

~~G.H.C.2~~

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1961

1963

Supreme Court of Ceylon,
No. 26 (Final) of 1952.

District Court, Colombo
No. 2882/L.

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

BETWEEN

VENERABLE VAGISVARACHARYA MORONTUDUWE
SRI NANESWARA DHAMMANANDA NAYAKA
THERA of Vidyodaya Pirivena, Maligakanda, Colombo.

1st Defendant-Appellant
Appellant

AGAINST

VENERABLE BADDEGAMA PIYARATANA NAYAKA
THERA of Vidyodaya Pirivena, Maligakanda, Colombo.

Plaintiff-Respondent
Respondent

C. W. WIJEKOON KANNANGARA of No. 17, Murugan
Place, off Havelock Road, Colombo and others

3rd, 5th, 7th, 8th, 9th, 10th, 12th,
13th, 17th, 18th, 20th, 21st and 22nd

Defendants-Respondents
Respondents

RECORD
OF
PROCEEDINGS

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
19 JUN 1964
25 RUSSELL SQUARE
LONDON, W.C.1.

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R1	Handbill. Document in Sinhalese and therefore not printed.	10. 4.56	—
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Y2	List of Members	—	1141
Y3	Minutes of the Meeting of Vidyadhara Sabha ..	14. 5.52	1092
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Y9	Notice to the Dayakayas of Vidyodaya Pirivena ..	—	1146

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2D1	Letter from the 1st Defendant-Appellant ..	4.11.29	935
2D2	Letter from the 1st Defendant-Appellant to the Secretary, Vidyadhara Sabha	9.12.29	936
2D3	Do. do. do. ..	20.12.29	937
2D4	Letter from the 1st Defendant-Appellant ..	11. 5.33	956
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2D6	Do. do. do. ..	8. 7.33	969
2D7	Letter from the 1st Defendant-Appellant to the Secretary, Vidyadhara Sabha	8. 6.36	1005
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2D11	Letter from the Vidyadhara Sabha to the Principal, Vidyodaya Pirivena	16.12.40	1036
2D12	Minute Book (not translated and therefore not printed.)	26. 1.28 to 8. 9.49	—
2D12A	Report of the Vidyadhara Sabha	29. 7.28	915
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2D12D	Report of the Sabha	6. 1.29	926
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2D12G	Do.	9. 8.29	934
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2D12J	Do.	14. 6.33	960

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2D12-O	Do.	21. 6.38	1016
2D12P	Do.	14. 3.39	1022
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2D12R	Do.	30.10.40	1035
2D12S	Do.	30. 5.41	1042
2D12T	Do.	20. 1.42	1054
2D12U	Do.	23.10.42	1061
2D12V	Do.	5. 8.48	1080
2D12W	Minutes of the Special General Meeting of the Sabha	31. 1.49	1081
2D12X	Minutes of the Sabha Meeting	25. 7.33	991
2D12Y	Do.	17. 3.46	1074
2D13	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 1.28 to 30. 6.28	—
2D13A	Translation of 2D13	do.	912
2D14	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 7.28 to 31.12.28	—
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2D16A	Translation of 2D16	do.	933
2D17	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 1.30 to 30. 6.30	—
2D17A	Translation of 2D17	do.	940
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2D19A	Translation of 2D19	do.	945
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2D20A	Translation of 2D20	do.	948
2D21]	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 7.32 to 31.12.32	—
2D21A	Translation of 2D21	do.	955
2D22	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 7.33 to 31.12.33	—
2D22A	Translation of 2D22	do.	966
2D23	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 1.35 to 30. 6.35	—
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2D24	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 7.35 to 31.12.35	—

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2D25	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 1.36 to 30. 6.36	—
2D25A	Translation of 2D25	do.	993
2D26	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 7.36 to 31.12.36	—
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2D27	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 1.37 to 30. 6.37	—
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2D28	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 7.37 to 31.12.37	—
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2D29G	Do.	16.10.23	873
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2D29P	Do.	11. 6.24	884
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2D29R	Do.	5. 8.24	886
2D29S	Do.	16. 9.24	888
2D29T	Do.	13.11.24	889
2D29U	Do.	26.11.24	891
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2D29Z	Do.	10. 8.25	901
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2D29(iii)	Translation of 2D29(ii)	do.	903
2D29(iv)	Minutes of the Sabha Meeting	28. 1.26	904
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2D31	Statement of Income and Expenditure. In Sinhalese and not printed.	1. 1.25 to 30. 6.25	—
2D31A	Translation of 2D31	1. 1.25 to 30. 6.25	892
2D32	Copy of " Sinhala Bauddhaya " containing a Notice of the Meeting of the Sabha. In Sinhalese and not printed.	5. 9.31	—
2D32A	Notice of the Sabha in the " Sinhala Bauddhaya "	5. 9.31	946
2D33	Copy of the " Sinhala Bauddhaya " containing a Notice of the Meeting of the Sabha. In Sinhalese and not printed.	5. 5.34	—
2D33A	Notice of the Sabha in the " Sinhala Bauddhaya "	5. 5.34	986
2D34	Letter from the Director of Education to the 1st Defendant-Appellant	20. 5.46	1078
2D35	Letter from the Secretary, Oriental Studies Society to the Plaintiff-Respondent	7. 2.49	1083
2D36	Accounts of the Sabha. In Sinhalese and not printed.	1. 1.38 to 30. 6.38	—
2D36A	Translation of 2D36	do.	1014
2D37	Accounts of the Sabha. In Sinhalese and not printed.	1. 7.38 to 31.12.38	—
2D37A	Translation of 2D37	do.	1018
2D38	Accounts of the Sabha. In Sinhalese and not printed.	1. 1.39 to 30. 6.39	—
2D38A	Translation of 2D38	do.	1020
2D39	Accounts of the Sabha. In Sinhalese and not printed.	1. 7.39 to 31.12.39	—
2D39A	Translation of 2D39	do.	1023
2D40	Accounts of the Sabha. In Sinhalese and not printed.	1. 1.40 to 30. 6.40	—

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2D41	Accounts of the Sabha. In Sinhalese and not printed.	1. 7.40 to 31. 12.40	—
2D41A	Translation of 2D41	do.	1030
2D42	Accounts of the Sabha. In Sinhalese and not printed.	1. 1.41 to 30. 6.41	—
2D42A	Translation of 2D42	do.	1038
2D43	Accounts of the Sabha. In Sinhalese and not printed.	1. 7.41 to 31.12.41	—
2D43A	Translation of 2D43	do.	1048
2D44	Accounts of the Sabha. In Sinhalese and not printed.	1. 1.42 to 30. 6.42	—
2D44A	Translation of 2D44	do.	1040
2D45	Accounts of the Sabha. In Sinhalese and not printed.	1. 7.42 to 31.12.42	—
2D45A	Translation of 2D45	do.	1060
2D46	Accounts of the Sabha. In Sinhalese and not printed.	1. 1.43 to 30. 6.43	—
2D46A	Translation of 2D46	do.	1064
W1	Notice of Meeting appearing in the "Ceylon Observer"	1. 8.58	1131
W2	Notice of Meeting appearing in "Dinamina" ..	—	1139
W3	Death Certificate of Raja Hewavitarne the 9th Defendant	17. 7.58	1140
W4	Notice signed by Gamini Jayasuriya and Arthana-yake	1. 8.58	1132
W5	Minute Book. In Sinhalese and not printed. ..	—	—
W5A	Minutes of the Joint Meeting of Vidyadhara Sabha and Vidyodaya Dayaka Sabha	14. 8.58	1132

PART I.

No. 1

Journal Entries

No. 1
Journal Entries
26.7.43 to
28.10.58

IN THE DISTRICT COURT OF COLOMBO

No. 2882. Venerable Baddegama Piyaratana Nayake
Class : V. Thera *Plaintiff*
Amount : Rs. 48,500/-. *vs.*
Nature : Land. Venerable V. M. Sri N. Dharmananda Nayake
Procedure : Regular. Thera and others *Defendants.*

10

JOURNAL

The 26th day of July, 1943.

Mr. D. R. de S. Abhayanayake files appointment and plaint together with pedigree, abstract of title and plan No. 786.

Plaint accepted and summons ordered for 6.10.43.

(Intld.)
A.D.J.

23.9.43.

Summons issued on 1st to 14th defendants W.P. with Precept returnable the day of , 19

20 6.10.43. •

D. R. de S. Abhayanayake for plaintiff.

Summons on 1st to 14th defendants—no return since received.

Summons served on 1st, 2nd, 4th, 6th, 8th and 11th to 14th defendants all absent except 6.

Not served on 3rd, 5th, 7th, 9th and 10th defendants.

Re-issue unnecessary.

Proxy and Answer of 2nd to 14th defendants (Mr. D. E. Weerasooria) on 10.11.

Proxy of 1st defendant filed.

30 Answer 10.11.

(Intld.)

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

10.11.43.
Merrill Pereira and Gunasekera for 1st defendant.
(1) Answer of 1st defendant stand over 1.12.
(2) Proxy and answer of 2nd to 14th defendants.
Proxy of 2nd to 5th and 7th to 14th filed.
Answer 1.12.

(Intld.)

1.12.43.
D. E. Weerasooria for 2nd to 5th and 7th to 14th defendants.
(1) Answer of 1st defendant stand over 26.1. 10
(2) Answer of 2nd to 5th and 7th to 14th defendants stand over
26.1.

(Intld.)

26.1.44.
(1) Answer of 1st defendant stand over 16.2.
(2) Answer of 2nd to 5th and 7th to 14th defendants stand over
16.2 (*vide* motion for time).

(Intld.)

16.2.44.
(1) Answer of 1st defendant stand over 8.3. 20
(2) Answer of 2nd to 5th and 7th to 14th defendants stand
over 8.3.

(Intld.)

9.3.44.
(1) Answer of 1st defendant stand over 5.4.
(2) Answer of 2nd to 5th and 7th to 14th defendants filed.

(Intld.)

5.4.44.
D. R. de S. Abhayanayake for plaintiff.
Merrill Pereira and Gunasekera for 1st defendant. 30
D. E. Weerasooria for 2nd to 5th and 7th to 14th defendants.
Answer of 1st defendant filed.
Trial fixed for 6, 7, 8, 9 and 10, November.

(Intld.)

22.9.44.

Proctors for 1st defendant move under section 102 of Civil Procedure Code for notices on plaintiff and 2nd to 14th defendants (except the 6th defendant) to declare, by affidavit all the documents which are or have been in their possession or power relating to any matter in question in this action.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

They move further that the notice be served on Mr. D. R. de S. Abhayanayake, proctor for plaintiff, and Mr. D. E. Weerasooria, proctor for other defendants.

10 Notice allowed for 11.10.44.

(Intld.)
A.D.J.

30.9.44.

Notices . . . —Understamped.

