

Further if these Adhikaris acted wrongly the aforesaid Sangha shall be assembled inclusive of Dayaka Laymen and a justifiable judgment shall be arrived at by them.

P 13  
' Adhikari ' ,  
Deed No. 2038 —  
26-12-30  
—Continued.

Further that if out of the said Sisya or Anusisya pupils acted disobediently to the Chief Sisya or Anu-Sisya he shall be given advice in accordance with Dhamma and if he acts against such advice also he shall be given befitting punishment and if he is disobedient still he shall be expelled from the said status.

Further, that the Adhikari priest in the performance of great Sanghika acts shall do so with the consent of the other pupils.

Further, I, the aforesaid Meeruppe Sumanatissa having agreed to the aforesaid conditions, do hereby accept with thanks the gift of Adhikariship hereby granted by subscribing my signature to these presents.

In witness whereof we the aforesaid Meeruppe Gunananda and Meeruppe Sumanatissa, do hereby set our hands to these presents and two others of the same tenor and date as these on this 26th day of December, 1930 at Matara.

*Schedule*

All that soil and fruit trees and the buildings standing thereon of the premises called Sudharsanaramaya situated at Welihinda in Weligam Korale, Matara District, Southern Province bounded on the North by High Road and Ela, East by High Road, South by Meda Koratuwa, West by water course Ela, containing in extent about six acres.

(Sgd.) GUNANANDA.

(Sgd.) SUMANATISSA.

WITNESSES :

(Sgd.) D. H. W. DHARMADASA.

(Sgd.) NANDIRIS APPU.

(Sgd.) A. D. S. W. SAMARANAYAKE,  
*Notary Public.*

I, Arnis de Silva Wijesundere Samaranayake, Notary Public of Matara, do hereby, certify and attest. (Usual attestation).

(Sgd.) A. D. S. W. SAMARANAYAKE,  
*Notary Public.*

Date of Attestation :  
26th December, 1930.

Translated by me :

(Sgd.) .....  
*Sworn Translator,*  
D.C. Matara.  
13-7-60.



D 6  
Declaration of  
Meeruppe  
Gunananda  
Thero —  
25-3-32

### Declaration of Meeruppe Gunananda Thero

#### DECLARATION REGARDING UPASAMPADA BHIKSHU UNDER SECTION 41 OF THE BUDDHIST TEMPORALITIES ORDINANCE, No. 19 OF 1931

1. Place of Birth: Province, District, Korale, Pattu or other Division and Village	Meeruppe in Denipitiya, Weligam Korale, Matara District, Southern Province.
2. Lay name in full	Samaraweera Don Janis
3. Date of Birth	In the year 1879. <span style="float: right;">10</span>
4. Name of father in full	Samaraweera Don Juwanis
5. Date of robing	In the year 1892
6. Samanera Name	Meeruppe Gunananda
7. Name of Robing Tutor or Names of Robing Tutors and residence	Akurugoda Sudassi Maha Stavira, Welihinda Sudarsanaramaya
8. Temple where Robing took place	Welihinda Sudarsanaramaya
9. Place of Ordination	Mahanuwara Malwatta Vihara Uposathagaraya
10. Date of Ordination	27th day of May, 1900

11. Name of Karmacharya	Cannot remember	D 6 Declaration of Meeruppe Gunananda Thero — 25-3-32 —Continued.
12. Name of Upaddhyaya at Ordination	Cannot remember.	
13. Name of Nikaya	Shyamopali Mahanikaya (Siamese Sect)	
14. Name of Maha Nayake Thera or Nayake Thera of the Nikaya and his full Postal Address	Pahamune Dharma Kirti Sri Saranankara Sumangalabhidana Mahanayake Thero. Postal Address: (Post Office) Kandy.	
10 15. Name assumed at Ordination	Meeruppe Gunananda.	
16. Residence at time of Ordination	Welihinda Sudarsanarama Vihare, Weligam Korale.	
17. Permanent Residence	Welihinda Sudarsanarama Vihare, Weligam Korale.	
18. Residence at time of Declaration and full Postal Address	Sudarsanaramaya, Kandewatta, Lalpe, (Meeruppe Gunananda, Hakmana Post Office).	
20 19. Name of Tutor or names of Tutors presenting for Ordination	Akurugoda Sudassi Maha Stavira, Sudharsanaramadhipathi, Welihinda.	
20. Name of Bhikshu presiding at Ordination	Tibbotuwawe Sri Siddartha Suman-gala Mahanayake Stavira.	

D 6  
Declaration of  
Meeruppe  
Gunananda  
Thero —  
25-3-32  
—Continued.

21. Serial Number in Samanera Register if any	.....
22. Date of making the declaration	25th day of March, 1932.
23. Remarks	—

Signature to correctness of above particulars } Sudharmaramadhipathi Ven. Meeruppe Gunananda Stavira, Lalpe Kanda.

1. Signature of Upasampadha Bikshu (Sgd.) Illegibly.
2. Signature of Tutor presenting for Ordination ..... 10
3. Signature of Mahanayake Thero or Nayake Thero or of District Nayake of the Nikaya Ven. Baddegama Kirthi Sri Dhammarathanabhidhana Nayake Thera, Mahanayake of Matara and Hambantota Districts.  
(Principal of Aggabodhi Vihare, Weligama)  
(Sgd.) DHAMMARATHANA.

Date of Registration :

29th March, 1932.

20

P 25  
Declaration of  
Denipitiye  
Saddananda  
Thero —  
26-3-32

P 25

**Declaration of Denipitiye Saddananda Thero**

**DECLARATION REGARDING UPASAMPADA BHIKSHU  
UNDER SECTION 41 OF THE BUDDHIST  
TEMPORALITIES ORDINANCE No. 19 OF 1931**

1. Place of Birth, Province, District, Korale, Pattu or other Division and Village	At Denipitiya in Weligam Korale, Matara District.
--	---

2. Lay name in full	Hettige Piyadasa Denipitiya
3. Date of Birth	1907
4. Name of father in full	Hettige Don Davith Appuhamy Denipitiya
5. Date of Robing	15th May, 1924
6. Samanera Name	Denipitiye Saddananda
7. Name of Robing Tutor or names of Robing Tutors and residence	Welihinda Sudarsanaramadhipathi Akurugoda Sudassi Stavira
10 8. Temple where Robing took place	Sudarsanarama Vihara, Welihinda
9. Place of Ordination	Malwathu Uposathagaraya at Kandy
10. Date of Ordination	13th June, 1929
11. Name of Karmacharya	Weuda Dewamitta Stavira, Madugalle Dhammasiddhi Stavira
12. Name of Upaddhyaya at Ordination	Madugalle Sri Sumanabhidhana Anunayake Stavira

P 25  
Declaration of  
Denipitiye  
Saddananda  
Thero —  
26-8-32  
—Continued.

P 25  
Declaration of  
Denipitiye  
Saddananda  
Thero —  
26-3-32  
— Continued.

13. Name of Nikaya	Shyamopali Maha Nikaya
14. Name of Maha Nayake Thera or Nayaka Thera of the Nikaya and his full Postal Address	Garu Pahamune Sri Sumangala Maha Nayake Stavira.
15. Name assumed at Ordination	Denipitiye Saddhananda.
16. Residence at time of Ordination	Welihinda Sudarsanaramaya.
17. Permanent Residence	Welihinda Sudarsanaramaya.
18. Residence at time of declaration and full Postal Address	Kshetrarama, No. 30, Meetotamulla, Dematagoda. Denipitiye Saddananda. 10
19. Name of Tutor or Names of Tutors presenting for Ordination	Akurugoda Sudassi Stavira, Vihardhipathi of Welihinda Sudarsanarama and his pupil Meeruppe Gunananda Stavira.  (Sgd.) GUNANANDA.
20. Name of Bhikshu presiding at Ordination	Garu Madugalle Sri Sumanabhidana Anunayake Stavira.
21. Serial Numbers in Samanera Register if any	.....

22. Date of making the declaration	26th March, 1932.	P 25 Declaration of Denipitiye Saddananda Thero — 26-3-32
23. Remarks	Residing at No. 30, Meetotamulla, Kshetrarama, taking his education at Maligakanda Vidyalaya, Colombo.	

Signatures to correctness of } Welihinda Viharavasi Denipitiye  
above particulars } Saddananda.

1. Signature of Upasampada Bhikshu (Sgd.) D. DHAMMANANDA
- 10 2. Signature of Tutor presenting for Ordination (Sgd.) MEERUPPE GUNANANDA, VIHARADHIPATHI OF LALPE
3. Signature of Mahanayake Thero or Nayake Thera or of District Nayake of the Nikaya. Baddegama Keerthi Sri Dhammarathanabhidhana, Principal of Agrabodhi Vihara Pirivena and Chief Nayake for Matara and Hambantota Districts.

(Sgd.) DHAMMARATHANA.

Date of Registration  
29th March 1932.

Translated by me :

20 (Sgd.) .....

*Sworn Translator,*

D.C. Matara.

14-7-60.

Declaration of Warakapitiye Pannananda Thero

No. 6652.

DECLARATION REGARDING UPASAMPADA BHIKSHU  
UNDER SECTION 41 OF THE BUDDHIST  
TEMPORALITIES ORDINANCE,  
No. 19 OF 1931

1. Place of Birth, Province, District, Korale, Pattu or other Division and Village	Warakapitiya in Weligam Korale, Matara.	10
2. Lay name in full	Warakapitiye Liyana Palliyege John	
3. Date of Birth	1911	
4. Name of father in full	Warakapitiye Liyana Palliyege Jayanhamy.	
5. Date of Robing	16th May, 1926	
6. Samanera Name	Warakapitiye Pannananda	
7. Name of Robing Tutor or Names of Robing Tutors and Residence	Matara Weligam Korale, Welihinda Sudarsanaramadhipathi, Venerable Akurugoda Sudassi Stavirayanwahanse and Ven. Meeruppe Guna- nanda Stavira.	20
8. Temple where Robing took place	Welihinda Sudarsanaramaya	

9. Place of Ordination	Malwatte Maha Vihara, Kandy
10. Date of Ordination	1st day of June, 1932
11. Name of Karmacharya	Ven. Sri Dharmarakkita Piya-ratanabhidana Ambogama Mahanayake Thera, Ihaladolospattu.
12. Name of Upaddhyaya at Ordination	Pahamune Dharmakirthi Sri Saranankara Sumangalabhidana Mahanayake Thero.
13. Name of Nikaya	Shyamopali Mahanikaye (Siamese Sect), Malwathu Vihara.
14. Name of Mahanayake or Nayake Thero of the Nikaya and his full Postal Address	Pahamune Dharmakirthi Sri Saranankara Sumangalabhidana Mahanayake Thero of Shyamopali Mahanikaya (Siamese Sect), Malwathu Vihara, Mahanuwara (Kandy).
15. Name assumed at Ordination	Warakapitiye Pannananda.
16. Residence at time or Ordination	Gunarathana Mudalindu Pirivena, Matara.
17. Permanent Residence	Welihinda Sudarsanaramaya.

D 12  
Declaration of  
Warakapitiye  
Pannananda  
Thero —  
1-6-32  
—Continued.



D 12  
Declaration of  
Warakapitiye  
Pannananda  
Thero —  
1-6-32  
—Continued.

18. Residence at time of Declaration and full Postal Address	Matara Gunarathana Mudalindu Pirivena, Matara.
19. Name of Tutor or Names of Tutors presenting for Ordination	Ven. Akurugoda Sudassi Stavira and Ven. Meeruppe Gunananda Stavira, Welihinda Sudarsanaramadhipathi, Weligam Korale, Matara.
20. Name of Bhikshu presiding at Ordination	Pahamune Dharmakirthi Sri Saranankara Sumangalabhidana Mahanayake Stavira.
21. Serial Number in Samanera Register if any	33/1932. 10
22. Date of making the Declaration	1st June, 1932.
23. Remarks	.....

1. Signature of Upasampada Bhikku } (Sgd.) in Sinhalese—PANNANANDA.

2. Signature of Tutor presenting for Ordination } (Sgd.) in Sinhalese—GUNANANDA..

3. Signature of Mahanayake Thera or Nayake Thero or of District Nayake of the Nikaya } (Sgd.) in Sinhalese—PAHAMUNE SRI SUMANGALA. 20

Date of Registration :

23rd December, 1932.

## Plaint in D.C. Matara Case No. 8777

Incumbency Rs. 400/-.

## IN THE DISTRICT COURT OF MATARA

MEERUPPE SUMANATISSA of Welihinda Temple,  
Denepitiya*Plaintiff.*

No. 8777.

*Vs.*

K. GOONARATANA of Welihinda Temple, Denepitiya

10

*Defendant.*

On this 16th day of July, 1933.

The plaintiff of the plaintiff abovenamed appearing by G. E. & G. P. Keuneman, his Proctors sheweth as follows :—

1. The defendant resides at Denepitiya within the jurisdiction of this Court and the cause of action hereinafter set out arose at Denepitiya within such jurisdiction.
2. The plaintiff is the Chief Incumbent of the Welihinda Temple, situated at Denepitiya aforesaid.
3. That Akurugoda Sudassi was the Chief Incumbent of the said Temple and exercised the right of Chief Priest of the said Temple. The said Akurugoda Sudassi died on the 30th December, 1928, leaving as his senior pupil Meeruppe Gunananda to whom by Deed No. 6654 dated 29th August, 1928 the said Akurugoda Sudassi gave over the rights of Chief Incumbent and Supervisor. The said Meeruppe Gunananda by his deed No. 2038 dated the 26th December, 1930 appointed the plaintiff to be Chief Incumbent and Supervisor of the said Temple.
4. The defendant is a pupil of Atanikita Sumangala.
5. The defendant who has no right to the said Chief Incumbency has been disputing the rights of the plaintiff and has attempted to usurp the rights of the plaintiff.
6. A cause of action has accrued to the plaintiff to sue the Defendant for a declaration that the plaintiff is the Chief Incumbent and Supervisor.

D 1  
 Plaint in D.C.  
 Matara  
 Case No. 8777 —  
 16-6-33  
 —Continued.

7. The plaintiff values the cause of action at Rs. 400/-.

WHEREFORE the plaintiff brings suit and prays :

- (1) for a declaration that he is Chief Incumbent and Supervisor of the Welihinda Temple ;
- (2) for costs of suit ;
- (3) for such other and further relief as to this Court shall seem meet.

(Sgd.) G. E. & G. P. KEUNEMAN,  
*Proctors for Plaintiff.*

D 3  
 Answer of K.  
 Gunaratana in  
 D.C. Matara  
 Case No. 8777 —  
 8-11-33

D 3

Answer of K. Goonaratana in D.C. Matara  
 Case No. 8777

10

IN THE DISTRICT COURT OF MATARA

MEERUPPE SUMANATISSA of Welihinda Temple

*Plaintiff.*

No. 8777

*Vs.*

K. GOONARATANA of Welihinda Temple

*Defendant.*

This 8th day of November, 1933.

The answer of the defendant abovenamed appearing by M. D. T. Kulatilake, his Proctor, states as follows :—

20

1. The defendant admits he resides within the jurisdiction of this Court but denies any cause of action has accrued to Plaintiff to sue the defendant.

2. The defendant specially denies that Plaintiff is the Chief Incumbent of the Welihinda Temple at Denepitiya.

3. Answering to the 3rd paragraph of the plaint, this defendant says that Denepitiye Dharmananda was the original Incumbent of the Temple in question. The said Denepitiye Dharmananda died leaving

two resident pupils Talpe Sumangala and Aturaliye Siddhartha and the Senior pupil Talpe Sumangala became the "Adikari" of the said temple and on his death the said Aturaliye Siddhartha (the then senior Priest) became the Chief Incumbent excluding the pupil of Talpe Sumangala. That according to the existing custom in the Welihinda Temple on the death of the Aturaliye Siddhartha (the then senior Priest) Atanikita Sumangala became the Chief Incumbent excluding Akurugoda Sudassi the pupil of Aturaliye Siddhartha.

D 3  
Answer of K.,  
Gunaratana in  
D.C. Matara  
Case No. 8777 —  
8-11-33  
—Continued.

4. That in the year 1872 at a Sangasabhawa held at the Welihinda Temple this mode of succession was accepted by all the resident priests at the Temple including the said Atanikita Sumangala and the said Akurugoda Sudassi (the pupil of the said Aturaliye Siddhartha). It was also understood that the future mode of succession in this Temple should be according to seniority *i.e.* according to the time of Upasampada.