30.9.44.

Deficiency supplied.
Notices issued Western Province.

11.10.44.

Vide Journal Entry dated 22.9.44.

20 Notices served on plaintiff and proctor for 2nd to 5th and 7th to 14th defendants.

Of consent call case 13.10.

(Intld.)

13.10.44.

Case called—*vide* Journal Entry dated 11.10.44.
Mr. Abhayanayake for plaintiff.
Mr. C. E. Jayawardena for 1st defendant.
Mr. Weerasooria for 2nd to 14th defendants.
Affidavit of defendants declaring documents to be filed on 16.10.

30 See motions submitted.

1st defendant to file affidavit declaring documents on 20.10.

(Intld.)

16.10.44.

Case called.
Plaintiff's affidavit and affidavit of 2nd to 14th defendants filed.
Call 20.10.

(Intld.)

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

20.10.44.

Case called.

(1) First defendant to file affidavit declaring documents.

(2) Proctors for 1st defendant file affidavit and move that plaintiff and/or the 2nd to 14th (except the 6th defendant) be noticed to produce all the minute books of the Vidyadhara Sabha for the inspection of the 1st defendant or his agent at the office of Mr. D. E. Weerasooria, Proctor, or some other convenient place.

(3) Proctors for 1st defendant move under section 104 of Civil Procedure Code for an order on the 9th defendant to produce for the 10 inspection of 1st defendant or his agent the documents mentioned in their motion and referred to in his affidavit dated 16.10.44.

(4) Proctors for 1st defendant move under section 104 of Civil Procedure Code for an order on plaintiff to produce for the inspection of 1st defendant or his agent the documents mentioned in their motion and referred to in his affidavit dated 16.10.44.

Proctor for plaintiff has received notice for today and objects.

Vide proceedings.

Call case 23.10.44 for affidavit disclosing documents.

Of consent call case 24.10.44 regarding motions filed today. 20

(Intld.)
A.D.J.

23.10.44.

Case called. *Vide* Journal Entry dated 20.10.44.

Affidavits disclosing documents filed.

Call 24.10.

(Intld.)

24.10.44.

Case called. *Vide* Journal Entry dated 20.10.44.

Advocate E. B. Wikramanayake for plaintiff. 30

Mr. C. E. Jayewardene for 1st defendant.

The plaintiff is prepared to allow the 1st defendant to have inspection of the Minute Books. Time and place to be arranged by the proctors.

(Sgd.)

26.10.44.

Proctors for 1st defendant move to summon their witnesses for the trial for 7th November or for any other day on which the trial is fixed.

Allowed.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

27.10.44.

The 2nd to 5th and 7th to 14th defendants' list of witnesses filed.

10 27.10.44.

Proctor for plaintiff files list of documents.

Proctors for 1st defendant object to any documents not given in the affidavit of documents.

File.

(Intld.)
A.D.J.

27.10.44.

Proctor for plaintiff files list of witnesses and moves for summons on them.

20 Summons allowed.

(Intld.)
A.D.J.

27.10.44.

Proctor for plaintiff moves under section 104 of Civil Procedure Code for an order on 1st defendant to produce for the inspection of the plaintiff or his agent the documents referred to in his affidavit dated 23.10.44. filed of record.

Proctors for 1st defendant object and have cause to show.

Notice for 1.11.44.

30

(Intld.)
A.D.J.

27.10.44.

Proctors for 1st defendant move that the annexed Interrogatories be answered by 3rd November, 1944.

Allowed for 3.11.44.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

31.10.44.

Notice of interrogatories.

Issued on proctor for plaintiff and on proctor for 2nd to 5th and 7th to 14th defendants.

31.10.44.

Proctors for 1st defendant file list of witnesses and move for summons on them.

Allowed.

(Intld.)
A.D.J. 10

1.11.44.

Case called.

(1) *Vide* Journal Entry dated 27.10.44. Proctor for plaintiff files notice of inquiry given to proctors for 1st defendant.

(2) Proctor for 2nd to 5th and 7th to 14th defendants moves under section 104 of Civil Procedure Code for an order on 1st defendant to produce for the inspection of the plaintiff or his agent the documents referred to in his affidavit dated 23.10.44 filed of record.

Proctors for 1st defendant have received notice for today.

Vide proceedings.

20

(3) As the parties against whom an order for inspection of all the minute books of the Vidyadhara Sabha has been made have produced for inspection only the minute books after 1923 proctors for 1st defendant move for such order under section 109 of Civil Procedure Code as this Court shall deem fit.

Vide proceedings.

Call 3.11.44 with reference to the interrogatories.

(Intld.)

1.10.44.

Summons issued on eighteen witnesses by 1st defendant. 30

1.10.44.

Summons issued on eleven witnesses by 2nd to 5th and 7th to 14th defendants.

2.11.44.

Summons issued on four witnesses by plaintiff.

3.11.44.

Vide Journal Entry dated 27.10.44.

Notices of Interrogatories on proctor for plaintiff and proctor for 2nd to 5th and 7th to 14th defendants. No return.

Since received. Notices served.

Vide proceedings and order.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

6.11.44.

10 *Vide* proceedings.

Further hearing tomorrow.

(Intld.)
A.D.J.

7.11.44.

Vide proceedings.

Further hearing 9.11.44.

(Intld.)
A.D.J.

9.11.44.

20 *Vide* proceedings.

Order on 13.11.44.

Documents P1, P2, P2A, and P3 filed with list.

(Intld.)
A.D.J.

13.11.44.

Order not ready.

Stand over. 20.11.44.

(Intld.)
A.D.J.

30 20.11.44.

Vide Judgment delivered and filed.

The plaintiff's action is dismissed with costs payable to the 1st defendant.

The 2nd to 14th defendants are dismissed from the case without costs.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

DECREE

It is ordered and decreed that the plaintiff's action be and the same is hereby dismissed with costs payable to the 1st defendant. The 2nd to 14th defendants are dismissed from the case without costs.

(Sgd.)
A.D.J.

The 20th day of November, 1944.

30.11.44.

Mr. D. R. de S. Abhayanayake for plaintiff files petition of appeal against the Judgment of this Court dated 20.11.44 and tenders stamp 10 to the value of Rs. 72/- to wit : — Rs. 48/- for Supreme Court Judgment and Rs. 24/- for certificate in appeal.

Usual steps.

(Intld.)
A.D.J.

Stamps Rs. 48/- affixed on Supreme Court Judgment form and Rs. 24/- affixed on certificate in appeal form and cancelled.

(Intld.)
30.11.

30.11.44.

20

Proctor for plaintiff-appellant states that the plaintiff will on 6.12.44 tender security in the sum of Rs. 250/- for costs of appeal of the 1st defendant and will on the said date deposit a sum of Rs. 14.40 to cover expenses of serving notice of appeal on the defendants-respondents.

Proctors for 1st defendant and the 6th defendant have received notice. Proctor for 2nd to 5th and 7th to 14th defendants has received notice and consents to waive security.

Call on 6.12.44.

(Intld.) 30
A.D.J.

6.12.44.

Case called. *Vide* Journal Entry dated 30.11.44 regarding appeal security.

Advocate Wijetilleke for the plaintiff.

Mr. C. E. Jayewardene for the 1st defendant moves that the Court abate the appeal on the ground that notice of security has not been given to the 6th defendant and that security for his cost has not been deposited.

The 6th defendant appears in person. He says that the plaintiff's proctor has given him notice that he would deposit security for the 1st defendant's costs in appeal. As a member of the Sabha and in the interests of the Sabha he maintains that he is himself entitled to security for his costs.

Mr. Wijetilleke submits that the 6th defendant has waived security for costs.

Inquiry 8.12.

(Intld.)

10 6.12.44.

The plaintiff-appellant tenders application for appeal brief.
Deposit Rs. 25/-.

(Intld.)
A.D.J.

8.12.44.

Vide proceedings and order.
Inquiry 18.1.45.

(Intld.)
A.D.J.

20 8.12.44.

Proctor for plaintiff-appellant tenders Bond to prosecute appeal. Kachcheri Receipt for Rs. 250/- being security for costs of appeal, Kachcheri Receipt for Rs. 25/- being fees for appeal brief and notices of appeal.

Accept security and issue notices without prejudice to the 1st defendant's application to have the appeal abated.

(Sgd.)

11.12.44.

30 Notices of appeal with copies of petition of appeal issued on (1) proctors for 1st defendant, (2) 6th defendant and (3) proctor for 2nd to 5th and 7th to 14th defendants to Western Province returnable 17.1.45.

(Intld.)

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

16.12.44.

Proctors for 1st defendant-respondent tender application for appeal brief.

Deposit Rs. 75/- for the 3 copies applied for.

(Intld.)
A.D.J.

12.1.45.

Kachcheri Receipt S/5 No. 77068 of 9.1.45 for Rs. 75/- being fees for appeal briefs filed.

(Intld.) 10

17.1.45.

Notices of appeal served on proctors for 1st defendant, the 6th defendant and proctor for 2nd to 5th and 7th to 14th defendants.

(Intld.)
A.D.J.

Inquiry

18.1.45.

The 1st defendant's list of witnesses filed.

Vide proceedings.

Order on Monday – 22.1.45.

(Intld.) 20
A.D.J.

22.1.45.

Order on 29.1.45.

(Intld.)
A.D.J.

29.1.45.

Vide order delivered and filed.

The appeal is in order.

The plaintiff is entitled to the costs of this inquiry from the 30th defendant who has by his conduct necessitated this inquiry.

(Intld.)
A.D.J.

7.2.45.

Mr. D. E. Weerasooria for 2nd to 5th and 7th to 14th defendants tenders application for appeal brief.

Deposit Rs. 25/-.

(Intld.)
A.D.J.

14.2.45.

Proctor for 2nd to 5th and 7th to 14th defendants files Kacheheri Receipt S/5 No. 82698 of 10.2.45 for Rs. 25/- being fees for appeal brief.

(Intld.)

20.7.45.

Two briefs sent to D. E. Weerasooria under Registered cover.

Two briefs sent to D. R. de S. Abhayanayake under Registered cover.

(Intld.)

2.8.45.

Three briefs sent to Messrs. Pereira and Gunasekera under Registered cover on 2.8.45.

20

(Intld.)
2.8.

12.11.46.

Record received from Supreme Court. Order dated 20.11.46 is set aside and the case is sent back for determination of the other issues in the case. The 1st defendant-respondent to pay plaintiff-appellant his taxed costs of the inquiry in this Court and of the appeal.

(Intld.)
A.D.J.

30 10.2.47.

Proctors for 1st defendant move that the trial date be fixed in this case.

Call on bench on 19.2.

(Intld.)

19.2.47.

Case called. *Vide* Journal Entry dated 10.2.47.