5. That according to the said accepted mode of succession on the death of Atanikita Sumangala the said Akurugoda Sudassi became the Chief Incumbent excluding the Defendant (a pupil of Atanikita Sumangala).

6. This Defendant further says that Akurugoda Sudassi had no right to appoint Meeruppe Gunananda as the Chief Incumbent, and also denies that Meeruppe Gunananda ever functioned as the Incumbent of the temple.

7. Further answering the Defendant says that according to custom and practice that extended over hundred years the Defendant became the Chief Incumbent on the death of Akurugoda Sudassi on the 30th December, 1928 and that he is the lawful Viharadhipathi of the said temple and says that he has acted as such from the day of the death of Akurugoda Sudassi.

8. The Plaintiff's cause of action if any is prescribed.

WHEREFORE the Defendant prays :

That the Plaintiff's action be dismissed with costs and for such further and other relief as to this Court shall seem meet.

(Sgd.) M. D. T. KULATILAKE,  
*Proctor for Defendant.*

Settled by :

(Sgd.) Illegibly.  
*Advocate.*

(Sgd.) Illegibly.  
*Advocate.*

Evidence given by Meeruppe Gunananda  
in D.C. Matara Case No. 8777

Incumbency.

Rs. 400/-.

IN THE DISTRICT COURT OF MATARA

MEERUPPE SUMANATISSA of Welihinda Temple,  
Denepitiya.

*Plaintiff.*

No. 8777.

*Vs.*

10

K. GOONARATANA of Welihinda Temple, Denepitiya.

*Defendant.*

**Meeruppe Gunananda—Affirmed.**

I am Incumbent of Lalpe Temple. I was the pupil of Akurugoda Sudassi of Welihinda. He was the Chief Incumbent. I am his chief pupil. The plaintiff is a co-pupil of mine. Sudassi died in December, 1928. Before his death by P1 he appointed me as Incumbent. I continued for some time. By P2 I appointed Plaintiff as Incumbent. Exercised powers as Incumbent. After me the plaintiff did so.

**Cross-examination :**

20

Sudassi was ill for about a year. He was practically blind. He was wholly blind. My deed was written when he was ill, blind and bed-ridden. He had the sense of hearing. Short of hearing. Although I said he was wholly blind I did not mean it. He was slightly blind. The deed in my favour was his own. Sumanatissa was at Maligakanda when deed in my favour was given. I cannot say how long before Sudassi's death the plaintiff came back from Maligakanda. The plaintiff was at Maligakanda for about 10 years. Even without a deed I would have succeeded to the Incumbency. There were disputes during his lifetime. So he feared greater dispute after his death. He did not say that he feared that defendant priest would dispute.

Buddhist Temporalities Committee created trouble. Sudassi feared that defendant priest would create trouble. That is why he gave the deed in my favour.

Atanikita Sumangala was the Incumbent before Sudassi. I went to Lalpe Temple about 30 years ago. I used to make occasional visits to Welihinda on important occasions. I do not know of the existence of a Kathikawa. There can't be any such thing. I should know of it. I know the chief priest of Hambantota and Matara. I do not know his signature.

I know Dhammaratana of Agrabodhi. I gave the deed to plaintiff as I live 30 miles away. I was given the deed not temporarily. After two years I found that it was difficult to manage Welihinda. I used to come for special occasions. There were no disputes during these two years.

P 28  
Evidence given  
by Meeruppe  
Gunananda in  
D.C. Matara  
Case No. 8777 —  
Cross-  
Examination  
—Continued.

**Re-examined :**

There are priests who are in charge of three or four temples.

(Sgd.) C. E. DE PINTO,  
*District Judge.*

It is 4.30 p.m. now. Trial adjourned for 1-10-35.

<sup>10</sup> True copy of proceedings in respect of the evidence given by Meeruppe Gunananda filed of record in D.C. Matara Case No. 8777.

(Sgd.) .....  
*Secretary,*  
D.C., Matara.

**D 2**

**Evidence of Meeruppe Sumanatissa  
in D.C. Matara Case No. 8777**

6/9/35.

D 2  
Evidence of  
Meeruppe  
Sumanatissa in  
D.C. Matara  
Case No. 8777 —  
6-9-35

**Meeruppe Sumanatissa—Affirmed.**

<sup>20</sup> I am plaintiff. I claim to be the Chief Incumbent of the Welihinda Temple. Akurugoda Sudassi was the Chief Incumbent for 35 years. He died on the 30th December, 1928. His senior pupil is Meeruppe Gunananda. I am also a pupil of Sudassi. I produce a copy of the certificate of Upasampada dated 28th May, 1915 P1. Besides being Chief Pupil of Sudassi, Meeruppe Gunananda was appointed by Sudassi on deed No. 6654 of 29-8-1928 P2. Meeruppe Gunananda had also the charge of the Temple at Lalpe. He by deed No. 2038 of 26-12-1930 P3 appointed me as the Chief Incumbent. Prior to 1915 there was no dispute. A junior of mine belonging to the defendant party was given prior ordination. He is Pannasekara — junior both in age and in robing by four years. At that time Sudassi was alive. However there was ill-feeling about it. My tutor and Pannasekera's tutor ceased to be friendly. Meeruppe Gunananda exercised his functions as Incumbent after the deed. In 1930 Gunananda appointed me. Owing to these differences I moved on to another house. Devananda of the defendant side was in charge of the Pirivena. He was a co-pupil of the defendant. The Dagoba, Library, Viharage and Bo-maluwa are on our side of the Temple. The rights over those buildings were exercised by Gunananda after Sudassi's death. After

D 2  
Evidence of  
Meeruppe  
Sumanatissa  
in D.C. Matara  
Case No. 8777 ---  
6-9-85  
—Continued.

Gunananda gave the deed I exercised the rights. Gunananda is still alive. He is about 55 years. I have been leasing Temple lands. I produce writing of 9th October, 1931 by which I gave lease for a period of three years P4. I also produce writing dated 11th October, 1931 P5, by which I leased the lands Elladdera and several other lands. I also produce 9th September, 1932 P6. I produce a planting agreement dated 19-12-1930 P7, by which Meeruppe Gunananda had given certain temple lands for plantation. I also produce envelopes to show how I was addressed by Public Trustee P8. I also produce a letter from the Public Trustee P9. There was dispute about the Trustees. They favoured the defendant 16 Sudassi and I brought an action against the trustees. D.C. 8851. The case was settled. I was to be given Rs. 25/- per month and defendant Rs. 25/-. I produce a copy of that case P10.

I know the land on which Pirivena stands. That also belongs to Temple. That also was leased by the Trustees. The money for the maintenance of defendant and myself. I exercise no rights over the Pirivena. Defendant did not at any time exercise rights over the Vihara and the Dagoba, and Library.

#### Cross-examined :

Sudassi gave a deed to Gunananda. Even if that deed was not given, 20 Gunananda would have succeeded to the Incumbency. This is the only deed like this in respect of the Incumbency. Gunananda was living at Lalpe. I was the Priest living with my tutor Sudassi at this Temple. Gunananda was given the deed as he was the chief pupil. Sudassi could have given to me if he wanted. The Incumbent Priest before Sudassi was Atanikita Sumangala. Atanikita Sumangala was not the tutor of Sudassi. Talpe Sumangala and Aturaliye Siddhartha were the tutors of Sudassi. Aturaliye Siddhartha was the Incumbent before Antanikita Sumangala. After Siddhartha's death his pupil Sudassi did not become the Incumbent. The Incumbents were not appointed according to Sisyanu-sisya param- 30 parawa. Sudassi was Incumbent for 35 years. All the troubles regarding the Incumbency did not start till 1915 May. There was no ill-feeling between Sudassi and Atanikita Sumangala. There were disputes even in 1918. Till 1931 there were no serious disputes. There were no leases given by Priests before I gave. Before that leases used to be given by trustees. The original Incumbent of this Temple was Devarakkhita. I have heard of Denepitiye Dhammananda. He was the Incumbent of Devarakkhita. Dhammananda had about ten pupils. Dalawelle Suman- 40 gala and Aturaliye Siddhartha were living in the temple. After Dhammananda's death, Dalawelle Sumangala became Incumbent. Dalawelle Suman- gala had as pupil Atanikita Sumangala and Sudassi. After D. Sumangala's death A. Siddhartha became Incumbent. Shown D1. At the death of Sudassi, we pupils published books. Atanikita Sumangala and Sudassi were sued by Kamalagoda Sumangala. I am not aware of a Kathikawa in connection with this temple in 1872. I do not know that copies of that were given to Sudassi and defendant at a Sangha Sabha in 1917. I gave the leases in the absence of the trustees. I had nothing to do with the Pirivena. This year I gave a lease of the land on which this Pirivena

stands. It was leased by P. O. I wrote to the Public Trustee that I was the Incumbent. It was in reply that P. T. wrote.

**Re-examined :**

The well is on the Pansalawatta, on the other side of the road. We bathe at that well. Pirivena is on the land adjoining that on which the well is. The land on which the Pirivena stands had always been leased every year. The other temple lands also had been similarly leased. I was questioned about D.C. Case No. 1879. I am 44 years of age. I know nothing personally about that case. In the olden days the two parties were very friendly. In the Low Country Incumbents are appointed according to the rule of Sisyanu-Sisya Paramparawa.

(Sgd.) Illegibly,  
*District Judge.*

6-9-35.

**P 19**

**Decree of the Supreme Court in D.C. Matara  
Case No. 8777**

P 19  
Decree of the  
Supreme Court  
in D.C. Matara  
Case No. 8777 —  
31-5-37

GEORGE THE SIXTH, BY THE GRACE OF GOD OF GREAT BRITAIN,  
IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS,  
KING, DEFENDER OF THE FAITH, EMPEROR OF INDIA

D.C. (F) No. 158 M

1936

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

MEERUPPE SUMANATISSA of Welihinda Temple.

*Plaintiff-Appellant.*

*Against*

K. GOONARATANA of Welihinda Temple.

*Defendant-Respondent.*

Action No. 8777.

DISTRICT COURT OF MATARA

This cause coming on for hearing and determination on the 31st day of May, 1937 and on this day, upon an appeal preferred by the Plaintiff before the Honourable Mr. F. A. Moseley and the Honourable Mr. V. M. Fernando, Acting Puisne Justice of this Court, in the presence of Counsel for the Appellant and the Respondent.

D 2  
Evidence of  
Meeruppe  
Sumanatissa in  
D.C. Matara  
Case No. 8777 —  
6-9-35  
—Continued.



P 19  
Decree of the  
Supreme Court  
in D.C. Matara  
Case No. 8777 —  
31-5-37  
—Continued.

It is considered and adjudged that the Decree made in this action by the District Court of Matara and dated the 1st day of June, 1936, be and the same is hereby set aside.

It is further ordered and decreed that the Plaintiff-Appellant be and he is hereby declared the Chief Incumbent and Supervisor of the Welihinda Temple.

And it is further ordered and decreed that the Defendant-Respondent do pay to the Plaintiff-Appellant his taxed costs of this Action in the said District Court, and of this appeal.

Witness the Honourable Sir Sidney Solomon Abrahams, Kt., Chief<sup>10</sup> Justice, at Colombo, the 7th day of June, in the year of Our Lord One Thousand Nine Hundred and Thirty Seven and of our Reign the First.

(Sgd.) P. W. VAN LANGENBERG,  
*Acting Registrar, Supreme Court.*

True copy of the Supreme Court Decree entered and filed of record in D.C. Matara Incumbency Case No. 8777.

27.1.39. \_\_\_\_\_ (Sgd.) .....  
*Secretary.*

D 4  
Judgment of the  
Supreme Court  
in D.C. Matara  
Case No. 8777 —  
7-6-37.

**D 4**

**Judgment of the Supreme Court in D.C. Matara** 20  
**Case No. 8777**

GEORGE THE SIXTH, BY THE GRACE OF GOD OF GREAT BRITAIN,  
IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS,  
KING, DEFENDER OF THE FAITH, EMPEROR OF INDIA

D.C. (F) No. 158/1936.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

MEERUPPE SUMANATISSA of Welihinda Temple

*Plaintiff-Appellant.*

*Against*

K. GOONARATANA of Welihinda Temple

30

*Defendant-Respondent.*

Action No. 8777.

DISTRICT COURT OF MATARA

This cause coming on for hearing and determination on the 31st day of May, 1937, and on this day, upon an appeal preferred by the plaintiff before

the Hon. Mr. F. A. Moseley, and the Hon. Mr. V. M. Fernando, Acting  
 Puisne Justice of this Court, in the presence of Counsel for the appellant  
 and the respondent.

D 4  
 Judgment of the  
 Supreme Court  
 in D.C. Matara  
 Case No. 8777 —  
 7-6-37  
 —Continued.

It is considered and adjudged that the Decree made in this action by  
 the District Court of Matara, and dated 1st day of June, 1936, be and the  
 same is hereby set aside.

It is further ordered and decreed that the Plaintiff-Appellant be and  
 he is hereby declared the Chief Incumbent and Supervisor of the Welihinda  
 Temple.

<sup>10</sup> And it is further ordered and decreed that the defendant-respondent  
 do pay to the plaintiff-appellant his taxed costs of this action in the said  
 District Court and of this appeal.

Witness the Honourable Sir Sidney Solomon Abrahams, Kt., Chief  
 Justice, at Colombo, the 7th day of June in the year of Our Lord One  
 Thousand Nine Hundred and Thirty Seven and of Our Reign the First.

(Sgd.) .....  
*Acting Registrar.*

(SEAL)

158.

D.C. MATARA 8777

<sup>20</sup> Present : MOSELEY, J. and FERNANDO, Acting Puisne Justice.

Counsel : H. V. PERERA, K.C. & N. E. WEERASURIYA for Plaintiff-  
 Appellant.

HAYLEY, K.C. & L. A. RAJAPAKSA for Defendant-Respondent.

Argued : 31st May, 1937.

Delivered on : 7th June, 1937.

FERNANDO, A. P. J.

<sup>30</sup> The Plaintiff-Appellant filed this action for a declaration that he is the  
 Incumbent of the temple in question named the Welihinda Temple, and  
 he claimed to be so entitled through his tutor priest, Sudassi, who died  
 in 1928. Sudassi had two pupils, Meeruppe Gunananda, and the Plaintiff.  
 During his life time, Sudassi appointed Gunananda to be his successor  
 by the document P2 of 1928. In 1930 Gunananda by document P3 ap-  
 pointed the Plaintiff as Incumbent in his place. Plaintiff, however claims  
 the Incumbency not on the strength of the document P3, but as a pupil of  
 Sudassi, and as entitled by the rule of succession known as Sisyanu Sisya  
 Paramparawa.

D 4  
 Judgment of the  
 Supreme Court  
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 7-6-37  
 —Continued.

The case for the defendant as placed before the District Court was that the succession to the Incumbency of the temple was not governed by the rule of Sisyanu Sisya Paramparawa, but by a special set of rules agreed upon in 1872 and referred to as a Katikawa.

The learned District Judge held that according to the rule laid down in the Katikawa, the Incumbency should have gone after Sudassi's death to the defendant who was the senior resident pupil of Atanikita Sumangala, and that the rule of Sisyanu Sisya Paramparawa did not apply because of this special rule that appeared to have prevailed in this temple for over 50 years. He accordingly dismissed plaintiff's action and declared 10 that the defendant was the lawful Incumbent.

The plaintiff appeals against this order, and it was argued for him that the general rule must apply. Counsel referred to the judgment of this Court in *Unnanse vs. Unnanse*, 22 N.L.R. 323, where de Sampayo, J. stated that, "there were only two rules of succession known to the Buddhist law, namely: Sisyanu Sisya Paramparawa or pupillary succession and Sivuru Paramparawa which is also a form of pupillary succession, but with the special characteristic that the pupil is a blood relation of the original priestly Incumbent, and that in the absence of any evidence to the contrary, the presumption is that the Incumbency is subject to the Sisyanu Sisya 20 rule of succession." Reference was also made to the case of *Goonaratne Unnanse vs. Dharmananda* 22 N.L.R. 276 where it was held that according to the Sisyanu Sisya rule, there was no failure in the succession so long as there remain direct pupillary successors to any previous Incumbent.

Counsel for the respondent argued that it was open to a party claiming an Incumbency to prove the existence of a rule of succession other than the Sisyanu Sisya or the Sivuru Paramparawa. He referred to the judgment of the Full Court in *Ratnapala Unnanse vs. Kevitigala Unnanse* 2. S.C.C. 26 where Phear, C.J. laid down certain principles which he had gathered from the earlier cases. Those principles are as follows:— (1) The 30 general rule of succession has two branches, namely, Sisya Paramparawa and Sivuru Paramparawa, and it is the first branch of the rule which is to be presumed in the absence of evidence that it is the other. (2) There are exceptional cases in which the succession to the temple property is in the appointment of Government or of private individuals. (3) It is the terms of the original dedication that primarily imposed the rule of succession. (4) In the absence of direct evidence of these terms (of dedication), usage may be looked to and accepted as evidence thereof. If I may venture to formulate the position as governed by these principles as applying to the present case, the law is that, the rule of succession is governed by the terms 40 of the original dedication, or by one of the two rules of succession and if the terms of the original dedication cannot be proved by direct evidence, the Court may accept evidence of usage as proving the terms of the original dedication. If the terms of the original dedication cannot be proved either by direct evidence or by the evidence of usage, then it must be presumed that the Sisyanu Sisya Paramparawa rule of succession applies unless it can be established that the succession is governed by the Sivuru Paramparawa.

Now the contention for the defendant is that the Sisyana Sisy Paramparawa rule did not apply and that the rule of succession was governed by the Katikawa or the set of rules adopted in 1872, and there was no suggestion that those rules had any reference to or derivation from, the terms of the original dedication. D3. purports to be a copy of this Katikawa and an examination of it shows that there were 10 rules concerning the duties to be performed by the person accepting the Chief Incumbency. Rule 7 of these rules provides that in the event of the Chief Incumbent being unable to perform his duties the next senior resident priest shall act on his behalf, and perform the duties of the former. Rule 10 provides that if the Chief Incumbent does not do his duty and if information of his failure to act carefully is given to the Sangha Sabhawa, the priests and Laymen shall meet in the temple and investigate the complaint, and if the complaint is found true, the Chief Incumbent may be removed and the next senior priest of the temple appointed Chief Incumbent, and the document ends by a statement of the signatory that he was asked to form a mode of rules for the use of younger priests, that he had delayed in the compilation of those rules, and that the code or regulation contained in D3 is framed at the request of the younger priests. There was some question in the Court below as to whether the document was admissible in as much as there is nothing to show that it is a true and correct copy of the original and the original itself has not been produced. In these circumstances, I think the document was inadmissible, but I propose to deal with the case on the footing that the document was properly before the Court. If the document was properly before the Court, the question arises as to whether it contains any evidence of the terms of the original dedication and it is obvious that the document does not contain any reference to the original dedication, and according to the principles laid down by the Full Court in *Ratnapala Unnanse vs. Kevitigala Unnanse*, that document is of no assistance in determining the rule of succession that applies to this Vihare.

D 4  
Judgment of the  
Supreme Court  
in D.C. Matara  
Case No. 8777 —  
7-6-37  
—Continued.

Counsel for the respondent also referred to the case of *Sangharatne vs. Weerasekera* 6 N.L.R. 313 where Layard, C.J. after stating that “the simple question to determine is whether any definite rule of succession other than the Sisy Paramparawa had been established in respect to the succession of the Vihare in question in that case held that there was absolutely no evidence to establish the terms of the original dedication that primarily imposed the rule which is to govern the case”. Having come to this conclusion, Layard, C. J. proceeds “of course in the absence of such direct evidence, we are at liberty to see if any usage has been established, and if such usage has been clearly proved, it may be accepted as evidence of the terms of the original dedication.” I do not think this judgment helps the respondent either. Layard, C. J. thought that evidence of usage may be accepted but it was only to be used as evidence of the terms of the original dedication. In other words, if it had been proved in that case that a particular rule of succession had prevailed continuously in that particular temple, then he might have presumed that that rule which had applied continuously was the rule laid down in the terms of the original dedication. In the case before me, however, the evidence is to the effect that in 1872 at a meeting held at the temple some new rule of succession was adopted,

D 4  
Judgment of the  
Supreme Court  
in D.C. Matara  
Case No. 8777 —  
7-6-57  
—Continued.

and that that new rule must govern the succession from that date, and as I have already said, there is no authority that lends support to this argument.

Counsel for the appellant also contended that the defendant on this action was barred from maintaining the action by Ordinance 22 of 1871. It has been held by this Court that a claim to Incumbency is barred after the expiration of a period of three years. He further argued that if the defendant was entitled to the Incumbency by the rule of Sisyanu Sisya Paramparawa then he was entitled to put forward that claim on the death of Atanikita Sumangala. Now it is clear from the evidence that Sudassi was Incumbent of this Temple for 35 years and Sudassi died in 1928, so that the previous Incumbent of this temple died about the year 1893. Assuming then that the defendant was entitled to succeed to his tutor Sumangala a cause of action accrued to him when Sudassi took possession of the Vihare in 1893. It is true that the right to an Incumbency is not one that a person can acquire by prescriptive possession, but the claim of the defendant to succeed to his tutor Sumangala is now barred by the provisions of the Prescription Ordinance.

The appeal must therefore be allowed and decree will be entered in favour of the plaintiff with costs in this Court and in the Court below.

(Sgd.) V. M. FERNANDO, 20  
*Acting Puisne Justice.*

MOSELEY, J. I agree.

(Sgd.) F. A. MOSELEY,  
*Puisne Justice.*

True copy.

(Sgd.) .....  
*Acting Registrar, Supreme Court.*

True copy of Decree, S.C. Decree and reasons filed of record in D.C. Matara Case No. 8777.

(Sgd.) M. RASIAH, 30  
*Secretary,*  
D. C., Matara, 9-1-53.

True copy of Decree, S.C. Decree and reasons in D.C. Matara Case No. 8777 and filed of record in D.C. Tangalle Case No. L. 631.

(Sgd.) .....  
*Secretary,*  
District Court, Tangalle.

4-1-60.

## Deed of Transfer No. 2350

P 24  
Deed of Transfer  
No. 2850 —  
11-1-36

W. BALASURIYA,  
*Notary Public.*

Prior Registration : 64/277.

*Transfer*

Consideration : Rs. 130/-.  
Lands : 1.

No. 2350.

<sup>10</sup> KNOW ALL MEN BY THESE PRESENTS THAT we Rana-  
bahuge Heenhamy and husband Munatun Kankanamage Punciappu  
both of Lalpe (hereinafter sometimes called and referred to as the Vendors)  
for and in consideration of the sum of Rupees One hundred and Thirty  
(Rs. 130/-) lawful money of Ceylon, well and truly paid to us by Meeruppe  
Gunananda Terunnanse of Kandewatte Viharaya, Lalpe (hereinafter some-  
times called and referred to as the Vendee) the receipt whereof we do  
hereby admit and acknowledge, have granted, bargained, sold, assigned,  
transferred and set over and do by these presents grant, bargain, sell,  
assign, transfer, and set over unto the said Vendee his heirs, executors,  
<sup>20</sup> administrators and assigns all that property named described and set forth  
in the Schedule hereto annexed and hereinafter called and referred to  
as the premises held and possessed by the said first Vendor by right  
of paternal inheritance from Ranabahuge Andiris together with all and  
singular the rights, ways, easements, advantages, servitudes and appur-  
tenances whatsoever hereto belonging or in anywise appertaining or usually  
held, occupied, used or enjoyed therewith or reputed or known as part or  
parcel thereof, and together with all the estate, right, title, interest, claim  
and demand whatsoever of us the said vendors of, in, to upon or out of  
the said premises, and every part thereof and together with all the titles,  
<sup>30</sup> deeds, vouchers and other writings therewith held or relating thereto.

TO HAVE AND TO HOLD the said premises hereby sold and  
conveyed with the rights and appurtenances thereto belonging unto him  
the said Vendee his heirs, executors, administrators, and assigns, absolutely  
and for ever.

And we the said Vendors for ourselves our heirs, executors and adminis-  
trators do hereby, covenant, promise and declare to and with the said Vendee,  
his heirs, executors, administrators and assigns that the said premises  
hereby sold and conveyed are free from any encumbrance whatsoever and  
that we have not at any time heretofore made, done or committed or been  
<sup>40</sup> party or privy to any act, deed, matter or thing whatsoever whereby or  
by means whereof the said premises or any part thereof are, is, can, shall  
or may be impeached or encumbered in title, charge, estate or otherwise

P 24  
Deed of Transfer  
No. 2850 —  
11-1-86  
—Continued.

howsoever, and that we and our aforewritten shall and will at all times hereafter warrant and defend the title to the same and every part thereof unto him or his aforewritten against any person or persons whomsoever, and further also shall and will at all times hereafter at the request and cost of the said vendee or his aforewritten do and execute or cause to be done and executed all such further and other acts, deeds, assurances, matters and things whatsoever for further and more perfectly assuring the said premises hereby sold and conveyed and every part thereof, unto the said Vendee, and his aforewritten as by the said Vendee or his aforewritten shall or may be reasonably required.

10

*The Schedule above referred to*

All that undivided seven-sixteenth (7/16) part or share of the soil and trees of the divided Eastern one-half portion of the land called Bogahena situate at Lalpe in Kandaboda Pattu of the Matara District, Southern Province and bounded on the North by Dola ara, East by Pansala Agala, South by Thalawatte weta and West by the remaining one-half portion of the same land and containing in extent about three kurunies of Kurakkan sowing.

IN WITNESS WHEREOF we the said Vendors do set our hands to three of the same tenor and date as these presents at Hakmana this 20 eleventh day of January in the year One Thousand Nine Hundred and Thirty Six.

WITNESSES :

This is the mark and left thumb impression of :

Signed and delivered in the presence of us and we declare that we are well acquainted with the executants by their proper name, occupation and residence.

×  
R. HEEN HAMY.

(Sgd.) S. H. NANDIAS DE SILVA.

30

(Sgd.) D. C. A. SAMARASINGHE.

×  
This is the mark and left thumb impression of M. K. Punchiappu.

(Sgd.) W. BALASURIYA,  
*Notary Public.*

I, WILMOT BALASURIYA, of Matara in the Island of Ceylon, Notary Public, do hereby, certify and attest that the foregoing INSTRUMENT having been duly read over and explained by me the said Notary, to the said Vendors Ranabahuge Heenhamy and Munatun Kankanamage Punchiappu, both of whom have affixed their marks and left thumb impressions and both of whom are not known to me, in the presence of Sella Hewage Nandias de Silva of Kongala and Don Cornelis Abeygunawardene Samarasinghe of Beruwela both of whom have signed in English the subscribing witnesses hereto both of whom are known to me, the same was signed by the said Vendors also by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present at the same time at Hakmana on this eleventh day of January in the year One Thousand Nine Hundred and Thirty Six.

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Deed of Transfer  
No. 2350 —  
11-1-36  
—Continued.

And I do hereby further certify and attest that of the consideration Rs. 17/50 was paid in my presence Rs. 26/50 was acknowledged to have been received beforehand and the balance to be paid afterwards and that before the foregoing was read over and explained by me as aforesaid that in the original in page 2 line 29 the words "of the" were deleted and in the Duplicate in page 2 line 27 the words "sixtieth (7/60)" were deleted and the words sixteenth (7/16) were interpolated and that the Duplicate of this Instrument bears two stamps of the value of Rupees four and that the said stamps were supplied by me.

Which I Attest

(Sgd.) W. BALASURIYA,  
*Notary Public.*

Date of attestation :

11th January, 1936.

P 15

Deed of Lease No. 16485

P 15  
Deed of  
Lease No. 16485 —  
7-1-38

80

Lease  
Deed No. 16485

Rs. 90/-

This indenture of lease made and entered into by and between Meeruppe Sumanatissa Sthavira, Viharadhipathi of Sudassanarama Vihare at Welihinda in Weligam Korale hereinafter called the lessor the party of the



P 15  
Deed of  
Lease No. 16485 —  
7-1-88  
—Continued.

first part and Huruluwattage Juwanis Appu of Welandagoda in the aforesaid Korale hereinafter called the lessee the party of the second part witnesseth :—

The said lessor do hereby let lease and demise unto the said lessee the premises described in the Schedule hereto for a term of three years commencing from the 1st day of January 1938 for an aggregate sum of rupees ninety lawful money of Ceylon calculated at the rate of rupees thirty a year giving credit for "Yapalu" (failure of crop of the whole yaya) and the lessor having offered the said lease the lessee has accepted the same subject to the following conditions.

10

The said conditions are :—

That out of the consideration the first year lease money shall be paid in advance.

The balance lease money shall be paid before the beginning of each year and shall take receipts for such payments.

If the lessee fails to pay the lease money at the due time this lease is thereby cancelled and the lessor can do whatever he likes with the said premises.

That if any dispute arises during the said period the lessor shall settle such disputes.

20

That the lessee shall take care of the leased premises during the said period and after the expiration of the said term shall deliver over the leased premises to the lessor in peace without causing any damage thereto.

That for the purpose of fulfilling the said conditions the lessor and the lessee and their heirs executors administrators and assigns are bound unto each by these presents.

#### *The Schedule*

All that undivided 1/2 share of the field called Pottuketiye situated at Velandagoda in Weligam Korale, Matara District, Southern Province bounded on the North by Koralediwela, East by Thalayawila and Pottuwila, South by Mulana and Kahaduella, West by Okanda containing in extent one Amunam of paddy sowing.

2. All that undivided Sixteen Kurunies of paddy sowing extent of the field called Iddagoda Ketiya situated at Velandagoda aforesaid bounded on the North by Haliyadda and Wata Liyadda, East by Pottuwila, South by Bakmeegahaliyadda, West by Millagoda watta containing in extent one Amunam of paddy sowing.

In witness whereof we the said lessor and the said lessee do hereby set our hands to these presents and two others of the same tenor and date as these on this 7th day of January 1938 at Weligama.

P 15  
Deed of  
Lease No. 16885 —  
7-1-38  
—Continued.

(Sgd.) M. SUMANATISSA.

(Sgd.) JUWANIS APPU.

Witnesses :

(Sgd.) In English.

(Sgd.) In English.

(Sgd.) F. W. GUNASEKARA.  
*Notary Public.*

10

I, Francis Wickremaratne Gunasekara, Notary Public of Matara do hereby certify and attest (usual attestation) and that the consideration was acknowledged to have paid previously.

(Sgd.) F. W. GUNASEKARA.  
*Notary Public.*

Date of attestation :  
7th January, 1938.

Translated by me.

(Sgd.) .....  
*Sworn Translator.*  
D. C. Matara.  
14-7-60.

20

P 14

Deed of Lease No. 16527

P 14  
Deed of  
Lease No. 16527 —  
21-1-38

Lease  
Deed No. 16527

Rs. 30/-

This indenture of lease made and entered into by and between Meeruppe Sumanatissa Sthavira, Viharadhipathi of Sudassanarama Vihare at Welihinda, hereinafter called the lessor the party of the first part and Nambuwasan Ipita Kaduwegamage Don Charles Appuhamy of Uruwita in Weligam Korale hereinafter called the lessor the party of the second part witnesseth :—

That the said lessor do hereby let lease and demise unto the said lessee the premises described in the schedule hereto for a term of two years commencing from the 1st day of January, 1938 for an aggregate sum of rupees thirty lawful money of Ceylon calculated at the rate of rupees fifteen a month subject to the following conditions :—

The said conditions are : that the first year's lease money shall be paid in advance.

P 14  
Deed of  
Lease No. 16527 —  
21-1-38  
—Continued.

The balance lease money shall be paid before the beginning of the second year and shall take a receipt for such payment.

That in the event of any dispute arising to the said premises hereby leased the lessor shall settle such dispute.

That after the expiration of the said term the lessee shall deliver over to the lessor the leased premises in peace without causing any damage hereto.

That for the purpose of fulfilling the said conditions we the said lessor and the said lessee and our heirs, executors, administrators and assigns are bound unto each other by these presents.

10

*The Schedule*

All that soil and fruit trees of the land called Pinwatta situated at Uruwitike in Weligam Korale, Matara District, Southern Province, bounded on the North by Koraduwela, East by Egodahawatta and Udukawunnawatta, South by a portion of Udukawunnewatta, West by Pangala Kumbura and Radaliyadda containing in extent about one acre.