(1) To fix trial—Mr. Abhayanayake moves to amend plaint. For consideration on 2.4.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

(2) *Vide* motion filed by proctors for 1st defendant to revoke the proxy given to them by 1st defendant.

Issue notice on 1st defendant for 2/4 regarding application to revoke proxy.

(Intld.)

24.2.47.

Notice issued on 1st defendant.

(Intld.)

1.3.47.

The 1st defendant consents to the application made by his 10 proctors, Messrs. Merrill Pereira and Gunasekera, for the revocation of the proxy granted to them by him.

File.

(Intld.)

A.D.J

2.4.47.

(1) Case called for consideration of Mr. Abhayanayake's application to amend plaint *vide* Journal Entry dated 19.2.47.

Motion to amend plaint together with draft of amended plaint filed. 20

Notice unrepresented parties for 28.5. Steps regarding 14th defendant dead also for 28.5.

(2) *Vide* motion filed by proctor for 1st defendant to revoke the proxy given to them by 1st defendant allowed.

1st defendant consents. *Vide* Journal Entry dated 24.2.47.

Fresh proxy filed—accepted.

(Intld.)

A.D.J.

29.4.47.

Notice issued on 6th defendant.

30

2.5.47.

The 14th defendant in this case having died on 27.2.46. Mr. D. E. Weerasooria, proctor, files his appointment as proctor for Dr. B. E. Fernando of Colombo together with the order of the Supreme

Court dated 13.5.46 and moves that Dr. B. E. Fernando be substituted in place of the 14th defendant deceased.

Substitute.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

(Intld.)
A.D.J.

28.5.47.

Mr. D. R. de S. Abhayanayake for plaintiff.

(1) Notice served on proctor for 6th defendant. No objection.

(2) Substitution for the 14th defendant dead is already made
10 *vide* Journal Entry dated 2.5.47.

.....
.....

(Intld.)

24.9.47.

Inquiry. For proceedings, *vide* separate sheet.

(Intld.)

22.10.47.

Case called, *vide* Journal Entry dated 24.9.47.

Amended answers.

20 Not ready for 19.11.

(Intld.)

19.11.47.

Amended answers.

14th defendant dead before amended plaint.
for 21.1.48.

(Intld.)

12.1.48.

Plaintiff's Bill of Costs payable by 1st defendant is taxed as follows :—

30	(a) Incurred Costs	Rs. 446·01
	(b) Prospective Costs	,, 200·92
		Rs. 646·93

(Intld.)
Assistant Secretary.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

21.1.48.

Steps regarding 14th defendant dead.

Papers filed.

Proxy of substituted party filed.

.....

.....

Amended answer of 1st defendant filed.

Consideration and replication if necessary on 18.2.48.

(Intld.)

A.D.J. 10

18.2.48.

(1) Consideration.

(2) Replication on 17.3.48.

Mr. D. R. de S. Abhayanayake for plaintiff.

17.3.48.

Replication.

Filed.

Trial 19.1.49.

(Intld.)

A.D.J. 20

13.12.48.

This case is fixed for trial on 9.1.49. It will not be useful in taking up this case on that date as it will take at least 4 days to complete the trial. Proctor for 1st defendant therefore moves that this case be called on 14.12.48 to fix consecutive trial dates.

Proctors for plaintiff and 2nd to 5th and 7th to 13th defendants take notice.

Call on 14.12.48.

(Intld.)

A.D.J. 30

14.12.48.

Case called.

Mr. S. Gunasekera for 1st defendant.

Mr. D. E. Weerasooria for 2nd to 5th and 7th to 13th defendants.

Mr. Abhayanayake for plaintiff.

Trial fixed for 4.10.49 and succeeding days till the trial is concluded.

(Intld.)

28.7.49.

The appeal preferred by the plaintiff having been allowed, proctor for plaintiff moves for an order of payment in his favour for Rs. 250/- being amount deposited by the plaintiff as security for costs of appeal.

Plaintiff and proctor for 1st defendant consent.

Issue requisition for Rs. 250/-.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

10 3.8.49.

Requisition No. 261 for Rs. 250/- issued to Mr. D. R. de S. Abhayanayake, Proctor.

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

27.8.49.

Proctor for plaintiff-petitioner files petition and affidavit and moves that the respondent —

(1) be substituted in place of Dr. E. Amerasinghe the 16th defendant deceased.

20 (2) He also files a minute of consent of Mr. D. E. Weerasooria, proctor for the respondent, together with his proxy.

(1) Allowed — Substitute.

(2) Accept and file.

(Intld.)

26.9.49.

Summons issued on six witnesses by plaintiff.

26.9.49.

Summons issued on one witness by plaintiff.

28.9.49.

30 With notice to proctors for 1st defendant and 2nd to 5th and 7th to 17th defendants.

Proctor for plaintiff files additional list of witnesses.

File.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

30.9.49.

Mr. D. R. de S. Abhayanayake for plaintiff.

Proctor for plaintiff-petitioner files petition and affidavit and moves that the respondent stated therein be substituted in place of J. Moonesinghe the 4th defendant deceased.

He also files a minute of consent from Mr. D. E. Weerasooria, proctor for respondent, together with his proxy.

- (1) File.
- (2) Substitute.

(Intld.) 10
A.D.J.

4.10.49.

With notice to proctors for 1st, 2nd to 5th and 7th to 17th defendants, proctor for plaintiff files additional list of documents.

(Intld.)

4.10.49.

Trial.

Vide proceedings. Trial 15th to 18th May.

(Intld.)

3.5.50.

20

Proctor for plaintiff with notice to proctors for defendants files plaintiff's additional list of witnesses and documents.

File.

A.D.J.

3.5.50.

Summons issued on eight witnesses }
Summons issued on one witness } by plaintiff.

9.5.50.

With notice to proctors for 1st, 2nd to 5th and 7th to 18th defendants, proctor for plaintiff files additional list of witnesses.

30

File.

(Intld.)
A.D.J.

9.5.50.

With notice to proctors for 1st to 5th and 7th to 18th defendants
proctor for plaintiff files additional list of documents.

File.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

(Intld.)
A.D.J.

12.5.50.

Summons issued on two witnesses by plaintiff.

15.5.50.

10 Mr. D. R. de S. Abhayanayake for plaintiff.

Vide proceedings.

Further trial on 16.5.50.

(Intld.)
A.D.J.

16.5.50.

Summons issued on two witnesses by 1st defendant.

16.5.50.

Further trial.

Vide proceedings.

20 Further hearing on 17.5.50.

(Intld.)
A.D.J.

16.5.50.

Summons issued on one witness by plaintiff.

17.5.50.

Further trial on 18.5.50.

Vide proceedings.

(Intld.)
A.D.J.

30 18.5.50.

Further trial.

Vide proceedings.

Further trial on 12.6, 13.6, 15.6 and 16.6.

Witnesses to attend.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

2.6.50.

Proctor for plaintiff files application for writ against the 1st defendant for the recovery of taxed costs viz. Rs. 448·01 being incurred costs and Rs. 200·92 being prospective costs in the District Court and Rs. 390·50 being Supreme Court costs taxed and moves for a notice on the 1st defendant to show cause why writ of execution should not be issued against him for the recovery of the said costs.

Issue notice returnable 5.7.50.

(Intld.)
A.D.J. 10

12.6.50.

Mr. D. R. de S. Abhayanayake for plaintiff.

Proctor for 1st defendant files additional list of witnesses and moves for summons.

Proctors for plaintiff and 2nd, 3rd, 5th, 7th, 8th to 13th and 17th defendants receive notice for 12.6.50 and object.

12.6.50.

Further trial.

Vide proceedings.

Further trial on 13.6.50.

(Intld.)
A.D.J. 20

13.6.50.

Mr. D. R. de S. Abhayanayake for plaintiff.

Further trial.

Vide proceedings.

Further hearing on 15.6.50.

(Intld.)
A.D.J.

15.6.50.

Further trial on 16.5.50.

(Intld.)

16.6.50.

Further trial.

Vide proceedings.

Further hearing on 4.7.50. Other dates given on 15.6.50.

(Intld.)
A.D.J.

28.6.50.

Notice of writ issued on 1st defendant.

3.7.50.

Mr. D. R. de S. Abhayanayake, the proctor for plaintiff, having died Mr. W. H. Senanayake, proctor, files his appointment as proctor for the plaintiff in this case.

Proctor for 1st, 2nd, 3rd, 5th and 7th, 17th and 18th defendants receive notice.

Copy posted to 6th defendant.

10 File.

(Intld.)
A.D.J.

4.7.50.

Mr. W. H. Senanayake for plaintiff.

Further trial.

Vide proceedings.

Further hearing on 5.7.50.

(Intld.)
A.D.J.

20 5.7.50.

Further trial.

(1) *Vide* proceedings.

(2) *Vide* Journal Entry dated 2.6.50.

Objections 13.7.50.

Further trial on 7.7.50.

(Intld.)
A.D.J.

7.7.50.

Mr. W. H. Senanayake for plaintiff.

30 Mr. S. Gunasekera for defendant.

Trial.

Further hearing on 10.7.50.

(Intld.)
A.D.J.

10.7.50.

Further trial on 11.7.50.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

11.7.50.

Mr. W. H. Senanayake for plaintiff.

Mr. S. Gunasekera for defendant.

Trial, *vide* proceedings.

Further trial on 13.7.50.

(Intld.)
A.D.J.

13.7.50.

Trial.

Vide proceedings.

10

Also Mr. Gunasekera files objection to writ.

Vide Journal Entry dated 5.7.50.

Inquiry on 14.7.50.

Further trial 14.7.50.

(Intld.)
A.D.J.

14.7.50.

Inquiry.

Further trial.

Vide proceedings.

20

Re Inquiry.

Plaintiff is entitled to take out writ for Rs. 836·51 being Rs. 73·50 set off as prospective costs.

(Intld.)
A.D.J.

Further trial on 5th, 6th, 7th, 8th, 11th, 13th and 14th September.

(Intld.)
A.D.J.

10.8.50.

Writ on 1st defendant returnable 9.8.51.

30

(Intld.)

28.8.50.

With reference to the prohibitory notice under section 229 served on the Bank of Ceylon, the Manager of the Bank of Ceylon informs that they have no account in their books in the name of the Ven.

Vagisvarachariya Morontuduwe Naniswara Dhammananda Thero of Maligakanda, Maradana, *vide* letter of 25.8.50.

File.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

(Intld.)
A.D.J.

1.9.50.

The Deputy Fiscal, Colombo, returns writ and reports that a sum of Rs. 963·93 was recovered without sale and deposited in the Colombo Kachcheri on 30.8.50. Poundage receipt No. 2667 dated 30.8.50 for Rs. 11·58 is annexed marked 105D.

(Sgd.)

5.9.50.

Mr. W. H. Senanayake for plaintiff.

Mr. S. Gunasekera for defendant.

Trial.

Vide proceedings.