In witness whereof we the said lessor and the said lessee do hereby set our hands to these presents and two others of the same tenor and date as these on this 21st day of January, 1938.

(Sgd.) M. SUMANATISSA 20

(Sgd.) DON CHARLIS

Witnesses :-

(Sgd.) In English.

(Sgd.) In English.

(Sgd.) F. W. GUNASEKARA,  
*Notary Public.*

I, Francis Wickremaratne Gunasekara, Notary Public of Matara, practising at Weligama do hereby certify and attest (usual attestation).

(Sgd.) F. W. GUNASEKARA,  
*Notary Public.* 30

Date of attestation :  
21st January, 1938.

Translated by me.

(Sgd.) .....

*Sworn Translator,*  
D.C. Matara.  
14-7-60.

## Deed of Lease No. 18292

P 16  
Deed of  
Lease No. 18292 —  
15-1-40

Lease  
Deed No. 18292

Rs. 200/-

This indenture of lease made and entered into by and between Meeruppe Sumanatissa Sthavira, Viharadhipathi of Sri Sudassanarama Vihare in Welihinda, Weligam Korale (lessor) and Gunawickrema Ihala Uswattage Don Juwanis Appuhamy of Uruwitike in Weligam Korale hereinafter called the lessee do hereby witnesseth :—

10 That the lessor do hereby let lease and demise unto the said lessee the premises described in the schedule hereto for a term of two years commencing from the first day of January, 1940 for an aggregate sum of rupees two hundred lawful money of Ceylon at the rate of rupees one hundred a year and the lessor having offered the said lease the lessee has accepted the same subject to the following conditions :—

The said conditions are :—

That the first year's lease money shall be paid in advance and the balance shall be paid before the beginning of the second year and shall take receipts for such payments.

20 That if any dispute arise during the said term of lease the lessor shall settle such disputes.

That the premises hereby leased shall be taken care of by the lessee during the said term and after its expiration the said premises shall be delivered over to the lessor in peace without causing any damage thereto.

That for the purpose of fulfilling the said conditions the said lessor and the said lessee and their heirs executors administrators and assigns are bound unto each other by these presents.

*The Schedule*

30 Situated at Uruwitike in Weligam Korale, Matara District, Southern Province.

All that soil and fruit trees of the high and low land called Dawata-gahawala Kumbura and Delgaha Koratuwa contiguous lands, bounded on the North by Padagalahena, East by Bodagala Kumbura and Gorakane Koratuwa, South by Padagalage watta and Kurunduwatta, West by Devata-gahagoddella containing in extent about one acre.

2. All that soil and fruit trees and all the buildings standing thereon of the land called Pehembiyagoda duwa and kumbura situated at Warakapitiya in the aforesaid Korale bounded on the North by Heendeniya Wekandiya, East by Pehimbiyaduwa, South by Kekilla duwa, West by Rathkeratolla

P 16  
Deed of  
Lease No. 18292 —  
15-1-40  
—Continued.

and tea estate, containing in extent about eighteen acres of both high and muddy land.

3. All that soil and fruit trees of the land called the half portion of Ihalabibile watte, situated at Uruwitike aforesaid bounded on the North by Ihalabomula, East by Wewekumbura and Wewewatta, South by Ratnehera forest once at present planted land, West by Aluth watta and Meda Bibulewatta containing in extent about two acres.

4. All that undivided six kurunies of paddy sowing extent of the field called Kithulewila Kumbura situated at Uruwitike aforesaid bounded on the North by Digapotha *alias* Aramba, East by Hambubibula and Kongaha Koratuwa, South by Kithulawila Mahawatta, West by Demune Kumbura containing in extent five bags of paddy sowing.

5. All that field called Diyagala Dangaha Liyadda situated at Uruwitike aforesaid bounded on the North by Nidanwalawatta, East by Ratnehara forest once, at present planted land, South by once Deeyagala Ratnehara forest but now planted rubber land, West by the boundary ridge of the same field containing in extent six kurunies of paddy sowing.

In witness whereof we the said lessor and the said lessee do hereby set our hands to these presents and two others of the same tenor and date as these on this 15th day of January, 1940 at Weligama.

(Sgd.) M. SUMANATISSA.

(Sgd.) DON JUWANIS.

Witnesses :

(Sgd.) In Sinhalese.

(Sgd.) In English.

(Sgd.) F. W. GUNASEKARA,  
*Notary Public.*

I, Francis Wickremaratne Gunasekara, Notary Public of Weligama do hereby certify and attest (usual attestation).

(Sgd.) F. W. GUNASEKARA,  
*Notary Public.*

Date of attestation :

15th January, 1940.

Translated by me.

(Sgd.) .....  
*Sworn Translator.*  
D.C. Matara.  
14-7-60.

## Final Decree in D.C. Matara Case No. 14009

P 20  
Final Decree in  
D.C. Matara  
Case No. 14009—  
3-3-43

## FINAL DECREE

## IN THE DISTRICT COURT OF MATARA

MEERUPPE SUMANATISSA TERUNNANSE, Chief Incumbent of Welihinda Sudassanarama Temple, Welihinda.

*Plaintiff*

No. 14009

*Vs.*

- 10           1. JAMBUREGODA GAMAGE SIMON APPU of Meeruppe,  
              2. TANTIRIWATTAGE SOTCHOHAMY of Meeruppe,  
              3. TANTIRIWATTAGE PINTERIS of Meeruppe,  
              4. H. W. SUWARIS APPU of Meeruppe,  
              5. TANTIRIWATTAGE HINIAPPU of Uruwitike,  
              6. DONA CECILIANA of Meeruppe.

*Defendants.*

20           This action coming on for final disposal before S.S.J. Goonesekara, Esquire, District Judge of Matara, on the 3rd day of March, 1943, in the presence of Mr. Advocate Alles instructed by Messrs. Keuneman, Proctors, on the part of the plaintiff and of Mr. S. Samarasinghe, Proctor, on the part of 1st, 3rd and 4th defendants, it is ordered and decreed that the plan of Partition No. 991 A, dated 3rd January, 1943, of the land called Karadiya *alias* Ambagahawela more fully described in the undermentioned schedule and the schedule of appraisalment dated 3rd January, 1943, made by Mr. A. H. Felsing, Licensed Surveyor of Matara under the commission issued to him in the above case and filed of record be and the same are hereby confirmed and the plaintiff is hereby declared entitled to Lot B, 1st to 4th defendants are entitled to Lot A, in the said plan of Partition as absolute owners.

30           And it is further ordered and decreed that the

1st defendant do pay	Rs.	8.57
2nd defendant    ,,    ,,		1.62
3rd defendant    ,,    ,,		8.57
4th defendant    ,,    ,,		7.24

to the plaintiff as compensation.

P 20  
Final Decree  
in D.C. Matara  
Case No. 14009 —  
3-3-43  
—Continued.

And it is further ordered and decreed that the plaintiff's costs fixed at Rs. 125/- plus survey fees be borne by all the parties to this action *pro rata*.

*Schedule*

The land called Karadiya *alias* Ambagahawela, situated at Meeruppe and Uruwitike in Weligam Korale, Matara District, Southern Province and bounded on the North by Gamangewatte-Kumbura, East by Karandagoda Rubber Estate, South by Belikatuwela and Dandungodella and Ambagahagodella, West by Wilapitakelle and Godaralage Liyadde and containing in extent 4 acres, 2 roods 23 perches.

(Sgd.) S. S. J. GOONASEKARA. 10  
*District Judge.*

The 3rd day of March, 1943.

Drawn by.

(Sgd.) G. E. & G. P. KEUNEMAN.  
*Proctors for plaintiff.*

---

I certify that the foregoing is a true and correct copy of the Final Decree entered and filed of record in the Case No. 14009, District Court, Matara.

(Sgd.) .....  
*Secretary, District Court.*

Matara.  
24th May, 1943.

20

P 17  
Deed of  
Lease No. 2052 —  
1-3-46

P 17

**Deed of Lease No. 2052**

**TRANSLATION**

Lease.  
Deed No. 2052

Rs. 1925/-

This indenture of lease made and entered into by and between Meeruppe Sumanatissa Swamindra, Viharadhipathi of Sri Sudassanarama at Welihinda in Weligam Korale, the lessor, hereinafter called the party of the one part, and Hewarahinduwege Heenappu of Warakapitiya in Weligam 80

Korale aforesaid, the lessee, hereinafter called the party of the other part do hereby witnesseth :—

P 17  
Deed of  
Lease No. 2052 —  
1-3-46  
—Continued.

That the lessor do hereby let lease and demise unto the said lessee the premises described in the schedule hereto held and possessed by the lessor for a term of five years commencing from this date for a sum of rupees one thousand nine hundred and twenty five lawful money of Ceylon for and in consideration of the sum of rupees three hundred and eighty five being one year's lease money paid to the lessor in advance for the first year and because of the conditions and stipulations contained hereinafter.

10 The said conditions are :—

1. That in lieu of the balance lease money the lessee shall at the beginning of each year deliver over to the lessor the premises share of the fields for every season together with a sum of rupees twenty five and take receipt for such payments.

2. That the fields that are within the premises leased out shall be cultivated for both the Maha and Yala Seasons in the failure to cultivate any portion thereof the lessee shall pay damages for such uncultivated portions according to the proportion of the leased amount.

That the lessee is not bound to pay damages for any failure of cultivation or a failure of crop through natural causes.

That on the uncultivated block of about two acres on the eastern side the lessee shall at his own expense plant one thousand cinnamon plants thereby three feet apart within nine months from this date and such plantation when delivered over to the lessor at the expiration of the said term of lease the lessor shall pay to the lessee as compensation ten cents for every cinnamon bush.

That the lessee shall asweddumize and turn into fields the owitiland within the leased premises as much as he can.

That the lessor shall settle all disputes arising thereto within the period of the said lease.

That after the expiration of the said term the lessee shall deliver over quiet possession of the leased premises without causing any damage thereto.



P 17  
Deed of  
Lease No. 2052 —  
1-3-46  
—Continued.

In witness whereof we the said lessor and the said lessee do hereby set our hands to these presents and two others of the same tenor and date as these on this 1st day of March, 1946 at Weligama.

*The Schedule referred to*

All that soil and fruit trees and all what appurtains thereto of the land called Pehimbiyagodaduwa and kumbura comprising of high and low land situated at Warakapitiya in Weligam Korale, Matara District, Southern Province, bounded on the North by Heendeniya Wekandiya, East by Pehimbiya duwa, South by Kekilladuwa, West by Ratkeratolla and Thewatta containing in extent about eighteen acres.

10

(Sgd.) M. SUMANATISSA,

(Sgd.) HEENAPPU.

Witnesses :

(Sgd.) WILLIAM SILVA.

(Sgd.) J. A. JAMIS APPUHAMY.

(Sgd.) H. W. GUNASEKARA,  
*Notary Public.*

I, Hemasiri Wasantha Gunasekara, Notary Public of Weligama do hereby certify and attest (usual attestation) that the rupees three hundred and eighty five payable in advance was acknowledged to have been received 20 previously.

(Sgd.) H. W. GUNASEKARA,  
*Notary Public.*

Date of Attestation :

1st March, 1946.

(Sgd.) .....  
*Sworn Translator*

D. C. Matara.  
26-6-54.

For Yala Season, Kirigotuveduwa Kumbura.  
12-8-46

## Kirigotuveduwa Kumbura--Yala Season

Cultivators	Name of fields	Extent			Full Yield			Paraveni			1/10th Share			Seed Paddy			For thrashing			Manure			Huwan-diram			Cultivators Share		
		B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.
H. R. Salamon Appuhamy	Tekkawatta Addara Pahala	2	2	—	22	4	—	5	3	2	2	2	—	3	3	—	3	2	—	2	2	—	—	4	—	5	3	2
L. V. Mendis Appu	Tekkawatta Addara Ihala	1	5	—	21	5	—	6	—	—	2	1	—	2	3	2	3	½	—	1	4	—	—	4	—	6	—	—
H. K. Podihamy	Pansale Kella	—	4	—	5	—	—	1	2	—	—	4	—	—	6	—	—	6	—	—	3	—	—	1	—	1	2	—
10 H. A. Charlis	Mahapittaniya Addara	—	4	—	4	—	3	—	7	1	—	3	—	—	6	—	—	5	—	—	3	—	—	1	—	—	7	1
H. R. Heen Appu	Lindagawa Kella	1	—	—	8	5	1	2	—	3	—	7	—	1	4	—	1	2	—	—	6	—	—	1	2	2	—	3
H. R. Charlis	Kekilladuwa Addara Ihala	1	5	—	8	4	2	1	1	—	—	7	—	2	3	2	1	2	—	1	4	—	—	2	—	1	1	—
R. A. Don Andiris	Pitakella Addara	1	4	—	8	1	—	1	1	—	—	6	2	2	2	—	1	1	—	1	1	—	—	1	2	1	1	—
H. K. Abaran	Pehembiyagoda Addara	—	5	—	1	7	—	—	—	—	—	1	2	—	7	2	—	2	—	—	4	—	—	—	—	—	—	—
R. A. Dingi Appu	Kekilladuwa Addara Pahala	2	2	—	13	7	—	2	5	1	1	3	—	3	3	—	2	—	—	1	4	—	—	2	2	2	5	1
R. H. Juwanis	Pehembiyagoda Addara Pahala	2	4	—	3	3	2	—	—	—	—	—	—	3	—	—	—	3½	—	—	—	—	—	—	—	—	—	—
	Total	14	3	—	97	6	—	20	4	3	9	3	—	20	6	2	14	—	—	9	7	—	—	17	2	20	4	3

20 4 3 9 3 — 6 3 —

9 3 —  
6 3 —

Full amount received 36 2 3 (24 bags, 2 kurunies, 3 serus.)

Translated by:

(Sgd.).....  
Sworn Translator,  
D. C. Matara.  
7-7-54.

P 5  
Income and  
Expenditure of  
the Years 1947,  
1948 and 1949.

### Income & Expenditure of the Years, 1947, 1948 and 1949

	Extent			Full Yield			Paraveni and 1/10th Share			Seed Paddy		
	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.
Salamon Appu	1	6	—	16	5	—	5	9	3	2	3	—
Patimahatmaya	1	—	—	18	3	—	7	3	3	1	6	—
Heen Appu	—	8	—	8	1	—	3	—	2	1	—	—
Babun Mahatha	—	4	—	4	—	—	1	5	2	—	6	—
Welipitiya	—	4	—	3	4	—	1	2	—	—	—	—
Dingi Appu	1	4	—	6	5	—	1	4	2	—	—	—
Loku Appuhamy	1	—	—	4	4	—	—	9	1	1	6	—
Juwanis Appu	1	6	—	3	3	—	—	4	—	—	—	—
Hinnimahatmaya	1	—	—	2	1	—	—	2	2	—	—	—
Abaran Appu	—	6	—	2	5	—	—	4	2	—	—	—
Heen Appu	1	—	—	1	10	—	—	2	0	—	—	—
<b>Total</b>	<b>10</b>	<b>2</b>	<b>—</b>	<b>70</b>	<b>5</b>	<b>—</b>	<b>22</b>	<b>0</b>	<b>1</b>	<b>—</b>	<b>6</b>	<b>9</b>

Extent

6 9

together with

28 9 1

1947 Rs. 440.00

1948 „ 450.00

1949 „ 300.00

Yala Season a failure.

An account of Rs. 1,190.00

What given to the Paraveni.

From the balance share a share was spent for improving the land. The effect of this can be seen by this. For further improvement a plan figure of survey should be made.

Translated by me.

(Sgd.).....

Sworn Translator.

D.C. Matara.

30-6-54.

## Maha Crop 1949 — Kirigotuveduwa Kumbura

P 8  
Maha Crop 1949 —  
Kirigotuveduwa  
Kumbura—  
1-2-49.

	Extent			Full Yield			Amount Received			Seed Paddy			For Bone Meal		
	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.
Heen Appu	—	8	—	22	11	—	9	4	2	—	9	—	—	6	—
Salamon Appu	1	6	—	22	11	—	9	4	2	—	9	—	—	6	—
Patimahatha	1	—	—	19	10	—	8	6	2	—	—	—	—	—	—
Welipitiya	—	4	—	4	6	3	1	10	2	—	—	—	—	—	—
<sup>10</sup> Dingi Appu	1	4	—	9	3	—	3	4	—	—	—	—	—	—	—
Juwanis	1	6	—	6	7	—	1	7	3	2	3	—	—	—	—
Hinni Mahatha	1	—	—	5	—	—	1	5	2	—	—	—	—	—	—
Kekilladuwe Loku Appuhamy	1	2	—	6	9	3	2	—	1	1	9	—	—	6	—
Babun Mahatha	—	4	—	4	—	—	1	8	—	—	—	—	—	—	—
Abaran	—	7	—	4	5	2	1	2	1	—	—	—	—	6	—
Heen Appu	—	8	—	1	3	—	—	1	2	—	—	—	—	—	—
Total	10	1	—	94	5	0	35	0	2	4	9	—	2	3	0

4 9 —

<sup>20</sup> Received inclusive of seed paddy

39 9 2

Maha Crop for Kirigotuveduwa Kumbura 1949 — received on 1st February, 1949.

(Sgd.) .....

Translated by me.

(Sgd.).....

*Sworn Translator,*  
D.C. Matara,

30-6-54.



Extract from the Encumbrance Register for the Land " Pehembiyagodawatta "

Division : D Volume : 48

D 10  
Extract from the  
Encumbrance  
Register for the  
land " Pehembiya-  
godawatta ".

<p>Folio : 157</p>		<p>Volume :</p>		<p>Folio :</p>		<p>Boundaries :—</p>		
<p>Brought forward from.....</p>		<p>Name of Land : Pehembiyagodawatta</p>		<p>E. Pansala Kumbura</p>		<p>.....</p>		
<p>T. P. No. ....</p>		<p>Village or Town and Street : Warakapitiya</p>		<p>W. Pansala Kumbura</p>		<p>.....</p>		
<p>Lot No. ....</p>		<p>Asst. No. ....</p>		<p>Pattu : ..... Korale : Weligama</p>		<p>N. Pansala Kumbura</p>		
<p>Situation {</p>		<p>District : Matara</p>		<p>Province : Southern</p>		<p>S. Pansala Kumbura</p>		
<p>.....</p>		<p>.....</p>		<p>.....</p>		<p>Extent : .....</p>		
Date of Registry (Day Book No. and Date)	Grantors (Names in full, and residence)	Grantees (Names in full, and residence)	Nature and Particulars of Alienations and Incumbrances (To be concisely and clearly stated)	No. and Date of Deed	Name of Notary Judge, &c.	Regn. stamp Duty	Signature of Registrar	REMARKS
16th July 1875	Rajapaxa Arachhigey Babunhamy 2. Kodituwakku Hewa Alustunage Don Juwanis & 3. do Don Siman 4. do. Babaappu.	Sulutanagoda Rajapaxa Arachchige Don Juwanis of Makawita.	Transfer of two ninth parts of the abovenamed property. Com. Rs. 10.00	No. 5204 4th March 1874	L.D.C. Wickremasinghe Notary Public	Rs. 1/-	Sgd./ L. W. W. Ludeken	Com. Rs. 100/- for this & two other shares of properties sold by this deed. See folio 155.
1887 25th July	Rajapaxa Arachchige Don Hendrick & Liyanagamage Dingihami.	Godagama Gamage Punchi Lama Hami	Mortgage of 2/9 share of the trees and of soil from the above property for Rs. 30/- and interest at 60 per cent.	No. 4415 5th Feby. 1886	H. F. S. Samaraweera	See folio 155	Sgd./ Rich. Hen. Pereira	With two other properties see folios 155 & 156  Carried over to D. 251 Volume : Folio : 121

D 10  
Extract from the  
Encumbrance  
Register for the  
land "Pehembiya-  
godawatta".  
—Continued.

Folio : 121	Volume : D 48	Folio : 157	Boundaries :—  E. Pansalakumbura  W. —do—  N. —do—  S. —do—
Brought forward from.....			Extent : .....
Name of Land : Pehembiyagodawatta			
Village or Town and Street : Warakapitiya			
T. P. No.....	Situation {		
Lot No.....			
Asst. No.....	Pattu : .....	Korale : Weligama	
District : Matara		Province : Southern	

Date of Registry (Day Book No. and Date)	Grantors (Names in full, and residence)	Grantees (Names in full, and residence)	Nature and Particulars of Alienations and Incumbrances (To be concisely and clearly stated)	No. and Date of Deed	Name of Notary, Judge, &c.	Regn. stamp Duty	Signature of Registrar	REMARKS
10749 4th Sept. 1920	Rajapaksa Arachchige Carolis of Warakapitiya.	Rajapaksha Arachchige Hamina & Don Hendrick Samarawickrema both of Warakapitiya.	Gift of planters' one half share of the plantations made by the grantor and undivided one third of the remaining soil & of trees of the above value Rs. 300/-.	No. 11141 3rd Sept. 1920	D. A. Ratnayake, Notary Public		Sgd./ T. I. Abeyesekara	Bounded on all the sides by fields. Ext. About 2 acres.
13439 27th Nov. 1922	Rajapaksa Arachchige Carolis & Hikgodakankanamage Danoris both of Warakapitiya.	Hikgodakankanamage Dingi Appu of Warakapitiya.	Lease of undivided two third (2/3) share of soil and of paraveni trees and plants half of the second plantation of the above for a term of 5 years and 6 months from 1st November to December 1922 Total Rent Rs. 82/50.	No. 12645 24th Nov. 1922	D. A. Ratnayake, Notary Public		Sgd./ B. S. P. Mendis	Bounded on all the sides by fields.
9006 18th July 1927	Rajapaksa Arachchige Hamina & Don Hendrick Samarawickrema both of Godagama.	Hikgodakankanamage Danoris of Warakapitiya	Transfer of plantation half share of the trees and undivided one third (1/3) part of remaining trees & of soil of the above. Com. Rs. 100/-	7029 12th July 1927	E. W. P. Weerasinghe, Notary Public		Sgd./ S. A. Jayawardene	Bounded on all the sides fields. Ext. 2 acres.
12915 4th Oct. 1930	Hikgodakankanamage Danoris of Warakapitiya.	Naimanaliyanage Don Siyadoris of Kotawila.	Lease of plantations half of 2nd and 3rd plantation & undivided one third of remaining paraveni trees & of soil of above for a term of five years from 3rd October 1930. Rent Rs. 30/- for the term.	17112 3rd. Oct. 1930	J. P. Seneviratne, Notary Public		Sgd./ G.A. Jayawardene	Bounded on all the sides by field. Extent. 2A-OR-OP.
							Carried over to .....	Volume : D. 471 Folio : 289

10

20

30

Division : D

Volume : 471

D 10  
Extract from the  
Encumbrance  
Register for the  
land "Pehembiya-  
godawatta".  
—Continued.

<i>Folio</i> : 289	<i>Volume</i> : Brought forward from D. 251	<i>Folio</i> : ..... 121	<i>Boundaries</i> : — N. E. S. & W. Pansalakumbura
<i>Name of Land</i> : Pehembiyagodawatta			
Village or Town and Street : Warakapitiya			
<i>T. P. No.</i> .....	Situation {		
<i>Lot No.</i> .....			
<i>Asst. No.</i> .....		<i>Pattu</i> : .....	<i>Korale</i> : Weligama
	{	<i>District</i> : Matara	<i>Province</i> : Southern.
			<i>Extent</i> : .....

	Date of Registry (Day Book No. and Date)	Grantors (Names in full, and residence)	Grantees (Names in full, and residence)	Nature and Particulars of Alienations and Incumbrances (To be concisely and clearly stated)	No. and Date of Deed	Name of Notary, Judge, &c.	Regn. stamp Duty	Signature of Registrar	REMARKS
10	3561 20th March 1945	Hikgodakankanamage Danoris of Warakapitiya	Hikgodakankanamage Pintheris of Warakapitiya.	Transfer of undivided 1/3 part of above (inclusive of plantations half share of trees) Com. Rs. 200/-	5583 1st March 1945	D. D. P. Wanigasekara, Notary Public		Sgd./ R. A. Wickremayanayake	(N.) Mahapittaniya (E.) — do — (S.) Pehembiyagoda addara Ext. 2 acres
20	2882 2nd March 1947	Hikgodakankanamage Pintheris of Warakapitiya.	Hikgodakankanamage Danoris of Warakapitiya.	Transfer of undivided 1/3 share of the soil and remaining fruit trees of the above (exclusive of the plantations 1/2 share of the trees) Com. Rs. 200/-.	15217 21st Feb. 1949	A. M. Buhari, Notary Public		Sgd./ A. Sirisena	<i>Land</i> : Pehembiyagodawatta <i>N &amp; E</i> : Mahapittaniya <i>S</i> : Pehembiyagoda addara <i>W</i> : Panselekella <i>Ext</i> : 2A-OR-OP
30	15427 23rd Dec. 1949	Rajapaksa Podiappu, do Hamine and Husband Don Hendrick Samarawickrema all of Warakapitiya.	Hikgodakankanamage Mendis Appu of Warakapitiya	Transfer of undivided 2/9 shares of the above. Com. Rs. 100/-.	15561 7th Nov. 1949	A. M. Buhari, Notary Public		Sgd./ A. Sirisena	<i>Land</i> : Pehembiyagodawatta <i>N.E.S.W.</i> Kumbura <i>Extent</i> : 2A-OR-OP. Registration suspended on 9-1-50.  Registration is refused for failure to comply with Section 14 (1) of the Registration of Documents Ordinance Chap. 101. Failure to state a clear and accurate description of boundaries. Appealable time has not expired. Notice of refusal was conveyed to the tenderers by letter under registered cover on 12-1-50.  Intld. .... <i>Registrar of Lands.</i> 12-1-50.
40	15899 21st Nov. 1950	Rajapaksaarachchige Dona Ciciliyana of Udukanda	Hikgodakankanamage Mendis Appu of Warakapitiya.	Transfer of undivided 1/6 part of 2/3 part of the above. Com. Rs. 50/-.	11376 13th Nov. 1950	D. D. P. Wanigasekara, Notary Public		Sgd./ A. Sirisena	<i>Extent</i> : 2A-OR-OP. <i>N.E.S. &amp; W.</i> — Panselekumbura
								Carried over to .....	<i>Volume</i> : <i>Folio</i> :

I, U. K. Somapala, Registrar of Lands, Matara do hereby certify that the foregoing is a true copy of Registration entries appearing in Land Registry Volumes D48/157, 251/121 and 471/289 of this office upto and including 9th September 1957 and the same is granted on the application of Mr. Sepala Samarasinghe, Proctor of Matara.

Land Registry,  
Matara.  
12th September, 1957.

(Sgd.) U. K. SOMAPALA,  
*Registrar of Lands.*



P 1  
Accounts of  
Kirigotuveduwa  
Yala Season—  
11-8-50

## Accounts of Kirigotuveduwa Yala Season

	Extent			Full Yield			1/10th share			Paraveniya			Seed Paddy		
	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.
Patimahattaya	1	—	—	16	2	—	1	7	—	4	9	—	1	6	—
Salamon Appu	1	6	—	13	—	6	1	3	2	3	9	1	1	6	—
Heen Appu	—	8	—	5	16	—	—	6	2	1	2	—	1	—	—
Kekilleduwe	1	4	—	7	9	—	—	9	—	1	2	2	2	—	—
Abaran	—	6	—	2	—	—	—	2	2	—	1	2	—	—	—
Welipitiya	—	3	—	1	—	2	—	2	2	—	—	—	—	—	10
Dingi Appu	1	4	—	4	5	—	—	5	—	—	5	3	2	—	—
Hinni Mahatmaya	1	—	—	1	3	—	—	—	—	—	—	—	—	—	—
Heen Appu	1	—	—	1	2	—	—	—	—	—	—	—	—	—	—
Babun	—	4	—	1	6	—	—	1	2	—	2	1	—	—	—

8 11  
Full yield 54. 3. 2.  
1/10th share 5. 1. 2.  
Paraveniya 11. 6. 1.

Received seed paddy 8 — —  
,, Paraveniya 11 6 1 20  
,, 1/10th share 5 1 2  
Received in all 24 7 1/3

for Kirigotuveduwa Yala Season.  
August 11th, 1950.

Translated by me.

(Sgd.) .....  
Sworn Translator,  
D.C. Matara.

30-6-54.

## Yield for the Maha Season 1950 — Kirigotuveduwa

	Extent			Full Yield			Paraveni			Seed Paddy		
	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.
1. Pettymahatmaya	1	1	—	20	4	—	8	2	1	1	7	2
2. Salamon Appu	1	6	—	18	9	—	6	11	1	2	3	—
3. Heen Appu	—	8	—	7	7	—	2	8	—	1	—	—
4. Abaran	—	6	—	4	3	—	1	2	1	—	—	—
5. Welipitiya	—	4	—	3	2	—	1	—	3	—	—	—
10 6. Podihamy	—	4	—	3	6	—	1	2	2	—	6	—
7. Charles	1	4	—	8	10	—	2	5	3	—	—	—
8. Andarayas Appu	1	4	—	8	1	—	2	—	3	—	—	—
9. Heen Appu	1	—	—	4	4	—	—	9	2	1	6	—
10. Dingi Appu	1	4	—	7	4	—	1	9	2	—	—	—
11. Hinni Mahatmaya	1	—	—	0	3	2	—	—	—	—	—	—
Total	10	5	—	8	9	2	28	8	—	—	—	—
Received Paraveni and 1/10th share							28	8	—			
Seed Paddy							6	10	2			
Total							35	6	2			

20 Yield for the Maha Season 1950 for Kirigotuveduwa.

Translated by me.

(Sgd.).....  
Sworn Translator,  
D.C. Matara.

1-7-54

## Accounts of Petiyagoda Andakumbura—Maha Season

	Extent	Full Yield	Paraveni	1/10th Share		Seed Paddy	Huwan-diram
	B. K.	B. K. S.	B. K. S.	B. K. S.	B. K.	B. K.	K. S.
1. Salamon Appu	1 4	16 10 —	4 5 2	1 8 —	1 6	2 —	4 —
2. Patimahatmaya	1 —	17 2 —	4 10 —	1 8 2	1 6	— —	4 —
3. Hinni Appu	— 8	6 10 —	1 7 3	— 8 —	— 9	— —	1 2
4. Podihamy	— 4	2 2 —	— 3 2	— 2 2	— 6	— —	— 2
5. Andrayasappu	1 4	6 1 —	— 7 —	— 7 2	1 3	— —	1 2 10
6. Hinnimahatmaya	1 —	4 10 —	— 6 2	— 6 —	1 —	— —	1 —
7. Welipitiye	— 4	2 7 —	— 6 2	— 3 —	— 4	— —	2 —
8. Abranappu	— 6	2 8 —	— 4 2	— 6 —	— —	— —	— 2
9. Loku Appuhamy	1 4	7 2 —	1 — 1	— 8 2	1 3	— —	2 0
10. Dingi Appu	1 4	5 5 —	— 4 2	— 6 2	1 3	2 —	1 2
11. Heen Appu	— 10	3 4 —	— 1 2	— 4 —	— 9	1 3	1 —
	10 —	75 3 —	14 9 2	7 5 2	— 5	3 —	— —

1/10th share 7 5 2

Seed Paddy 5 3 —

Received in all 27 6 —

20

Received Paraveni of Petiyagoda Andakumbura for Maha Season 31st January, 1951.

 (Sgd.) M. SUMANATISSA,  
 Viharadhipathi.

Translated by me.

 (Sgd.).....  
 Sworn Translator,  
 D. C. Matara.

197

D 9

**Envelope Addressed to Pannananda**

D 9  
Envelope  
Addressed to  
Pannananda.

Address on envelope.

Seal

---

Weligama  
B  
4 JL  
52

To : Pannananda,  
Kettaramaya,  
10 Warakapitiya.

Translated by

(Sgd.).....  
*Sworn Translator,*  
D. C. Matara.