Further hearing on 6.9.50.

(Intld.)
A.D.J.

20 6.9.50.

Trial.

Vide proceedings.

Further hearing on 7.9.50.

(Intld.)
A.D.J.

7.9.50.

Trial.

Vide proceedings.

Further hearing on 8.9.50.

30

(Intld.)
A.D.J.

8.9.50.

Trial.

Vide proceedings.

Further hearing on 11.9.50.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

11.9.50.
Trial.
Vide proceedings.
Further hearing on 12.9.50.

(Intld.)
A.D.J.

12.9.50.
Trial.
Vide proceedings.
Further hearing on 13.9.50.

(Intld.) 10
A.D.J.

13.9.50.
Trial.
Vide proceedings.
Further hearing on 14.9.50.

(Intld.)
A.D.J.

14.9.50.
Trial.
Vide proceedings.
Further hearing on 15.9.50.

(Intld.) 20
A.D.J.

18.9.50.
Proctor for plaintiff tenders documents P2B to P40, together with list.

(Intld.)

18.9.50.
Proctor for 1st defendant tenders documents ID1 to ID67 with 30 list.

(Intld.)

18.9.50.
Proctor for 2nd defendant tenders documents 2D1 to 2D46A with list.

(Intld.)

17.10.50.

Judgment delivered for plaintiff with costs.

(Intld.)
A.D.J.No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

18.10.50.

Proctor for 1st defendant files petition of appeal against the judgment of this Court dated 17.10.50. He also tenders stamps to the value of Rs. 24/- for certificate in appeal and for Rs. 48/- for Supreme Court Judgment and moves that Court be pleased to accept the petition of appeal of 1st defendant-appellant and the stamps.

- (1) Accept petition of appeal.
- (2) Accept stamps and affix to forms and cancel.

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

Proctor for 1st defendant-appellant tenders application for type-written copies of appeal brief and moves for a paying in voucher for Rs. 25/-.

Issue paying in voucher for Rs. 25/-.

20

(Intld.)
A.D.J.

18.10.50.

The petition of appeal presented by the 1st defendant-appellant having been accepted by Court, proctor for 1st defendant-appellant tenders notice of security to be served on respondents as follows:—

- (1) On plaintiff-respondent by serving the notice of security on Mr. W. H. Senanayake, proctor for plaintiff-respondent.
- (2) On 2nd, 3rd, 5th, 7th to 13th, 16th and 17th defendants-respondents by serving same on Mr. D. E. Weerasooria, proctor for the said defendant-respondents.

(3) On 6th defendant-respondent by personal service.

(2) Proctor for appellant further moves that the said notices tendered herewith be issued for service as aforesaid forthwith.

- (1) Allowed.
- (2) Issue notice of security returnable 2.11.50.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

18.10.50.

Notice of security issued to Fiscal, W.P.

(Intld.)

25.10.50.

Proctor for 2nd, 3rd, 5th, 7th to 13th, 17th and 18th defendants files translation of extracts of documents marked 1D4, 1D6 and 1D8 produced in evidence by the 1st defendant.

(Intld.)

26.10.50.

With reference to the return of the Fiscal dated 31.8.1950 to the 10 writ of execution issued in this case against the 1st defendant, proctor for plaintiff moves for an order of payment in his favour for a sum of Rs. 827·13 being the amount due to the plaintiff to wit: Rs. 763·01 being balance due on account of costs of appeal and costs of the first trial and Rs. 64·12 being prospective costs now incurred as per memo in motion.

Allowed.

(Intld.)
A.D.J.

2.11.50.

20

Mr. W. H. Senanayake for plaintiff.

Mr. S. Gunasekera for defendant.

Notice of security served on proctor for plaintiff-respondent, on proctor for 2nd, 3rd, 5th, 7th to 13th, 16th and 17th defendants-respondents and on the 6th defendant-respondent.

Mr. Gunasekera for 1st defendant-appellant.

Mr. Advocate Subramaniam instructed for 6th defendant-respondent.

Mr. Advocate Kottegoda instructed for 2nd to 5th and 7th to 13th, 16th and 17th defendant-respondents.

30

Mr. Advocate Gunawardena instructed by Mr. Senanayake for plaintiff-respondent.

The respective respondents too want separate security for costs.

Mr. Gunasekera states that the dispute between the plaintiff and the 1st defendant is the same as between the 1st defendant and other defendants.

Mr. Kottegoda states that issues were framed in respect of his clients and they have been answered in . . . They will have to support them. They are necessary parties to the appeal. They have been given some . . . and they will have to support them.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

ORDER

I think the 1st defendant should give security separately . . . and the others 2nd to 5th, 7th to 13th and 16th and 17th (one set for these defendants).

As regards the 6th defendant there would not be any security for his costs of appeal. He did not take any part in the trial except giving evidence.

Issue D/N for Rs. 250/- each.

Perfect bond. Type record. Issue notices of appeal. Forward record.

(Intld.)
A.D.J.

2.11.50.

Two paying in vouchers for Rs. 250/- each and paying in voucher for Rs. 25/- issued.

20

(Intld.)
A.D.J.

3.11.50.

Proctor for plaintiff tenders decree for signature.

Decree signed.

(Intld.)

3.11.50.

Proctor for 1st defendant-appellant tenders two sets of security bonds in favour of plaintiff respondent and 2nd, 3rd, 5th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 16th and 17th defendants-respondents together with Kachcheri receipt No. 132/075290 for Rs. 250/- and Kachcheri receipt No. 131/075289 for Rs. 250/- being security for costs and Kachcheri receipt No. 133/075291 for Rs. 25/- for copies of type-written appeal briefs.

30

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

He also renders notice of appeal to be served on (a) the plaintiff-respondent's proctor and (b) on proctor for 2nd, 3rd, 5th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 16th and 17th defendant-respondents, and (c) on the 6th defendant-respondent.

- (1) File bond and Kachcheri receipt.
- (2) Issue notice of appeal returnable 13.12.50.

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

6.11.50.

Notice of appeal issued on (1) plaintiff-respondent's proctor, 10 (2) proctor for 2nd, 3rd, 5th, 7th to 13th, 16th and 17th defendants-respondents and on (3) 6th defendant-respondent.

(Intld.).....

15.11.50.

Order of payment No. A. 49719 for Rs. 827.13 issued in favour of Mr. W. H. Senanayake, proctor for plaintiff, vide Journal Entry, dated 26.10.50.

(Intld.).....
Administrative Secretary.

(Intld.).....
Secretary.

20

5.12.50.

Mr. W. H. Senanayake, proctor for plaintiff-petitioner, tenders application for execution of decree together with petition and affidavit and for reasons stated in the petition and affidavit move for an order directing the issue of a writ of ejectment against the 1st defendant-respondent and others under him to be ejected from the library marked No. 7 Kitchen and Dan Salawa marked No. 11 and Sri Sumangala Memorial Hall marked in Plan No. 786 filed of record in this case marked P8 and standing in the premises described in 30 schedule C to the said decree and that the plaintiff-petitioner be placed in quiet possession thereof. Proctor for 1st defendant-respondent receives notice for 13.12.50.

Call 13.12.50.

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

13.12.50.

Mr. W. H. Senanayake for plaintiff.

Mr. S. Gunasekera for defendant.

1. Notice of appeal served on proctor for plaintiff-respondent, proctor for 2nd, 3rd, 5th, 7th, to 13th, 16th and 17th defendants-respondents and 6th defendant-respondent.

Forward case.

2. *Vide* Journal Entry dated 5.12.50.

Objections by appellant filed.

10 Inquiry on 18.1.51.

(Intld.)

14.12.51.

Proctor for plaintiff-respondent tenders application for typewritten copies of appeal briefs and move for a paying in voucher for Rs. 25/-.

Issue.

(Intld.)
A.D.J.

21.12.50.

20 *Vide* Memo from appeal typist's branch for additional fees for typewritten copies of appeal brief.

Call for fees from :

(a) Proctor for appellant Rs. 400/-.

(b) Proctor for respondents Rs. 400/-.

(Intld.)
A.D.J.

8.1.51.

Proctor for appellant and respondent requested by letter to deposit fees for typewritten copies of appeal brief.

30

(Intld.)
Secretary.

13.1.51.

Proctor for plaintiff files plaintiff's list of witnesses and moves for summons on them.

No. 1

Journal Entries
26.7.43 to
28.10.58—
Continued

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

Copy of list sent by registered post to proctor for 1st defendant-respondent. Receipt filed.

Allowed.

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

13.1.51.

Summons issued on four witnesses by plaintiff-petitioner.

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

18.1.51.

10

Inquiry.

Vide proceedings.

Order 23.1.51.

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

23.1.51.

Order delivered in the presence of Mr. Gunasekera for the 1st defendant.

Plaintiff and his proctor absent.

(Intld.)..... 20
A.D.J.

26.1.51.

Kachcheri receipt E/9 No. 2225/13471 of 18.1.51 for Rs. 25/- filed.

(Intld.).....

26.1.51.

Kachcheri receipt E/9 No. 2226/13472 of 18.1.51 for Rs. 400/- filed.

(Intld.).....

2.3.51.

30

Kachcheri receipt No. E/9 No. 842/17903 of 7.2.51 for Rs. 400/- filed.

(Intld.).....

17.4.51.

Under the writ issued against the 1st defendant by the plaintiff in this case the Fiscal, W.P., has received a sum of Rs. 963.93 and deposited in the Colombo Kachcheri on the 30.8.50. Out of the said amount a sum of Rs. 827.13 was paid to plaintiff's proctor, on 15.11.50 leaving a balance sum of Rs. 136.80. Therefore proctor for 1st defendant moves for an order of payment in his favour for the said sum of Rs. 136.80 being balance in deposit to the credit of the 1st defendant.

- 10 Proctor for plaintiff and 1st defendant consent.
Allowed.

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

21.4.51.

Order of payment No. A. 51304 for Rs. 136.80 issued in favour of Mr. Somawira Gunasekera, proctor for the 1st defendant. *Vide* Journal Entry dated 17.4.51.

(Sgd.).....
Administrative Secretary.

- 20 (Sgd.).....
Secretary.

11.6.52.

The Registrar, Supreme Court, returns the record for substitution of the 2nd defendant-respondent who is dead. He requests for this record within three weeks. A copy order of Supreme Court is appended for information.

Refer to proctor concerned and call at roll on 18.6.52.

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

30 18.6.52.

Mr. W. H. Senanayake for plaintiff-respondent.

Mr. S. Gunasekera for defendant-appellant.

Vide Journal Entry dated 11.6.52.

Mr. W. H. Senanayake for plaintiff-petitioner files papers, petition and affidavit from Dr. G. P. Malalasekera, the Secretary of the Vidyadhara Sabha, Colombo, and for reasons stated therein moves that the 1st respondent be substituted in place of 2nd defendant dead and the 2nd respondent be substituted in place of 11th defendant.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

Mr. D. E. Weerasoori, proctor for 1st and 2nd respondents, file his proxy for them and do hereby consent to the said Hon. Mr. Dudley Shelton Senanayake being substituted in place of the Hon. Mr. Don Stephen Senanayake, the 2nd defendant dead and 2nd respondent being substituted in place of B. R. Dias, the 11th defendant in the above case who has resigned from the membership of the Vidyadhara Sabha.

Proxy and consent filed.

Application allowed.

Substitute and enter caption and forward record to Supreme Court.

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

28.2.53.

Mr. D. E. Weerasooria, the proctor for 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th, 19th and 20th defendants having died on the 29th November, 1952, Mr. D. L. Gunasekera, proctor for 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th, 19th and 20th defendants tenders his appointment as proctor for the said defendants and moves that the record in this case which is now in appeal before the Supreme Court be called for to enable this court to make a minute of this motion and return the record thereafter to the Supreme Court.

File fresh appointment of record and forward record to Supreme Court.

Record forwarded to Registrar, Supreme Court.

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

15.3.54.

The Registrar, Supreme Court, *vide* his letter No. APN of 15.3.54 forwards the record in this case as the 20th defendant is reported to be dead and in order to take steps for the substitution of the heirs of the deceased and to transmit the record thereafter for the determination of the appeal.

Vide Journal Entries below dated 15.3.54 and 16.3.54.

(Intld.) G. C. T. A. de S.,
A.D.J.

15.3.54.

Mr. D. L. Gunasekera, proctor for respondent, files his appointment as proctor for Dr. A. M. Samarasinghe, the respondent, and

consents to the said Dr. A. M. Samarasinghe being substituted in place of Jothipala Subasinghe, the 19th defendant deceased in this case.

Appointment accepted.

Re-substitution, *vide* order under Journal Entry below dated 16.3.54.

(Intld.) G. C. T. A. de S.,
A.D.J.

16.3.54.

10 Mr. W. H. Senanayake, proctor for plaintiff-petitioner, files petition of the petitioner together with an affidavit from Dr. G. P. Malalasekera, Secretary of the Vidyadhara Sabha, Colombo, and moves that the respondent be substituted in place of Jothipala Subasinghe, the 19th defendant deceased, in this case.

Application allowed. Substitute accordingly and forward record to Supreme Court.

(Intld.) G. C. T. A. de S.,
A.D.J.

Substituted.

20

(Intld.).....

22.5.54.

The Registrar, Supreme Court, Colombo, *vide* his letter No. APN of 22.5.54 forwards the record for necessary action and return.

Vide order under Journal Entry.

(Intld.) G. C. T. A. de S.,
A.D.J.

22.5.54.

30 Mr. S. Gunasekera, proctor for 1st defendant, moves Court to grant him a date to file objections on behalf of the 1st defendant in this case to the application of the plaintiff to substitute a person in the room of one of the other defendants.

File objections if any with notice to proctor for plaintiff on 2.6.54.

(Intld.) G. C. T. A. de S.,
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

2.6.54.

Mr. W. H. Senanayake for petitioner.

Mr. S. Gunasekera for 1st respondent. *Vide* Journal Entry dated 22.5.54. Objections, if any, move with notice to proctor for plaintiff tendered.

Issue notice on parties and proctors concerned for 16.6.

(Intld.) G. C. T. A. de S.,
A.D.J.

10.6.54.

Mr. S. Gunasekera, proctor for 1st defendant, notices proctor for 10 Dudley Shelton Senanayake and Dr. A. M. Samarasinghe to appear in Court on 16.6.54 and show cause, if any, why the relief prayed for in the objections of the 1st defendant be not granted.

File and mention on 16.6.54.

(Intld.) G. C. T. A. de S.,
A.D.J.

16.6.54.

Mr. W. H. Senanayake for plaintiff.

Mr. S. Gunasekera for 1st defendant.

Vide Journal Entries dated 2.6.54 and 10.6.54. Case called. 20 Of consent inquiry 22.7.

(Intld.) G. C. T. A. de S.,
A.D.J.

3.7.54.

Mr. S. Gunasekera, proctor for 1st defendant, with notice to proctor for plaintiff, 2nd, 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th, 19th and 20th defendants moves to file the 1st defendant's list of witnesses and documents and moves for summons.

Allowed—issue summons.

(Intld.) G. C. T. A. de S., 30
A.D.J.

8.7.54.

Summons issued on two witnesses by 1st defendant.

10.7.54.

Mr. W. H. Senanayake, proctor for plaintiff, with notice to proctors for 1st defendant, 2nd, 3rd, 5th, 7th, 8th, 9th, 10th, 12th,

13th, 17th, 18th, 19th and 20th defendants and Dr. A. M. Samarasinghe and moves to file plaintiff's list of witnesses and documents in this case and moves for summons on the witnesses.

Allowed--issue summons.

(Intld.) G. C. T. A. de S.,
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

13.7.54.

Mr. W. H. Senanayake, proctor for plaintiff with notice to proctor for 1st defendant and 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 10 18th, 19th and 20th defendants moves to file plaintiff's additional list of witnesses and documents and moves for summons on the witnesses.

Allowed issue summons.

(Intld.) G. C. T. A. de S.,
A.D.J.

19.7.54.

Summons issued on 3 witnesses by plaintiff.

22.7.54.

Mr. W. H. Senanayake for plaintiff.

20 Mr. S. Gunasekera for 1st defendant.

Mr. D. E. Weerasooria for 2nd to 5th, and 7th to 14th defendants

Vide Inquiry Journal Entry dated 16.6.54.

Vide proceedings.

Order 27.7.

(Intld.) G. C. T. A. de S.,
A.D.J.

27.7.54.

Mr. W. H. Senanayake for plaintiff.

Mr. S. Gunasekera for 1st defendant.

30 Mr. D. L. Gunasekera for 3rd to 5th, 7th to 10th, 12th, 13th, 16th to 17th, 18th and 20th defendants.

Order delivered in open Court.

Issue notice of application for substitution on 1st defendant-appellant for 1.9.

(Intld.) G. C. T. A. de S.,
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

24.8.54.

In terms of the Order of Court made on 27th July, 1954, the plaintiff hereby gives notice to the 1st defendant that the Vidyadhara Sabha of Maligakande, Colombo, acting in terms of Deed No. 925 of 6th December, 1873, have duly elected the 1st respondent, Mr. Dudley Shelton Senanayake, presently of Woodlands, Colombo, in place of the 2nd defendant who died pending appeal and the 2nd respondent, Mr. Jothipala Subasinghe of Dawson Road, Colombo, in place of the 11th defendant who had resigned from the membership of the Sabha and the 3rd respondent, Dr. A. M. Samarasinghe of Reid Avenue, 10 Colombo, in place of the said 2nd respondent who also died pending appeal.

Proctor for plaintiff moves that the Court be pleased to substitute the said 1st and 2nd respondents as defendants in these proceedings in place of the 2nd and 11th defendants-respondents and the said 3rd respondent as a defendant in place of the 2nd respondent who has died.

He also submits that the requisite petitions and affidavits have already been filed of record.

Proctor for 1st defendant received notice with copies of motions, 20 petitions and affidavit for 1.9.54, he shall ask for time to object.

Mention on 1.9.54.

(Intld.) G. C. T. A. de S.,
A.D.J.

1.9.54.

Mr. W. H. Senanayake for plaintiff.

Mr. S. Gunasekera for 1st defendant.

Mr. D. E. Weerasooria for 2nd, 5th and 7th to 14th defendants.
Vide Journal Entry dated 24.8.54. Case called.

Objection 29.9.

30

(Intld.) G. C. T. A. de S.,
A.D.J.

29.9.54.

Mr. W. H. Senanayake for plaintiff.

Mr. S. Gunasekera for 1st defendant.

Mr. D. E. Weerasooria for 2nd to 5th and 7th to 14th defendants.

Objections due. Objections filed.

Inquiry 3.12.

(Intld.) G. C. T. A. de S.,
A.D.J. 40

13.11.54.

Proctor for plaintiff with notice to proctors for 1st defendant and for 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th, 19th and 20th defendants and Dr. A. M. Samarasinghe files list of witnesses and moves for summons on them.

Allowed—issue summons.

(Intld.) G. C. T. A. de S.,
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

13.11.54.

10 Proctor for plaintiff with notice to proctors for 1st defendant and for 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th, 19th and 20th defendants and Dr. A. M. Samarasinghe files list of documents.
File.

(Intld.) G. C. T. A. de S.,
A.D.J.

25.11.54.

summons issued on three witnesses by plaintiff.

1.12.54.

20 Proctor for 1st defendant with notice to proctor for plaintiff files list of witnesses and moves for summons on them. Issue summons.

(Intld.) G. C. T. A. de S.,
A.D.J.

3.12.54.

Mr. W. H. Senanayake for plaintiff.
Mr. S. Gunasekera for 1st defendant.
Mr. D. E. Weerasooria for 2nd, 5th and 7th to 14th defendants.
Vide Journal Entry dated 29.9.54. Inquiry.
Vide proceedings.
Inquiry 31.1.55.

30

(Intld.) G. C. T. A. de S.,
A.D.J.

6.1.55.

The Registrar, Supreme Court, by his letter No. A.P.N. of 5.1.55 wants to let him know the present position in the case.

Inform Registrar, Supreme Court, that the case stands fixed for inquiry on 31.1.55.

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

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

21.1.55.

The 6th defendant, Mr. W. H. W. Perera, having died recently and steps have therefore to be taken to substitute a defendant in his place. Mr. Senanayake, proctor for plaintiff, moves to postpone the inquiry which is fixed for 31.1.55 to another date. He also moves that this case be called on 31.1.55. Proctor for 1st defendant and for 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th and 17th to 20th defendants and Dr. Samarasinghe consent.

Call Case on 31.1.55.

(Intld.) G. C. T. A. de S., 10
A.D.J.

31.1.55.

Mr. W. H. Senanayake for plaintiff.

Mr. S. Gunasekera for 1st defendant.

Mr. D. E. Weerasooria for 2nd, 5th and 7th to 14th defendants.

Case called *vide* Journal Entry dated 21.1.55.

Vide proceedings.

6th Defendant dead. Steps 23.2.

Motion filed, *re* revocation of 1st defendant's proxy.

(Intld.) G. C. T. A. de S., 20
A.D.J.

23.2.55.

Steps *re* 6th defendant-deceased due. Petition and affidavit filed. Issue notice for 16.3.

Mr. S. Gunasekera for 1st defendant, moves for a notice on 1st defendant to show cause why the proxy granted to him should not be revoked.

Issue notice for 16.3.55.

(Intld.) G. C. T. A. de S.,
A.D.J. 30

25.2.55.

Notice issued on 1st defendant, Western Province.