19-7-60

## Accounts of Kirigotuveduwa

	Extent			Full Yield			Paraveni and 1/10th Share			Seed Paddy		
	B.	K.	S.	B.	K.	S.	B.	K.	S.	B.	K.	S.
Salamon Appu	1	4	—	11	6	—	3	10	2	2	—	—
Podimahatmaya	1	—	—	11	3	—	4	—	—	—	6	—
Hinni Appu	—	8	—	4	2	—	1	1	—	—	—	—
Dingi Appu	1	4	—	7	1	3	1	8	2	—	—	—
Welipitiya	—	4	—	1	4	—	—	3	—	—	—	—
Abaran	—	6	—	2	—	3	—	4	—	—	—	—
Podihamy	—	4	—	2	3	—	—	7	—	—	6	—
Andrayas Appu	1	—	—	4	1	—	—	7	3	—	—	—
Charlis Appu	1	4	—	4	6	—	—	6	—	—	—	—
Andrayas Appu	1	4	—	4	8	—	—	6	3	—	—	—
Hinni Appu	1	—	—	3	10	—	—	6	2	1	—	—
Total	10	2	—	56	7	1	12	7	—	4	—	—

12th August, 1952 account list of Kirigotuveduwa

Translated by me.

20

(Sgd.).....

Sworn Translator,  
D. C. Matara.

30-6-54.

## Letter sent by W. Pannananda

These are my views in respect of the letter sent on 52-9-1 and the one sent previous to that.

There is no reason to send me long letters and subscription papers. I am today living by paying house rent to my residing house and doing cooly work. The hire I get by reading horoscopes, by telling "nekath" and by scientific divisions of houses (Geval pada bedum) I earn my livelihood. The house for living in is also made by me. I did not get from my ancestral tutors  
 10 a place to live in. For living in your land you will recover rupees four or five hundred a year. I who am living by doing cooly work and paying rent, need not be reminded of rules and subscription papers. When my ordination was informed those are not the work which we did. Those are the work of Pemasiri Unnanse and others. Except saying there is nothing we can give did not give even a cent or a piece of thread. During the days of my learning, I did not get even a grain of rice, nor books for my education. Accidentally I remember sometimes giving twentyfive cents or fifty cents. At no time I was given anything more than a rupee. One day when I  
 20 wanted to take away some sweet potatoes I was told that they are for the work here, you can find others and take them. In those days a pound of sweet potatoes is one and half cents. When I informed that I am going to Giriwella to learn you made a long speech for about two and half hours, took a deep breath and said, 'When you learn those things they will be very beneficial to you, don't forget us then' so saying gave a rupee to go and learn. If it was so unbearable that day how much more it will be today. I remember for getting a biscuit box at a Pinkama at Bandarawela stopped inviting me for pinkamas for six months. If this was what you did for us those days why do you expect from me today anything.

I was sent to this place not with good intention. It is to get me killed  
 30 because there are disputes here. But that idea did not come all right. Today you have stated all sorts of tricks and abusing I was sent here because this land is useless to the Pansala and therefore to improve and take the produce. Subsequently you try to make me a watcher and take the produce. The land that was leased for a basket of sweet potatoes or for a sum of rupees five. When getting about rupees fifty a month is insufficient, it must be a misfortune. Every day it is said that nothing has been done to Mahagurunanse, who is that Mahagurunanse. What I have got from that Mahagurunanse. What is the freedom Mahagurunanse has got for me. I did not get a place to live in freely even a "Navathena" temporary resid-  
 40 ing place. If it is property coming down from ancestral Tutors, it is not necessary to pay rent for one individual, give subscriptions and tie pingoes to him. If it is like this, there is nothing to be done where there is no justice. When after doing everything if once failed all what has been done is over, after this you cannot expect dutiful acts like this.

Though it is said by words that there are "Pinkamas" we cannot understand that it is so. In a place where there are harvests to be reaped and income getting from koratuwas and lands, and at times when such benefits

P 27  
 Letter sent by  
 W. Pannananda.  
 2-10-52.  
 —Continued.

prevail, "Sammadans" starts to earn something "Gilandana", "Matakadana", Vihara Pinkama though they are names suggested they are not Pinkamas but way of making money. Though they are called Pinkamas they are not so. What is intended by Vihara Pinkama is to get women in houses attracted. Buddha Pujawa was for maintaining the Pansala.

Most people say that when Hamuduruwo was alive rice was not given, even for the preparation of canje. Dana is given after one's death is not done in his honour but to make money. If nothing was done when alive what honour is to be given after death. Wruda Dana, Gilan Dana are in no way can be called pinkamas. Handkerchiefs "Pinhal Rice" were given to innocent people to be eaten and are shown the way to hell. Is this a Pinkama. If these are done with meritorious intentions what is to be done when those in the Pansala are fallen ill. The little good water that is required have to be got from outside. When those who are living are starving is dana given on account of the dead and dead and gone can be called a pinkama, done with meritorious intentions these things are not done for the good of the next world but they are done to earn something. To defraud the income tax by not showing these things and to scrape like this what is in the hands of the poor are cannot be called Pinkamas. That because of these Pinkamas adjoining three or four villages have been brought to a state of poverty. Are these to be called Pinkama. Collect subscriptions from the world insert one's name as the donor and make "Prattanas" and by doing this what unselfish act one has done to the one who has been helped, who is the pupil he has brought to a status, what is the work he has done to the benefit of the public. Except night and day thinking doing and saying things things that are useless to others what good they have done? Did not even allow the person who cleans the filth of the Pansala to take the cloth that is meant for him. Can Pinkamas that is performed by such persons be called unselfish? It is said that there are many cars, wireless (sets), papers and magazines and for all these money is insufficient. Lustful men use these things. But is it right in accordance with Dhamma to do these things, through the income of Sanghika property, why should we earn and give to keep, cars for hire, to keep printing presses for maintenance, and to enjoy music by having wireless sets. All know that there is in the Lanka Bank Rs. 7,000/-, in another Rs. 15,000/-, in the insurance Rs. 10,000/- and that there is a printing press "Weligam Yantralaya." To have for the use of self cars and wireless sets and for others to live like beggars are these properties Sanghika or personal acquired by self for the person who is enjoying the produce of the Sanghika properties wrongly. Can he escape by giving Matakadana. Many are the cases instituted in the courts and those cases are for his own benefit. It is done for the purpose of avoiding income tax and to show others that the expenses are great. To the person who has not learnt how to get on in this world, it is not strange that he gets involved in many cases. Have learnt only to earn one or two "Thuttus" by even getting abused or beaten and knows nothing beyond that sense of this duty and good qualities have been darkened obliterated by desire. Does not think that he should also cultivate those good qualities which he preaches others to cultivate. Thinks that all in the world are full of faults, and talks as if he is faultless. Will those who hear accept him in this manner. Is it right to spend income from Sanghika property for litigation in

courts. Will a good person go to Courts. Has written to me that having made a "magulnekatha" I have spoiled my priestly life.

P 27  
Letter sent by  
W. Pannananda.  
2-10-52.  
—Continued.

If I who made the "Magul Nekatha" have spoiled my Bhikku life like this how much more spoiled would the life of a Bhikshu be who does worst things. This is what men have told me about Lokuhamuduruwo of Welihinda Pansala.

That Welihinda Lokuhamuduruwo is in intimate terms with Devenige watte Sil hamine and that he is giving Pansakula cloth, money and eatables etc. to her and that he was caught doing Magul to her by keeping her inside the vihara. They have seen doing Magul to women in the "Pitamalu" outside section of the Viharas and comes out jumping over the window. Has been doing Magul to Wewagodayage's daughter near the Vishnu devala and having fallen down from the upstairs broke his leg. That on the Light Pinkama day young women have seen him hitting the back side of a woman with a broom stick. Having seen this obstacles have been put in the way of the Pinkama. That Meeruppe people did not partake in this pinkama because of this. That during past days a monkey has been brought and kept in the Pansala and this was done for the purpose of getting down the woman who is the owner of the monkey to the Pansala. Sending the Abittaboy away to collect firewood he is doing Magul to Berawa women, it is said have been seen. Having got into intimacy with our mother the fence was not allowed to keep thatched even for one month, Hinniappu has been telling near the Bandarawila boutique. I will kill "Oka" him within six months. People have seen through the window that Lokuhamuduruwo one day when a beggar woman came one day begging he having waved his hand to her and taken her into a dark room did "Magul" to her (intercourse). These things I have heard and if they are true these Pinkamas are meant only for this world and what use are they for the next.

If a bhikshu's life is spoiled by making a Magul Nekatha how much more spoiled would be to the one who did Magul, being in such filth putting his fingers into other people's small faults (Konduru Kadullu). People are scolding and the Weligam Korale people have got disgusted of religion because of this. Are we responsible for the honour begotten by all these acts and Sanghika money responsible for the expenses incurred by these acts. Can a person who has in him all these filth administer a Sanghika aramaya. A man living closeby to the Pansala said that there is no such thing in him called Sil. A thing called Malpujawa is performed there but what is done there is a "kimbi pujawa" and this is done to get the women of the village there. The Vihare has been made filthy to this extent. This was mentioned in the Wesak section of the Dinamina this time. If a sacred place is made filthy like this what a big wrong it is. Lokuhamuduruwo's intention is to see the faults of others, to be jealous, to abuse others and to put obstacles to other people's work, inspite of he being abused and beaten like this. What is in him that he should be honoured as a Chief for us to "tie pingoes" to the Chief what justice he has done to us. He is preaching us to do our duties but he has nothing of that sort with him. Being ashamed to face the world can it be possible to walk in the streets. People say and the talk is spread abroad that Welihinda Lokuhamuduruwo is having intercourse with women, is getting assaulted, is getting abused, is earning money, is purchasing lands, is having printing presses, is having cars for hire, is having a wireless set and



P 27  
 Letter sent by  
 W. Pannananda  
 2-10-52.  
 —Continued.

having music, is asking for subscriptions, is making copra, is carrying on trade, and is using the Vihara as a market place and as a house of ill-fame etc. Did Lokuhamuduruwo do all these things. Because of my making "nekath" if it has become detrimental to Lokuhamuduruwo's line of action how much more detrimental it would be to do all these things. If Lokuhamuduruwo is going on the same way he is going instead of giving Mathakadan it is better for his self honour to act in accordance with customs without doing this, however much he may do, it is not an honour to himself. Even by this little if he is allowing his adherents to live in this world, like this, is it possible to treat him as a chief without a little of these qualities in him. In trying to teach others what is their duty is like the crab's advice. Apart from giving him great honour is there any quality in him that entitle us to raise our two hands in respect to him. Except his own selfish thoughts has he any idea of attending to other people's troubles; will such a person possess any unselfish quality. We are suffering because we have no place to live in or have anything to dress or eat. Is it right for you to hear wireless talk, to have good and comfortable vehicles to go about and have comfortable beds to sleep in and for the purpose of enjoying all these to give us trouble who are poor. For having improved the land which was in others possession by putting canals and ridges you are getting ready to sell my robe also. Having paid Rs. 18/- for paddy when the market is Rs. 15/- and settled accounts in the manner received from the Pavara and this being insufficient you have stated using your favour of Adhikariship you having driven me into "palukantharaya" (Barron Desert) I am suffering here without an escape. I have now to make my own road, my own house and Vihara, and to maintain the place myself. Who is going to give for all these. From whom I can receive. If there is a chief is it bad to look into those things. Is it not right for the one who collects the income to help us and help for the improvement of the land. Out of the income of Sanghika lands which is better either to spend for wireless sets or for improving the Vihara. How can we accept as right all wrong acts that are being committed. Is Sanghika property meant for the benefit of one individual or the other people also have a right to it. Never gave an inch of cloth for attending a "Pansakula" nothing has been received from alms giving (dana) places or from pirith ceremonies and if anything is brought we were not given anything. Does not like the idea of our eating and dressing, this jealousy always comes out from time to time. If this is the way he treats his own what can it be said of others. We have our income to perform our duties. We do things in proportion to what we get. If there is no money in a place where there are lakhs what is there to ask loans from me. Has anything been left here to take in time of need or have you helped me when I am in trouble. What have you done for my improvement. When we think of these those long letters can do no good for us we cannot be subjected by unnecessary threats, except by justifiable means.

2-10-52.

(Sgd.) W. PANNANANDA.

Translated by me.

(Sgd.).....  
*Sworn Translator*  
 D. C. Matara.  
 15-7-60.

## Accounts of Hirigotuveduwa — Maha Season

P 3  
Accounts of  
Hirigotuveduwa—  
Maha Season —  
19-2-53.

	Extent		Full Yield		Paraveni		1/10th Share			Paraveni			Seed Paddy		
	B.	K.	B.	K.	B.	K.	B.	K.	S.	B.	K.	S.	B.	K.	S.
Salamon Appu	1	4	12	4	1	6	1	3	—	2	9	2	2	—	—
Pati	1	—	13	2	1	6	1	4	—	3	4	1	1	6	—
Heen Appu	—	8	3	8	—	9	—	4	2	—	5	1	1	—	—
Podihamy	—	4	2	1	—	6	—	2	2	—	3	1	—	6	—
10 Abaran	—	7	2	2	—	9	—	2	2	—	—	—	—	10	2
Welipitiye	—	4	1	10	—	6	—	2	7	—	2	1	—	6	—
Heen Appu	—	10	1	8	—	—	—	2	—	—	—	—	1	3	—
Hinni Mahatmaya	1	—	—	10	—	—	—	—	—	—	—	—	—	—	—
Dingi Appu	1	4	3	5	1	3	—	4	—	—	—	—	2	—	—
Charlis	1	4	4	6	1	3	—	5	2	—	—	2	2	—	—
Andrayas Appu	1	4	5	3	1	3	—	6	2	—	2	2	2	—	—
							4	11	2	7	3	2			
							7	3	2	—	—	—			
							12	3	—						

20 From Hirigotuveduwa for 1952 Maha Season on 19th February, 1953.

(Sgd.) PANNANANDA.

Translated by me :

(Sgd.).....  
Sworn Translator,  
D. C. Matara.  
1-7-54.

**M. C. Matara Case No. 30926**

IN THE MAGISTRATE'S COURT OF MATARA

**Case No. 30926**

REV. MEERUPPE SUMANATISSA, Vihara-  
dhipathi, Welihinda Temple, Welihinda

*Complainant.*

*Vs.*

REV. WARAKAPITIYE PANNANANDA of  
Hirigotuwaduwa, Warakapitiya.

*Accused.* 10

This 12th day of March, 1953.

The complainant abovenamed complaints to this Court that the accused abovenamed did on or about the 19th February, 1953 at Warakapitiya within the jurisdiction of this Court dishonestly appropriate to his use 12 bags and 3 kurunies of paddy valued at Rs. 240/- being the paraveni share due to complainant from the field called Hirigotuwaduwa and has thereby committed an offence punishable under Section 386 of the Chapter 15 New Legislative Enactments.

(Sgd.) (Illegibly) in Sinhalese 20  
*Complainant.*

Witnesses :—

1. SANDORIS.
2. SAMEL, DAVITHAPPU.

Drawn by :—

(Sgd.) A. P. DALUWATTA,  
*Proctor.*

Plaint accepted.

Issue summons for 26-3-53.

(Sgd.) B. G. S. DAVID,  
*Magistrate.*  
12-3-53.

30

*Complainant* : Rev. M. Sumanatissa, Absent.

*Accused* : Rev. W. Pannananda, Absent.

The case has been settled. *Vide* motion filed.

I discharge the accused.

(Sgd.) B. G. S. DAVID,  
*Magistrate.*  
26-3-53

Motion filed in M.C. Matara Case No. 30926

IN THE MAGISTRATE'S COURT OF MATARA

Case No. 30926

The matter in dispute settled. The amounts due as value of the paddy is paid to complainant.

Accused may be discharged.

(Sgd.) M. SUMANATISSA  
(In Sinhalese)  
*Complainant.*

10

(Sgd.) W. PANNANANDA  
*Accused.*

Matara, 26-3-53.

---

I certify that the foregoing is the true copy of the Complaint and Proceedings in M.C. Matara Case No. 30926.

(Sgd.).....

*Chief Clerk*

Magistrate's Court, Matara.

25-6-54.

20

Letter sent by W. Pannananda

27-9-53.

Writing with Reverence.

I heard from Warakapitiya Village Headman that an action is going to be instituted against me including some others also by demanding thirty bushels of paddy, and taking a report that seventeen bushels and five kurunies of paddy is shown as paraveni paddy according to the nine bushels have been given for seed paddy delivered the amount received inclusive of seed paddy is twenty six bushels and five kurunies. As regards the nine  
30 bushels of seed paddy there is no harm in doing whatsoever you like.

P 26

Letter sent by  
W. Pannananda —  
27-9-58.

— Continued .