1.3.55.

Registrar, Supreme Court, by his letter No. A.P.N. of 28.2.55 wants to know the present position of the case.

Inform Registrar, Supreme Court, that the notice returnable date is 16.3.55 and that the record will be sent thereafter.

(Intld.) G. C. T. A. de S.,
A.D.J.

9.3.55.

Notice issued on 1st defendant, Western Province.

16.3.55.

Mr. W. H. Senanayake for petitioner.

(a) Notice served on 1st defendant.

1st defendant consents to revocation of proxy.

Proxy revoked. 1st defendant asks for a date to file objections.

1st Defendant's objections 6.4.

(Intld.) G. C. T. A. de S.,
A.D.J.

10

4.6.54.

Mr. W. H. Senanayake for plaintiff.

Mr. F. J. P. Perera for 1st defendant.

Objections of 1st defendant due—filed with proxy and declaration.

Mr. Advocate A. B. Perera for 1st defendant.

Call 4.5. to fix date of inquiry.

(Intld.) G. C. T. A. de S.,
A.D.J.

26.4.55.

20 The Registrar, Supreme Court, requests to let him know the present position of this case.

Vide Journal Entries dated 16.3.55 and 4.6.54.

Forward record to Registrar, Supreme Court, for reference and return before 4.5.55.

(Intld.) M. M. I. K.,
A.D.J.

4.5.55.

Mr. W. H. Senanayake for plaintiff.

Case called to fix date of inquiry.

30 Inquiry on 20.5.55.

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

13.5.55.

Summons issued on three witnesses by plaintiff.

14.5.55.

Mr. W. H. Senanayake, proctor for plaintiff, files additional list of witnesses and documents and moves for summons. Copy sent by

No. 1
Journal Entries
28.7.43 to
28.10.58—
Continued

registered post to proctors for 1st defendant—receipt filed. Proctor for 3rd, 5th, 7th to 10th, 12th, 13th and 17th to 20th defendants received notice.

Issue summons.

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

16.5.55.

Mr. F. J. P. Perera, proctor for 1st defendant, files list of witnesses and documents and moves for summons on them. Proctors for plaintiff and for 3rd, 5th, 7th to 13th, and 17th to 20th defendants were sent 10 copy of list under registered cover. Receipts filed.

Issue Summons.

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

18.5.55.

Summons issued on one witness by 1st defendant.

19.5.55.

Mr. R. M. Arthanayake, Surveyor, states that in connection with the above case he received summons this morning to attend Court and give evidence on behalf of the 1st defendant. 20

He respectfully informs Court that he has been summoned to give evidence in District Court Case No. 3896/L., Kandy, tomorrow on behalf of the Crown.

He requests his absence to be excused.

Mention 20.5.

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

20.5.55.

Mr. W. H. Senanayake for plaintiff.

Mr. F. J. P. Perera for 1st defendant. 30

Mr. D. E. Weerasooria for 2nd, 5th and 7th to 14th defendants.

Vide Journal Entry dated 4.5.55 inquiry.

Further hearing on 19th and 20th July, 1955.

Vide proceedings.

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

15.6.55.

As the dates fixed for the inquiry in this case do not suit Counsel., proctors for the plaintiff, 1st defendant and 3rd, 5th, 7th, 8th, 9th,

10th, 12th, 13th, 17th, 18th, 19th and 20th defendants jointly move that Court be pleased to fix this inquiry for 21st and 25th July, 1955.

Inquiry is re-fixed for 21st and 25th July, 1955.

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

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

17.6.55.

Vide letter No. A.P.N. of 16.6.55, Registrar Supreme Court, inquires the present position of this case. Inform Registrar, Supreme Court, that inquiry has been re-fixed for 21st and 25th July, 1955.

10

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

21.6.55.

Registrar, Supreme Court, informed by letter.

7.7.55.

Summons issued on one witness by 1st defendant, Western Province.

18.7.55.

Mr. F. J. P. Perera, proctor for 1st defendant with notice posted to proctors for plaintiff and proctor for 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th, 19th and 20th defendants files additional list of witnesses and moves for summons.

(1) File.

(2) Cite.

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

20.7.55.

Summons issued on three witnesses by defendant, Western Province.

21.7.55.

30 Mr. W. H. Senanayake for plaintiff.

Mr. F. J. P. Perera for 1st defendant.

Mr. D. L. Gunasekera for 3rd, 5th, 7th to 13th and 17th to 20th defendants.

Vide Journal Entry dated 15.6.55. Trial.

Vide proceedings.

Further hearing 25.8.55.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

25.8.55.

Mr. W. H. Senanayake for plaintiff.

Mr. F. J. Perera for 1st defendant.

Mr. D. L. Gunasekera for 3rd, 5th, 7th to 13th and 17th to 20th defendants.

Vide Journal Entry dated 21.7.55 further hearing.

Vide Journal Entry dated 21.7.55.

Further hearing on 25.8.

(Intld.).....
A.D.J. 10

22.8.55.

Mr. F. J. Perera for 1st defendant files additional list of witnesses and documents and moves for summons on the witnesses. Proof of notice to plaintiff's proctor and proctor for 3rd, 5th, 7th, 8th, 9th, 10th, 13th, 17th, 18th, 19th and 20th defendants.

(1) File.

(2) Cite.

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

22.8.55.

20

Summons issued on three witnesses by 1st defendant, Western Province.

25.8.55.

Mr. W. H. Senanayake for plaintiff.

Mr. F. J. Perera for 1st defendant.

Mr. D. L. Gunasekera for 3rd, 5th, 7th to 13th and 17th to 20th defendants.

Vide Journal Entry dated 21.7.55 further hearing.

Order 1.9.

(Intld.)..... 30
A.D.J.

1.9.55.

Mr. W. H. Senanayake for plaintiff.

Mr. F. J. Perera for 1st defendant.

Mr. D. L. Gunasekera for 3rd, 5th, 7th to 13th and 17th to 20th defendants. } *absent*

Vide Journal Entry dated 25.8.55. Order delivered in open Court.

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

26.8.55.

Proctor for plaintiff files copy of 1st defendant's bill of costs of inquiry on 18.1.51 served on him items of which have been marked 1st to 47th.

He objects to items 4th, 7th, 11th, 14th, 16th, 27th, 31st, 32nd, 37th, 38th, 46th and 47th and requests that his objections may be considered at the taxation of this bill.

Taxing officer to note.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

(Intld.).....

10

A.D.J.

26.8.55.

Proctor for plaintiff files copy of 1st defendant's bill of costs on inquiry of 5.12.54 served on him items of which have been marked 1st to 18th.

He objects to items 4th, 5th, 10th, 11th and 12th and requests that his objection may be considered at the taxation of the bill.

Taxing officer to note.

(Intld.).....

A.D.J.

20 30.8.55.

Registrar, Supreme Court, invites attention to our letter of 21.6.55 and inquires the present position of this case.

Vide order of 1.9.55. Forward record to Supreme Court.

(Intld.).....

A.D.J.

12.9.55.

The Registrar, Supreme Court, states with reference to the above matter Mr. D. L. Gunasekera, proctor, Supreme Court, for 2nd to 21st respondents has informed him that the plaintiff has taken the necessary steps to substitute the parties and that substitution has now been allowed.

He shall therefore be thankful if the record is returned without delay for the determination of the appeal.

Inform Registrar, Supreme Court, that another appeal has been filed today against the order allowing substitution.

(Intld.).....

A.D.J.

Informed Registrar.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

12.9.55.

Mr. Felix J. Perera, proctor for 1st defendant-respondent-appellant, files petition of appeal.

File.

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

12.9.55.

Mr. Felix J. Perera, proctor for 1st defendant-respondent-appellant states that the petition of the 1st defendant-respondent-appellant against the order dated 1.9.55 having been received by the said Court 10 with stamps to the value of Rs. 24/- and Rs. 48/- for the Secretary's Certificate in appeal and the judgment of Supreme Court, he shall on behalf of the 1st defendant-respondent-appellant abovenamed on 14.9.55 at 10.45 o'clock in the forenoon or soon thereafter move to tender security by depositing Rs. 250/- for the plaintiff-petitioner-respondent's cost in appeal and Rs. 250/- for the 2nd to 17th defendants-respondents-respondents' and 18th to 21st respondents-respondents' cost of appeal and by hypothecation of the same and will on the said date deposit in court a sum sufficient to cover the expenses of serving notice of appeal on the plaintiff-petitioner-respondent and 20 2nd to 17th defendants-respondents-respondents and 18th to 21st respondents-respondents.

He also moves for a paying in voucher for Rs. 50/- for appeal briefs.

- (1) Call case on 14.9.55.
- (2) Issue notice of security for 14.9.55.
- (3) Issue paying in voucher for Rs. 250/-, 250/- and Rs. 50/-.
Paying in voucher issued.

(Intld.).....
A.D.J. 30

12.7.55.

Notice of security sent to Fiscal, Western Province, to be served on the proctors for plaintiff-petitioner-respondent, defendant-respondent-respondent and respondent-respondent.

14.9.55.

Mr. Felix J. Perera for 1st defendant-appellant.

Mr. W. H. Senanayake for plaintiff-petitioner-respondent.

Mr. D. L. Gunasekera for defendant respondents-respondents.

Notice of Security served on plaintiff-petitioner-respondent.
 Defendant-respondents-respondents and respondents-respondents.
 Security accepted.
 Perfect bond.
 Issue notice of appeal for 5.10.55.

No. 1
 Journal Entries
 26.7.43 to
 28.10.58—
Continued

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

14.9.55.

Mr. Felix J. Perera, Proctor for 1st defendant-respondent-appellant,
 10 tenders Bonds to prosecute and Kachcheri Reciepts for Rs. 250/-,
 Rs. 250/- and Rs. 50/- and notice of appeal.

Vide Journal Entry dated 14.9.55. Issue notice of Appeal for
 5.10.55.

(Intld.).....
Assistant Secretary.

14.9.55.

Notice of appeal sent to Fiscal, Western Province, to be served
 on proctor for plaintiff-petitioner-respondent and defendant-respon-
 dents-respondents and respondents-respondents.

20 26.9.55.

Proctor for 1st defendant with notice to proctor for plaintiff
 tenders two bills of costs of the 1st defendant and moves that the same
 be taxed by court.

Tax bill in due course.

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

5.10.55.

Mr. W. H. Senanayake for plaintiff.

Mr. F. J. P. Perera for 1st defendant.

30 Mr. D. L. Gunasekera for 3rd, 5th, 7th to 13th, 17th to 20th
 defendants.

Notice of Appeal served on proctors, Messrs. Senanayake and
 Gunasekera.

Forward record to Supreme Court.

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

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

27.10.55.

The Registrar, Supreme Court wants to let him know the present position of this case.

Forward record to Supreme Court immediately. *Vide* order at Journal Entry dated 5.10.55 above.

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

Later :

Inform Registrar, Supreme Court, that the record will be forwarded as soon as the appeal briefs are ready. 10

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

17.12.55.

Proctor for plaintiff-respondent tenders application for type written copies and moves for a paying in voucher for Rs. 50/-.

(1) File.

(2) Issue paying in voucher for Rs. 50/-.

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

7.1.56. 20

The Registrar, Supreme Court, wants to know the present position of this case.

Inform him of the present position.

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

17.1.56.

The Appeal Branch requests fees to be called from the following :—

Mr. F. J. Perera Rs. 46/-.

Mr. W. H. Senanayake Rs. 46/-.

Call for fees by registered post. 30

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

24.2.56.

The Registrar, Supreme Court, wants to let him know the present position of this case.

Inform Registrar that appeal briefs are being compared and will be forwarded within a week.

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

13.3.56.

Record forwarded to Supreme Court.

(Intld.).....

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

10.5.56.

The Registrar, Supreme Court, returns record and states that the 16th defendant-respondent is reported dead and steps may be taken for substitution of heirs of the deceased and record to be transmitted for the determination of the appeal.

(1) Call case on 30.5.56.

10 (2) Inform proctor.

(Intld.).....

A.D.J.

11.5.56.

Proctor for plaintiff-petitioner files petition of the petitioner together with an affidavit from K. P. Ratnatunga the Acting Secretary of Viddyahara Sabha, Colombo, and for the reasons stated therein moves that the respondent be substituted in place of the 16th defendant deceased.

20 He also files a minute of consent from Mr. D. L. Gunasekera, the proctor for the respondent, together with his proxy. Proctor for 1st defendant received notice with copies of petition and affidavit and has cause to show against substitution.

Vide Journal Entry dated 10.5.56.

Call on 30.5.56.

(Intld.).....

A.D.J.

30.5.56.

Mr. W. H. Senanayake for plaintiff.

Mr. F. J. Perera for 1st defendant.

30 Mr. D. L. Gunasekera for 3rd, 5th, 7th to 13th and 17th to 20th defendants.

Vide Journal Entries dated 10.5.56 and 11.5.56.

Case called.

Objections on 4.7.56.

(Intld.).....

A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

4.7.56.

Mr. W. H. Senanayake for plaintiff.

Objections due of 1st defendant filed by Mr. F. J. P. Perera.

Call in "E" Court tomorrow 5.7 to fix date for inquiry as proctor for plaintiff begs that the case be heard by another judge because I have already made an order on a similar application.

(Intld.)
A.D.J.

5.7.56.

Mr. W. H. Senanayake for plaintiff.

10

Mr. F. J. P. Perera for 1st defendant.

Mr. D. L. Gunasekera for 3rd, 5th, 7th to 13th, 17th and 20th defendants.

Vide Journal Entry dated 4.7.56.

Case called to fix date of inquiry.

Inquiry on 9.8.56.

(Intld.)
A.D.J.

20.7.56.

Proctor for plaintiff-petitioner files list of witnesses and documents and moves for summons on them. Copy to proctor for 1st defendant sent by registered post. Receipt filed. Proctor for 3rd, 5th 7th to 10th, 12th, 13th, 16th, 17th, 20th and 21st defendants received notice and copy.

Allowed—issue.

(Intld.)
A.D.J.

20.7.56.

An inquiry into the objections filed by the 1st defendant has been fixed for 9.8.56. The plaintiff relies on a document marked X7 30 (Minute Book) which has been produced at the previous inquiry. This document is now a part of the record in this case and is in the custody of Court. It has become necessary to produce this document X7 at the inquiry fixed for 9.8.56. Proctor for plaintiff therefore moves to allow him to withdraw the same. He undertakes to return this to Court after inquiry.

(1) The case is in appeal and the document appears to be in the Supreme Court. Request Registrar, Supreme Court, to send the document here as it is said to be needed for the inquiry on 9.8.

(2) I do not think it necessary to withdraw the document and produce it all over again.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

(Intld.)
A.D.J.

27.7.56.

Summons on one witness issued by petitioner.

27.7.56.

10 Proctor for 1st defendant with notice and copy to proctors for plaintiff-petitioner and for 3rd, 5th, 7th to 10th, 12th, 13th, 16th, 17th, 20th and 21st defendants files list of witnesses and documents and moves for summons.

Allowed—issue summons.

(Intld.)
A.D.J.

31.7.56.

1 *subphoena* issued by 1st defendant —Western Province

(Intld.)

31.7.56.

20 Proctor for 1st defendant tenders receipt from Mr. Corbert Jayawardena, Advocate, for Rs. 68·25 being his fees for appearing at the inquiry on 3.12.54.

Taxing Officer to note.

(Intld.)
A.D.J.

31.7.56.

Proctor for 1st defendant tenders receipt from Mr. Wilmot Gunasekera, Advocate, for Rs. 26·25 being his fees for appearing at the inquiry on 3.12.54.

Taxing officer to note.

30

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

2.8.56.

1st defendant's bill of costs of 3.12.54—

Incurred costs	..	..	..	Rs. 168·95
Prospective	..	..	..	„ 105·28
				Rs. 274·23

1st defendant's bill of costs of 18.1.51—

Incurred costs	..	..	..	Rs. 295·62
Prospective	..	..	..	„ 111·70
				Rs. 407·32

(Sgd.) 10
Administrative Secretary.

6.8.56.

Proctor for 1st defendant files additional list of witnesses and documents and moves for summons. Proctors for plaintiff and for 3rd, 5th, 7th to 10th, 12th, 13th, 16th, 17th, 20th and 21st defendants received notice with copy.

Allowed—issue summons.

(Sgd.)
A.D.J.

7.8.56.

20

Mr. W. H. Senanayake, proctor for plaintiff, files additional list of witnesses. Proctor for 3rd, 5th, 7th to 10th, 12th, 13th, 16th, 17th, 20th and 21st defendants files notice. Copy sent to proctor for 1st defendant by registered post. Receipt filed.

(Intld.)

9.8.56.

Mr. W. H. Senanayake for plaintiff.

Mr. F. J. P. Perera for 1st defendant.

Mr. D. L. Gunasekera for 3rd, 5th, 7th to 10th, 12th, 13th, 16th, 17th, 20th, 21st and 22nd defendants.

30

Vide Journal Entry dated 5.7.1956.

Inquiry.

7.9.56.

1 *subpoena* issued by 1st defendant, Western Province.

9.8.56.

Vide proceedings and order.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

Proceedings and order filed.
Z1-Z1A filed.
Z2-Z3A in the book with Record Keeper.
R1-R1A filed.

(Intld.)

10 21.8.56.

Mr. F. J. P. Perera, proctor for 1st defendant-appellant, files petition of appeal.

File.

(Intld.)
A.D.J.

21.8.56.

Mr. Felix J. P. Perera, proctor for 1st defendant-respondent-appellant, states that the petition of appeal of the 1st defendant-respondent-appellant against the order of this court dated 9.8.56
20 having been received by the said court with stamps to the value of Rs. 24/- and Rs. 48/- for the Secretary's certificate and Supreme Court judgment, he shall on behalf of the 1st defendant-respondent-appellant on 24.8.56 at 10.45 o'clock in the forenoon or so soon thereafter move to tender security by deposit of Rs. 250/- for the plaintiff petitioner-respondent's costs in appeal and Rs. 250/- for the 2nd to 17th defendants-respondents-respondents' and 18th to 22nd respondents-respondents' costs in appeal and by hypothecation of the same and will on the said date deposit in Court a sum sufficient to cover the expenses by serving notice of appeal on the plaintiff-petitioner-respondent and 2nd to 17th defendants-respondents-respondents and
30 18th to 22nd respondents-respondents.

He also moves for a paying in voucher for Rs. 16/- for appeal brief.

- (1) Issue notice of security for 24.8.56.
- (2) Issue paying in voucher for Rs. 250/-, Rs. 250/- and Rs. 16/-.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

22.8.56.

Notice of security sent to Fiscal, Western Province, to be served on proctor for plaintiff-petitioner-respondent, Mr. W. H. Senanayake and proctor for 2nd to 17th and 22nd respondents, Mr. D. L. Gunasekera.

(Intld.)

24.8.56.

Mr. W. H. Senanayake for plaintiff.

Mr. F. J. P. Perera for 1st defendant.

Mr. D. L. Gunasekera for 3rd, 5th, 7th to 10th, 12th, 13th, 16th, 10 and 17th to 22nd defendants.

Vide Journal Entry dated 21.8.56.

Case called for security.

Notice of security served on the parties.

Security accepted. Perfect Bond. Issue notice of appeal for 17.9.56.

(Intld.)
A.D.J.

24.8.56.

Mr. F. J. P. Perera, proctor for 1st defendant-appellant files two 20 bonds to prosecute, Kachcheri Receipts for Rs. 250/-, Rs. 250/- and Rs. 16/- and notice of appeal.

Vide Journal Entry dated 24.8.56. Issue notice of appeal for 17.9.56.

(Intld.)
Assistant Secretary.

24.8.56.

Notice of appeal sent to Fiscal to be served on proctor for plaintiff-respondent and defendants-respondents.

(Intld.) 30

17.9.56.

Mr. W. H. Senanayake for plaintiff-respondent.

Mr. F. J. P. Perera for 1st defendant-appellant.

Mr. D. L. Gunasekera for 3rd, 5th, 7th to 10th, 12th, 13th, 16th, and 17th to 22nd defendants-respondents.

Vide Journal Entry dated 24.8.56.

Case called.

Notice of appeal served on proctor for defendants-respondents.

No return on proctor for plaintiff-respondent.

Await and reissue if necessary for 1.10.56.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

(Intld.)
A.D.J.

26.9.56.

Proctor for plaintiff-respondent tenders application for type-
10 written copies and moves for a paying in voucher for Rs. 16/-.

Issue paying in voucher for Rs. 16/-.

(Intld.)
A.D.J.

1.10.56.

W. H. Senanayake for plaintiff-respondent.

Mr. F. J. P. Perera for 1st defendant-appellant.

Mr. D. L. Gunasekera for 3rd, 5th, 7th to 10th, 12th, 13th, 16th
and 17th to 22nd defendants-respondents.

Vide Journal Entry dated 17.9.56.

20 Case called.

No return to notice as yet.

Await and reissue for 22.10.56.

(Intld.)
A.D.J.

12.10.56.

The appeal branch requests fees to be called from the following :—

Mr. F. J. P. Perera Rs. 8/-.

Mr. W. H. Senanayake Rs. 8/-.

Mr. D. L. Gunasekera Rs. 12/-.

30 Call for fees by registered post.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

13.10.56.

Kachcheri Receipt W/13 No. 1077/099134 of 11.10 for Rs. 16/-
filed.

(Intld.)