I am not a criminal worthy of being punished in a court of law. I am not rich enough to be entangled in cases once in six months. I stayed here and improved the land but did not do any harm to it. It appears that according to the letter sent to me sometime back it has been with the object of driving me away from the land. There is nothing much to drive me away from the "pela" shed, I have put up with great trouble. As the news prevailing in the locality was written to me I also in return informed them of the news that prevailed here, without prejudice to our ancestors or harmful to anything. That was a secret thing with us. There is nothing there to ruin me or be driven away without a home. Many people may have given various news in connection with me. But I have done nothing harmful to your hamuduruwos. <sup>10</sup>

What has happened by keeping company too much and too much talking is that we were left on a side and I cannot understand if you as chief we were brought before the Court. What that would be whatever, it may be to me to the Sangha generation it is not an honour.

To me from a long time such a state has befallen on me, for having cut the road in animosity they have done "Kodivina" (Charm) to abandon the place, reduce income and bring ill health and trouble within the premises. They wanted to poison but giving up that idea they did this. The money that was inside the house has been robbed three times by those who keep company closely. Treatment has been taken for sometime because of an injury caused to the spine by a fall narrowly escaped from an attack by a snake. Trouble prevails coming from enemies about the place. Had to go three times to Court, all these things happened after the road was cut. Cannot say what will happen in the future. I think Hamuduruwo's troubles are also the same, without putting me into trouble by instituting cases amidst the prevailing troubles I am living. If Hamuduruwo is going to do such things when we expect from you help in such troubles to whom we can complain. Therefore it is not necessary to go to Courts. Inclusive of seed paddy we have got only twenty five bushels and five kurunies. I am requesting you to do whatever you think suitable. <sup>20</sup>

Things have happened to cause my ruin from here itself.

Yours obediently,

(Sgd.) W. PANNANANDA,

Kettaramaya.

Translated by me.

(Sgd.).....  
*Sworn Translator.*  
D.C. Matara.  
14-7-60.

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P 18

Envelope addressed to Viharadhipathi of Welihinda

Sudassanarama Vihara

ENVELOPE

P 18  
Envelope  
addressed to  
Viharadhipathi  
of Welihinda  
Sudhassanarama  
Vihara, Denipitiya.  
28-9-53.

SEAL

DENIPITIYA

28 SE

53

To : Honoured Hamuduruwan Wahansa,

10

Viharadhipathi of Welihinda,

Sudassanarama Vihara,

Denipitiya.

Translated by me.

(Sgd.).....  
*Sworn Translator*  
D.C. Matara.  
15-7-60.

P 28

Extract from Headman's Complaint Book

P 28  
Extract from  
Headman's  
Complaint Book —  
2-11-53.

20

HEADMAN'S COMPLAINT BOOK

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1. Date, hour and place of  
Complaint : 2-11-53 at 8-15 a.m. Welihinda.

---

2. Name of informant and names  
of others connected with the  
Complaint : Complainant :—Meeruppe Sumana-  
tissa Terunnanse.

Defendants :—A. R. Salamon, L. P.  
Mendis Appu, H. R. Hinniappu,  
H. K. Abaran Appu, H. G. Charlis,

P. 28  
Extract from  
Headman's  
Complaint Book —  
2-11-53.  
— Continued.

R. A. Dingi Appu, H. R. Charlis,  
G. H. Heen Appu, R. A. Don  
Andiris Appu, H. R. Andrayas  
Appu, H. K. Podihamy.

---

Witnesses :

---

4. Report

Complaint.

A. Nature and value of  
property

:

For appropriating thirty bushels  
of paddy worth Rs. 300/- being the  
paraveni share due to Complain-<sup>10</sup>  
ant Swaminwahanse for the Yala  
Season of the year 1953 for the  
field called Hirikotuwa duwa in  
extent 15 bushels and 2 kurunies  
of paddy sowing belonging to  
complainant and for cultivating  
the field without authority.

B. Nature and number of  
wounds

- 
5. Date and place of occurrence : For reaping and harvesting the  
Yala Crop for 1953.
- 

I went for inquiry on this complaint and noted down statements in my<sup>20</sup>  
diary. H. R. Andrayas said: that the complainant Swaminwahansa did  
not entrust the field to him but he cultivated the field after improving  
Warakapitiya Pannananda Swaminwahanse in whose charge the field was  
and that the paraveni share was given to Pannananda Swaminwahanse  
aforesaid. Did not meet the other defendants.

(Sgd.) Illegibly in English.

V. H. No. 399  
Warakapitiya.  
6-11-53.

Translated by me.

80

(Sgd.).....  
*Sworn Translator,*  
D.C. Matara.  
14-7-60

## Plaint and Pedigree in D.C. Matara

Case No. L/289

Land Rs. 9,500/-

## IN THE DISTRICT COURT OF MATARA

MEERUPPE SUMANATISSA TERUNNANSE  
Chief Incumbent of Sudassanarama  
Temple, Welihinda.*Plaintiff.*

10 No. L/289.

Vs.

WARAKAPITIYE SANGANANDA TERUN-  
NANSE of Warakapitiya.*Defendant.*

This 20th day of September, 1954.

The plaintiff of the plaintiff abovenamed appearing by G. E. &amp; G. P. Keuneman, his Proctors, sheweth as follows :—

1. The parties to this action reside within the jurisdiction of this Court and the cause of action hereinafter set forth arose and the subject matter of this action is situate within such jurisdiction.

20 2. The plaintiff as the controlling Viharadhipathi and Chief Incumbent of the Sudassanarama Temple, Welihinda is the owner and *bona fide* proprietor of the high and low land called Pehembiyagoda duwa and kumbura *alias* Hirikotuwe Duwa situated at Warakapitiya in Weligam Korale of Matara District, Southern Province and which said land inclusive of the duwa situated in the middle of the land is bounded on the North by Heendeniya Wekandiya, East by Pehembiyaduwa, South by Kekilladuwa, West by Ratkeretolla and Tekkawatta and containing in extent about 18 acres.



D 5  
 Plaint and  
 Pedigree in  
 D. C. Matara  
 Case No. D 289 —  
 20-9-54.  
 — Continued.

3. The plaintiff files herewith a pedigree showing the manner in which he became entitled to the said land which he prays may be taken and read as part and parcel of this plaint.

4. The plaintiff and his predecessors in title have been in the undisturbed and uninterrupted possession of the said premises by a title adverse to an independent of the defendant and all others for a period of over ten years prior to the dispute and have thereby acquired a valid title thereto by right of prescriptive possession in terms of the Ordinance No. 22 of 1871.

5. The said high and low land was given by the plaintiff to the care of the defendant who saw to cultivation of the field portion and gave the plaintiff the paraveni share thereof and also the produce of the high land. The defendant was also allowed by the plaintiff to reside on a filled up portion of this land.

6. That in or about the month of September 1953 the defendant as usual got the field cultivated for the 1954 Maha and thereafter on or about 15th March 1954, wrongfully and unlawfully appropriated the paraveni share due to the plaintiff and is in the wrongful and unlawful possession of the said high and low land to the plaintiff's damage in Rs. 500/- already incurred and further damages at Rs. 900/- a year from the date of institution of action.

20

7. The plaintiff estimates the value of the land in dispute at Rs. 9,000/-.

WHEREFORE the plaintiff prays :—

- (1) That he be declared entitled to the said premises and defendant be declared not entitled to same.
- (2) That defendant be ejected from the premises and plaintiff be placed in possession thereof.
- (3) For damages as claimed above and for
- (4) For costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) G. E. & G. P. Keuneman, 30  
*Proctors for Plaintiff.*

**Pedigree Referred to**

D 5  
 Plaintiff and  
 Pedigree in  
 D. C. Matara  
 Case No. L 289 —  
 20-9-54.  
 — *Continued.*

Adirian de Silva Rajapakse

V. A.

field  
 portions

S

T

5457

1-4-1817

Denepitiye Dhammananda

Pupil

Rajapaksa Elias Jayawardene Kankanama

10 Do Don Abaran, Ex Police Vidane

Do Lewis

Do Balahamy

High land  
 portion

S

T

4362

8-11-1842

Talpe

Sumangala  
 Pupil

Atureliye Sidhartha  
 Pupil

Atanikita Sumangala  
 Pupil

Akurugoda Sudassi  
 Pupil

Meeruppe Gunananda  
 Pupil

Meeruppe Sumanatissa  
*Plaintiff.*

20

(Sgd.) G. E. & G. P. KEUNEMAN,  
*Proctors for Plaintiff.*

80

Documents filed with plaintiff abstract  
 of title in respect of the above land.

True copy of plaintiff and pedigree  
 filed with plaintiff in D.C. Matara  
 Case No. L/289.

(Sgd.) G. E. & G. P. KEUNEMAN,  
*Proctors for Plaintiff.*

(Sgd.) .....  
*Assistant Secretary.*  
 D.C. Matara.

25-7-60.

## Plaintiff's Abstract of Title

No. of Deed	Date of Deed	Nature of Deed	From whom to whom	Boundaries	Area of fraction of land dealt with	When registered	Original, Duplicate or Copy
5457	1-4-1817	Transfer	From Adirian de Silva Rajapaksa, V.A. To Denepitiye Dhammananda Thero of Sudassanarama Temple	North—Heendeniya Wekandiya East—Pehimbiyagodaduwa Mawatha South—Kekilleduwa Mawatha	Entire land (field portion)	30-10-1865	Original
4362	8-11-1842	”	From Rajapaksa Elias Jayawardene Kankanama Do Don Abaran, Ex Police Vidane Do Lewis Do Balahamy To Talpe Sumangala Thero	West—Tekkawatte Mawatha	Entire land (High land portion)	—	Original

Appointment by the Public Trustee and Certified copy of D. C. Matara Case No. 8777.

(Sgd.) G. E. & G. P. KEUNEMAN,  
*Proctors for Plaintiff.*

M. C. Matara Case No. 35526

Amended Plaintiff.

## IN THE MAGISTRATE'S COURT OF MATARA

MEERUPPE SUMANATISSA THERO of  
Welihinda Sudassanaramaya, Denipitiya.*Complainant.*

No. 35526

Vs.

10

WARAKAPITIYE PANGNANANDA THERO  
of Warakapitiya.*Accused.*

The 16th day of June, 1954.

The complainant abovenamed complains to Court that on or about 15th March at Warakapitiya within the jurisdiction of this Court the accused abovenamed who was entrusted as barakaaraya by the complainant, with the working of the field called Hirikotuweduwa at Warakapitiya, did dishonestly misappropriate and/or convert to his own use the produce of Maha crop of the said field amounting to 35 bushels worth Rs. 420/- which produce the accused was bound to deliver to the complainant as complainant's  
20 barakaaraya, and the accused did thereby commit an offence punishable under Section 389 of the Penal Code.

(Sgd.) (in Sin.) M. SUMANATISSA,  
*Complainant.*

Drawn by :—

(Sgd.) STANLEY PEREIRA,  
*Proctor for Complainant.*

P 9  
M. C. Matara  
Case No. 85526.  
—Continued.

IN THE MAGISTRATE'S COURT OF MATARA

REV. M. SUMANATISSA, Incumbent,  
Welihinda Temple.

*Complainant.*

*Vs.*

REV. WARAKAPITIYE PANNANANDA,  
Mahapittaniya, Warakapitiya.

*Accused.*

The 8th day of April, 1954.

The complainant abovenamed complains to this Court that the accused<sup>10</sup> abovenamed did on or about 15th March, 1954 at Warakapitiya within the jurisdiction of this Court committed criminal breach of trust of 35 bushels of paddy valued at Rs. 420/- which paddy was left in the custody of the accused, by dishonestly converting to his own use the said paddy and has committed an offence punishable under Section 389 of Chapter 15 of the Legislative Enactments.

Witnesses :

1. B. SAUNDIRIS of Denipitiya.
2. DON HENDRICK of Meeruppe.

(Sgd.) (In Sin.) M. SUMANATISSA. <sup>20</sup>  
*Complainant.*

Drawn by :

(Sgd.) A. P. DALUWATTE,  
*Proctor, S.C.*

Issue summons for 29-4-54.

(Intld.) P. S. W. A.  
*Magistrate.*

29-4-54.

*Complainant* : Rev. M. Sumanatissa.

*Accused* : Rev. W. Pannananda.

Summons not served. Reissue for 13-5-54.

(Intld.) P. S. W. A.  
*Magistrate.*

13-5-54.

*Complainant* : Rev. M. Sumanatissa.

*Accused* : Rev. W. Pannananda.

10 Accused present.

Accused charged from charge sheet.

He states : " I am not guilty ".

Trial 11-6.

Accused warned.

(Intld.) P. S. W. A.  
*Magistrate.*

*Eo Die*, I find that the value is Rs. 420/-.

Evidence on 8-6.

(Intld.) P. S. W. A.  
*Magistrate.*

20

8-6-54.

*Complainant* : Rev. M. Sumanatissa.

*Accused* : Rev. W. Pannananda.

Complainant moves to file a fresh plaint.

Call on 16-6. Take case off Trial Roll.

(Intld.) P. S. W. A.  
*Magistrate.*

16-6-54.

*Complainant* : Rev. M. Sumanatissa.

80 *Accused* : Rev. W. Pannananda.

Fresh plaint filed.

Evidence on 30-6-54.

(Intld.) P. S. W. A.  
*Magistrate.*

P 9  
M. C. Matara  
Case No. 85526.  
—Continued.

30-6-54.

*Complainant* : Rev. M. Sumanatissa, present.

*Accused* : Rev. W. Pannananda, present.

Parties apply for a postponement.

Trial 14-7-54.

(Sgd.) C. THANABALASINGHAM,  
*Magistrate.*

14-7-54.

*Complainant* : Rev. M. Sumanatissa.

*Accused* : Rev. W. Pannananda.

10

Mr. Stanley Pereira for the complainant.

Mr. Samarasinghe for the accused.

**Rev. M. Sumanatissa.**— Affirmed, 61, Incumbent, Welihinda Temple, Weligama.

The field called Hirikotuweduwuwa belongs to the temple of which I am the Incumbent. The accused was in charge of this field and he had to give me the paraveni share of the field. On or about the 15th of March this year, the accused took the entire crop of the field and did not give me the paraveni share. My paraveni share amounts to 35 bushels of paddy. It is valued at Rs. 450/-. I have suffered a loss of Rs. 450/-.  
20

(Sgd.) P. S. W. ABEYAWARDENE,  
*Magistrate.*  
14-7-54.

On this evidence I assume jurisdiction under Section 152 (3) of the Criminal Procedure Code.

The accused is charged from Summary Form 1B. He states : " I am not guilty. "

Trial on 5-8-54. Cite prosecution witnesses.

Accused warned.

(Intld.) P. S. W. A. 30  
*Magistrate.*  
14-7-54.

5-8-54.

P 9  
M.C. Matara  
Case No. 35526.  
—Continued.*Complainant* : Rev. M. Sumanatissa.*Accused* : Rev. W. Pannananda.

The accused claims the field in dispute and undertakes to give Rs. 100/- as security and remain in possession of the field as against the complainant.

The complainant consents to bring a civil action within two months from date of security.

Call for security on 19-8.

(Intld.) P. S. W. A.  
*Magistrate.*

10

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**CHARGE SHEET**

(SUMMARY TRIAL BY MAGISTRATE WHO IS ALSO DISTRICT JUDGE)

## Section 152 (3)

Accused Rev. W. Pannananda.

Being also a District Judge having jurisdiction to try the offence, I am of opinion that this offence (though not otherwise summarily triable by a Magistrate's Court) may properly be tried summarily for the following reasons :—

Facts are simple and no complicated issues of law arise.

20 The accused is so informed and charges as follows :—

You are hereby charged, that you did, within the jurisdiction of this Court at Warakapitiya on 15th March, 1954,

You who were entrusted as barakaaraya by the complainant Rev. M. Sumanatissa Thero of Welihinda with the working of the field called Hirikotuveduwa at Warakapitiya, did dishonestly misappropriate and/or convert to your own use the produce of Maha crop of the said field amounting to 35 bushels, worth Rs. 420/- which produce you were bound to deliver to the complainant as complainant's barakaaraya, and thereby you did commit an offence punishable under Section 389 of the Penal Code.

30 The charge having been read and the accused having been asked if he has any cause to show why he should not be convicted, he states as follows :—

“ I am not guilty ”.

(Intld.) P. S. W. A.  
*Magistrate.*

True copy of M.C. Matara.

Case No. 35526.

(Sgd.).....  
*Chief Clerk,*  
M. C. Matara.



## Advertisement of 'Pinkamas' at Lalpe Temple

Come! Join, Aim at Nibbhana.

A list of bana preachings by able Buddhist priests uninterruptedly from 31st September, 1955, Wesak day up to the Wesak day in 1956 on every Full moon and New moon days through the Sambuddha Jayanthi Samithi of Sri Sudarmarama Vihare at Kandewatte, Lalpe. There will be Buddha Puja, offerings of flowers, light etc. A huge number of persons will take Atasil. Therefore come in due time and partake of the aforesaid meritorious acts and attain Nibbhana.

The Time Table :—At 6 a.m. taking of Atasil. At 10 a.m. Buddha Puja. At 2 p.m. a perahera of Sil people coming to the pansala. At 6 in the evening light puja. At 8 p.m. flower offering and gilampasa Buddha puja and from 9 to 12 Bana preaching.

To this  
D. J. RUBASINGHE,  
(Retired Village Headman). 10

Date	Text	Names of Preachers (Buddhist Priests)	Names of Dayake People
1955 October 1	Maha Mangala Suttaraya	P. Pannayatissa Swamin, Viharadhipathi of Sri Sudharmarama Vihare.	{ J. Gunawardhane Vidana Mahatmaya and D. R. Ratnayake Dingi Mahatmaya. E. Gunawardhane Vidana Mahatmaya, Hambamulle Kebiliyapola Loku Mahatmaya.
„ „ 15	Maha Samaya Suttaraya	M. Sumanatissa Swamin, Viharadhipathi of Welihinda Sudassana Maha Vihara.	{ D. D. Rubasinghe Mahatun and J. G. Jamis Perera Colomba Appuhamy. 20
„ „ 30	Dhammachakka Suttaraya	J. Seelaratana Swamin, Viharadhipathi of Watarakgoda Sudharsanarama Vihara.	{ D. D. Rubasinghe Vidana Mahatmaya, A. Rubasinghe Madduma Mahatmaya.
„ November 13	Anusas Desanaya	A clever Buddhist priest.	{ Pathirana Savun Mahatmaya, D. D. Rubasinghe Punchi Mahatmaya.
„ „ 29	Wasala Suttaraya	Jinasarana Swamin of Athinimalare Viharawasi.	{ All Dayaka people.
„ December 13	Parabhawa Suttaraya	D. Sumangala Swamin, Viharadhipathi of Thannapalle Sri Visuddharama.	{ D. H. W. Mohattala Ralahamy, Edwin Samarakoon School Master, M. G. Don Davith Heen Mahatmaya.
„ „ 28	Sachcha Vibhagga Suttaraya	Panditha A. Devananda Swamin, Viharadhipathi of Kirinda Purvarama.	{ D. D. Rubasinghe Vidana Mahatmaya, 30 K. G. Don Dines Kankanan Mahatmaya.
1956 January 12	Alawaka Suttaraya	D. Saddhananda Swamin, Welihinda Sudassanaramaya.	{ D. S. Rubasinghe, Vidana Mahatmaya, D. H. A. Samarakoon Dingi Appuhamy, D. J. A. Samarakoon Jamis Mahatmaya.
„ „ 26	Sammaditti	Panditha K. Wimalasiri Swamin, Viharadhipathi of Karayal Kanaththe Purana Vihara.	{ L. Jingiris Loku Mahatmaya, L. Andrayas Kalu Mahatmaya. D. J. Rajapaksa Punchi Mahatmaya, D. C. Rajapaksa Navale Heen Mahatmaya.
„ February 11	Sammasankappa	W. Somarathana Swamin, Viharadhipathi of Hakmana Aganthukarama.	{ D. S. Hinnimahatun Mahatmaya, D. P. Rajapaksa Mahatun Mahatmaya, K. K. 40 Albert Dahanayaka Mahatmaya, R. Rubasinghe Podimahatmaya.
„ „ 25	Sammawacha	B. Dhammadhara Swamin, Viharadhipathi of Sri Wijaya Bhimbarama, Gammedapitiye.	{ V. K. P. Adiris Upasaka Thena, V. K. P. Samel.
„ March 11	Sammakammantha	W. Pannananda Swamin, Viharadhipathi of Warakapitiye Kettaramaya.	{ N. Rubasinghe Waduma Mahatmaya, D. J. Wijesinghe School Master, S. Rubasinghe Kankanan Mahatmaya.
„ „ 25	Sammaagiwa	W. Sumangala Swamin, Viharadhipathi of Purana Vihara.	{ D. C. J. Kulasinghe, Head-master, Lalpe School, D. J. Senanayake, Post 50 Master, D. A. Rajapaksa Vedamahatmaya, Ehalawatte Mahatun Mahatmaya, Karatota D. S. Siriwardhena Weliwattha.
„ April 10	Samawiyayama	Panditha U. Dhammaloka Swamin, Kahawatte Purana Viharavasi.	{ Amarasekaragewatte Maha Vidane Mahatmaya, D. B. Liyana Pathiran Veda Mahatmaya, D. K. Rubasinghe Heen Mahatmaya.
„ Full Moon	Sammasathiya	A clever speaker, Buddhist priest.	{ S. Rubasinghe Dingi Mahatmaya, Kalu Mahatmaya Gorakagahakella, Liyana Mahatmaya Kekirihena, Deni Mahat- 60 maya, Henegedara.
„ May New Moon	Samma Samadhi	K. Pannasekara Swamin of Lalpe Sri Sudarmaramaya.	{ Lalpe Etambhagahahene Upasika Mahatmiya, Lalpe Mudiyansege Hene Upasika Mahatmiya, Karatota Handige Watte Upasika Mahatmiya, Karatota Gegawa Upasika Mahatmiya.
„ Wesak Full Moon	Dasabala Gnanaya	A clever Buddhist priest.	{ By all Dayaka people.

## Final Decree in D.C. Matara

Case No. P/411

## FINAL DECREE

## IN THE DISTRICT COURT OF MATARA

Hewa Komanage Andiris Appu of Warakapitiya.

*Plaintiff.*

*Vs.*

10 No. P/411.

1. Kattadige Babihamy.
2. do Hinnihamy, both of Warakapitiya.
3. do Balahamy *alias* Meginona of Dene-pitiya.
4. Komanage Maddumahamy of Warakapitiya.
5. Kattadige Jamis of Nawaloka Hotel, Peliyagoda.
6. Hewa Komanage Hinni Appu of Warakapitiya.
7. Weerasin Pathiranage Somawathie of Pategama.
8. Gajanayake Mudalige Don Kottan of Sultanagoda (V.H.)
9. Hewa Rahinduwage Karnelis of Warakapitiya.
10. Manage Podihamy.
11. do Upawatee.
12. Marasinghe Wilson.
13. do Yanawatee, all of Palatuwa.
14. Kattadige Punciappu *alias* R. C. William Singho of Batuwama in Warakapola, Ambepussa.
15. Immaduwege Maddumahamy.
16. Pandigamage Sirisena, both of Warakapitiya.
17. Anattasiya Alles of Godagama.
18. Amaranayake Gimarahamy of Warakapitiya.
19. Kotawila Vitanage Sadiris Appuhamy.
20. Hewa Vanniatchige Pirolis.
21. do Samel Appuhamy all of Sultanagoda.
22. Amaranayake Ranasinghe Kandambige Roslin of Warakapitiya.

20

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40

*Defendants.*

D 13  
Final Decree in  
D. C. Matara  
Case No. P/411 —  
30-1-56.  
—(Continued).

This action coming on for Final Disposal before N. Devendra, Esquire, Additional District Judge of Matara on the 30th day of January, 1956 in the presence of Mr. D. E. Dantanarayana, Proctor on the part of the plaintiff :

It is hereby ordered and decreed that the plan of Partition No. 2195 dated 2-10-1955 of an allotment of land called HIRIKOTUWEMULLE-WATTA *alias* HIRIKOTUWEDUWEWATTA situated at Warakapitiya (fully described in the Schedule (Z) hereto) made by Mr. W. E. Dantanarayana, Licensed Surveyor of Matara and Commissioner in this case under the commission issued to him and filed of record : together with the connected schedule of appraisalment be and the same are hereby confirmed. 10  
and the

16th	defendant is hereby declared entitled to Lot Marked	A		
6th	defendant	—do—	B	
7th	defendant	—do—	C	
14th	defendant	—do—	D	
3rd	defendant	—do—	E	
8th	defendant	—do—	F	
10th to 13th	defendants	—do—	G	
22nd	defendant	—do—	H	
4th	defendant	—do—	I	20
5th	defendant	—do—	J	
1st	defendant	—do—	K	
2nd	defendant	—do—	L	
Plaintiff		—do—	M	

In the said plan of Partition as absolute owners, which said Lots A to M are fully described in the Schedule A, B, C, D, E, F, G, H, I, J, K, L, M, hereto respectively. Lot N depicted therein being a reservation for a path.

It is hereby further ordered and decreed that

11th to 13th	defendants	do pay to	10th defendant	Rs.	36.48
—do—		do	16th defendant	„	33.90 <sup>30</sup>
7th	defendant	do	do	„	6.98
14th	defendant	do	do	„	19.05
22nd	defendant	do	do	„	11.05
4th	defendant	do	do	„	40.82
1st	defendant	do	do	„	9.46
8th	defendant	do	do	„	31.65
	do	do	6th defendant	„	2.98
	do	do	3rd defendant	„	5.86
	do	do	5th defendant	„	.78
	do	do	2nd defendant	„	2.54 <sup>40</sup>
	do	do	Plaintiff	„	.77
	do	do	9th defendant	„	7,167.00

as compensation.

It is hereby further ordered and decreed that the parties to this action do pay *pro rata* plaintiff's costs Rs. 200/- plus survey fees.

D 13  
Final Decree in  
D. C. Matara  
Case No.  
P/411—  
30-1-56.  
—Continued.

**The Schedule ' Z ' referred to :**

An allotment of land called Hirikotuwemullewatta *alias* Hirikotuwewatta situated at Warakapitiya in Weligam Korale of Matara District, Southern Province and bounded on the North by Kattadigewita, East by Ranawakegekumbura and Rajagekulama *alias* Rajjugahaaddarakumbura, South by Kattadige watta *alias* Hirikotuwepitakella and West by path and Rajapathiragewatta *alias* Hirikotuwepitakella containing in extent One  
10 acre Two roods and Ten perches (A1. R.2. P.10).

**The Schedule ' A ' referred to :**

The divided and separated Lot marked A of the land called Hirikotuwemullewatta *alias* Hirikotuweduwawatta situated at Warakapitiya aforesaid and bounded on the North by Kattadige Owita, East by Lot B of same land, South by Lot N (path) and West by Path and containing in extent Eight decimal two perches (A.O. R.O. P.O 8.2)

**The Schedule ' B ' referred to :**

The divided separated Lot marked B of the land called Hirikotuwemullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid  
20 and bounded on the North by Kattadige Owita, East by Lot C of same land, South by Lot N (path) and West by Lot A of same land and containing in extent Four decimal nine perches (A.O. R.O. P. 04.9).

**The Schedule ' C ' referred to :**

The divided and separated Lot marked C of the land called Hirikotuwemullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid and bounded on the North by Kattadige Owita, East by Lot D of same land, South by Lot N (path) and West by Lot B of same land and containing in extent Five decimal nine perches (A.O. R.O. P. 05.9).

**The Schedule ' D ' referred to :**

The divided and separated Lot marked D of the land called Hirikotuwemullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid  
30 and bounded on the North by Kattadige Owita, East by Lot E of same land, South by Lot N (path) and West by Lot C of same land and containing in extent Four decimal one perch (A.O R.O. P. 04.1).

**The Schedule ' E ' referred to :**

The divided and separated Lot marked E of the land called Hirikotuwemullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid and bounded on the North by Kattadige Owita, East by Lot F of same land, South by Lot N (path) and West by Lot D of same land and containing  
40 in extent Two decimal two perches (A.O. R.O. P.02.2).

D 13  
Final Decree in  
D. C. Matara  
Case No.  
P/411—  
80-1-56.  
—Continued.

**The Schedule ' F ' referred to :**

The divided and separated Lot marked F of the land called Hirikotuwe-mullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid and bounded on the North by Kattadige Owita, East by Lot M of same land, South by Lot N (path) and West by Lot E of same land and containing in extent One rood Five decimal four perches (A.O. R.1. P.05.4).

**The Schedule ' G ' referred to :**

The divided and separated Lot marked G of the land called Hirikotuwe-mullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid and bounded on the North by Lot N (path) East by Lot H of same land, South by Kattadige watta *alias* Hirikotuwepitakella and West by (path) and containing in extent One rood One decimal Two perches. (A.O. R.1. P.01.2).

**The Schedule ' H ' referred to :**

The divided and separated Lot marked H of the land called Hirikotuwe-mullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid and bounded on the North by Lot N (path) East by Lots I and J of same land South by Kattadigewatta *alias* Hirikotuwepitakella and West by Lot G of same land and containing in extent Four decimal One perches (A.O. R.0. P04-1).

20

**The Schedule ' I ' referred to :**

The divided and separated Lot marked I of the land called Hirikotuwe-mullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid and bounded on the North by Lot N (path), East by Lot K of same land, South by Kattadige watta *alias* Hirikotuwepitakella and West by Lots H and J. of same land and containing in extent Three decimal Four perches (A.O. R.0. P.03.4).

**The Schedule ' J ' referred to :**

The divided and separated Lot marked J of the land called Hirikotuwe-mullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid and bounded on the North by Lot N (path), East and South by Lot I of same land and West by Lot H of same land containing in extent decimal Two perches. (A.O. R.0. P.0.2).

**The Schedule ' K ' referred to :**

The divided and separated Lot marked K of the land called Hirikotuwe-mullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid and bounded on the North by Lot N (path), East by Lot L of same land, South by Kattadigewatte *alias* Hirikotuwepitakella and West by Lot I of same land and containing in extent One perch. (A.O. R.0. P.01.0).

**The Schedule ' L ' referred to :**

D 13  
Final Decree in  
D. C. Matara  
Case No.  
P/411—  
30-1-56.  
—Continued.

The divided and separated Lot marked L of the land called Hirikotuwe-  
mullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid  
and bounded on the North by Lot N (path), East by Lot M of same land,  
South by Kattadigewatta *alias* Hirikotupitakella and West by Lot K of  
same land and containing in extent One perch (A.O. R.O. P.01.0).

**The Schedule ' M ' referred to :**

The divided and separated Lot marked M of the land called Hirikotuwe-  
mullewatta *alias* Hirikotuweduwewatta situated at Warakapitiya aforesaid  
10 and bounded on the North by Kattadige Owita, East by Ranawakage-  
kumbura and Rajagekulama *alias* Kajjugahaaddarakumbura, South by  
Kattadigewatta *alias* Hirikotuwepitakella and West by Lots L and F of  
same land and Lot N (path) and containing in extent Three roods and  
Five decimal Eight perches. (A.O. R.3. P.05.8).

(Sgd.) N. DEVANDARA,  
*Additional District Judge.*

The 30th day of January, 1956.

Drawn by :

(Sgd.) G. E. DANTANARAYANA.  
20 *Proctor for Plaintiff.*

I hereby certify that the foregoing is a true copy of the Final Decree in  
D.C. Matara Case No. P/411.

(Sgd.).....  
*Secretary.*  
30-8-57.

D 8

**Envelope addressed to Pannananda**

D 8  
Envelope  
Addressed to  
Pannananda.

(Address on envelope)

Pannananda,

30 Kettaramaya,

Warakapitiya.

Translated by :

(Sgd.).....  
*Sworn Translator,*  
D. C. Matara.  
19-7-60.

Supreme Court of Ceylon,  
No. 639 (Final) of 1960.

District Court of Matara,  
Case No. 289/L.

*In Her Majesty's Privy Council*  
*on an Appeal from*  
*The Supreme Court of Ceylon*

**BETWEEN**

**MEERUPPE SUMANATISSA TERUNNANSE**, Viharadhi-  
pathi of Sudassanarama Temple, Welihinda.

*Plaintiff-Appellant*  
*Appellant*

**AND**

**WARAKAPITIYE PANGNANANDA TERUNNANSE** of  
Warakapitiya.

*Defendant-Respondent*  
*Respondent*

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**RECORD**  
**OF PROCEEDINGS**

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