26.10.56.

Kachcheri Receipt W/13 No. 1573/099630 of 16.10.56 for Rs. 8/-.

(Intld.)

22.10.56.

Mr. W. H. Senanayake for plaintiff-respondent.

Mr. F. J. P. Perera for 1st defendant-appellant.

10

Mr. D. L. Gunasekera for 3rd, 5th, 7th to 10th, 12th, 13th, 16th
and 17th to 22nd defendants-respondents.

Vide Journal Entry dated 1.10.56.

Case called.

No return to notice of appeal on proctor for plaintiff-respondent.

Re-issue for 12.11.

(Intld.)

A.D.J.

24.10.56.

Kachcheri Receipt W/13 No. 2213/000370 of 24.10.56 for Rs. 8/-.

(Intld.)

12.11.56.

Mr. W. H. Senanayake for plaintiff-respondent.

Mr. F. J. P. Perera for 1st defendant-appellant.

Mr. D. L. Gunasekera for 3rd, 5th, 7th to 10th, 12th, 13th, 16th
and 17th to 22nd defendants-respondents.

Vide Journal Entry dated 22.10.56.

Case called.

No return to notice of appeal on proctor for plaintiff-respondent.

Mr. Senanayake is present and takes notice. He moves that
the case be forwarded to Supreme Court.

30

Forward record to Supreme Court.

(Intld.)

A.D.J.

13.11.56.

Record forwarded to Supreme Court for 3rd appeal with 1 to 7 volumes, documents and stamps. Supreme Court Judgment Rs. 48/-.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

(Intld.)

26.2.58.

Record received from Supreme Court with Supreme Court Decrees and productions Y2, Y3, Y6, and Y7.

Final appeal 26 of 1952, Interlocutory appeals 73 and 192 of 10 1956.

Final appeal 26 dismissed with costs. Interlocutory appeals 73 and 192 dismissed without costs. Neither party will be entitled to costs of inquiries in the Court below relating to the substitution of parties.

File.

(Intld.)
A.D.J.

26.2.58.

Proctor for plaintiff applies for execution of decree by issue of 20 writ of ejectment against 1st defendant.

Vide Order below.

(Intld.)

26.2.58.

Proctor for 1st defendant-appellant files petition and affidavit and for the reasons stated therein moves (1) that Court be pleased to stay the execution of the decree entered by Their Lordships Court till such time as this case is finally determined by Her Majesty in Council.

(2) for costs and (3) for such other and further relief as to this 30 Court shall seem meet.

Notice plaintiff-respondent for 26.3.

(Intld.)
A.D.J.

26.2.58.

Proctor for 1st defendant-appellant files copies of letters addressed to proctors for plaintiff and defendants together with registered postal receipts in proof of posting copies of petition and affidavit filed by him.

File.

40

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

26.3.58.

Mr. W. H. Senanayake for plaintiff.

Mr. D. L. Gunasekera for 3rd, 5th to 7th, 8th to 10th, 12th, 13th, 16th, and 17th to 22nd defendants.

Journal Entry dated 26.2.58.

Notice not taken out on plaintiff-respondent.

Mr. Advocate Kottegoda instructed by Mr. Senanayake takes notice of the application and moves that the matter be fixed for inquiry for an early date.

Inquiry 30.4.

10

(Intld.)
A.D.J.

10.4.58.

Registrar, Supreme Court, requests that the record be forwarded by bearer as an application for Final Leave to appeal to the Privy Council has been filed in Supreme Court.

Forward record to Supreme Court.

(Sgd.)
A.D.J.

30.4.58.

20

Case was recalled from Supreme Court and received today.

(Intld.)
Assistant Secretary.

30.4.58.

Mr. W. H. Senanayake for plaintiff.

Mr. D. L. Gunasekera for 3rd, 5th to 7th, 8th to 10th, 12th, 13th, 16th and 17th to 22nd defendants.

Vide Journal Entry dated 26.3.58. Inquiry.

Vide proceedings.

(Intld.) 30
A.D.J.

5.5.58.

Mr. Felix J. P. Perera, proctor for 1st defendant-peticiner files petition and affidavit and his affidavit and for reasons stated therein moves to :

(a) To vacate the order allowing the plaintiff-respondent's application for execution of the decree referred to in the said petition.

(b) For costs and (c) for such other and further relief in the premises as to this Court shall seem meet.

Vide proceedings.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

(Intld.)
A.D.J.

1.7.58.

The Registrar returns volume 1 of the record in District Court Colombo case No. 2882/P reference to our letter dated 24th June, 1958, and requests the same be returned as early as possible.

10 (Intld.)

27.5.58.

Proctor for 1st defendant moves for a requisition for Rs. 500/- being security of costs tendered by 1st defendant as an appeal was not proceeded with: (a) He also moves for a requisition for Rs. 500/- being security costs tendered by 1st defendant as the appeal was not proceeded with—*vide* motion filed.

Proctor for plaintiff-respondent and defendants-respondents consent.

- (1) Issue Requisition for Rs. 500/- in favour of 1st defendant.
20 (2) Issue Requisition for Rs. 500/- in favour of 1st defendant.
(3) Return record to Supreme Court (Vol. 1).

(Intld.)
A.D.J.

4.7.58.

Vide Journal Entry dated 27.5.58.

(1) Requisition No. 1235 for Rs. 500/- entered in favour of Ven. V. M. S. N. Dhammananda Thero being security for costs of appeal.

- (2) Requisition No. 1236 for Rs. 500/- entered in favour of
30 Ven. V. M. S. N. Dhammananda Thero being security for costs of appeal.

(Intld.)
Assistant Secretary.

6.8.58.

The Government Agent, Colombo District, forwards copy of letter sent to the Manager, National Overseas and Grindlay's Bank Ltd., for information of Court.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

Requisitions have been correctly issued. Await return of requisition and motion by proctor.

(Intld.)
A.D.J.

25.9.58.

Registrar, Supreme Court, forwards two briefs (Applications Nos. 331 and 335) and requests the Court to inquire and report as to who is the proper person to be substituted in place of the 9th defendant who has died.

As the printing of the record for despatch to the Privy Council 10 has to be completed by a date that has already been fixed, Registrar, Supreme Court, requests that this matter be given a high degree of priority as the work in this Court.

Call 1.10 with notice to proctor.

(Intld.)

Proctors informed.

1.10.58.

Mr. W. H. Senanayake for plaintiff.

Mr. F. J. P. Perera for 1st defendant.

Mr. D. L. Gunasekera for 3rd, 5th to 7th, 8th to 10th, 12th, 13th, 20 16th, 17th to 22nd defendants.

Vide Journal Entry dated 25.9.58. Case called.

Mr. Wikramanayake, Q.C., instructed for 1st defendant moves that this matter be fixed for inquiry before another Judge as I have already made an order in an exactly similar application, in this same case.

Call in " A " Court on 3.10 to fix matter for inquiry.

(Intld.)
A.D.J.

3.10.58.

30

Mr. W. H. Senanayake for plaintiff.

Mr. F. J. P. Perera for 1st defendant.

Mr. D. L. Gunasekera for 3rd, 5th to 7th, 8th to 10th, 12th, 13th, 16th and 17th to 22nd defendants.

Vide Journal Entry dated 1.10.58. Case called to fix a date for inquiry.

Inquiry 16.10.

(Intld.)
A.D.J.

4.10.58.

Proctor for plaintiff-respondent files list of witnesses and documents and moves for summons.

Copy sent by registered post to proctor for 1st defendant-appellant and proctor for 3rd, 5th, 7th, 8th, 10th, 12th, 13th, 17th, 18th, 20th, 21st and 22nd defendants-respondents and party sought to be substituted.

Allowed—issue summons.

10 (Intld.)
A.D.J.

8.10.58.

Proctor for 1st defendant-appellant files list of witnesses and documents and moves for summons.

Copies sent under registered post to proctors for plaintiff-respondent and proctor for 3rd, 5th, 7th, 8th, 10th, 12th, 13th, 17th, 18th, 20th, 21st and 22nd defendants-respondents and for the party sought to be substituted.

Allowed.

Issue summons.

20 (Intld.)
A.D.J.

8.10.58.

1 *Subpoena* issued by the 1st defendant-appellant, Western Province.

9.10.58.

2 *Subpoenas* issued by plaintiff, Western Province.

(Intld.)

11.10.58.

30 Proctor for plaintiff files additional list of witnesses and documents and moves for summons.

Copy sent by registered post to proctors for 1st, 3rd, 5th, 7th, 8th, 10th, 12th, 13th, 17th, 18th, 20th, 21st and 22nd defendants.

File.

(Intld.)
A.D.J.

No. 1
Journal Entries
26.7.43 to
28.10.58—
Continued

16.10.58.

Mr. W. H. Senanayake for plaintiff.
Mr. F. J. P. Perera for 1st defendant.
Mr. D. L. Gunasekera for 3rd, 5th to 7th, 8th to 10th, 12th, 13th,
16th and 17th to 22nd defendants.
Vide Journal Entry dated 3.10.58. Inquiry.
Vide proceedings.
Order 24.10.

(Intld.)
A.D.J. 10

24.10.58.

Mr. W. H. Senanayake for plaintiff.
Mr. F. J. P. Perera for 1st defendant.
Mr. D. L. Gunasekera for 3rd, 5th to 7th, 8th to 10th, 12th, 13th,
16th, and 17th to 22nd defendants.
Vide Journal Entry dated 16.10.58.

27.10.58.

Order was not delivered on 24.10 as I was ill and on leave on that
day. Order delivered in open Court. Return record to Supreme
Court with report. 20

(Intld.)
A.D.J.

28.10.58.

Record sent to Registrar, Supreme Court, with two Supreme
Court applications Nos. 331 and 335.

(Intld.)
Assistant Secretary.

No. 2
Plaint and
Documents
filed with the
Plaint
26.7.43

No. 2

Plaint and Documents filed with the Plaint

IN THE DISTRICT COURT OF COLOMBO 30

Ven. Baddegama Piyaratana Nayaka Thera as Principal
of the " Vidyodaya Pirivena " Maligakanda in Colombo
.....*Plaintiff*

No. 2882/L.

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Nanesvara
Dhammananda Nayaka Thera of Vidyodaya Piri-
vena, Maligakanda in Colombo.

- No. 2
Plaint and
Documents
filed with the
Plaint
26.7.43—
Continued
2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatte Road in Colombo.
 3. The Hon. Dr. Christopher William Wijekoon Kanangara, M.S.C., of "Crauford", 29, Alfred Place, Kollupitiya in Colombo.
 4. Mr. Jacob Moonesinghe, Proctor, of "Winton", Dickman Road in Colombo.
 5. Mr. Henry Woodward Amarasooriya, M.S.C., of 9, Gower Street in Colombo.
 - 10 6. Mr. Willorage Henry William Perera, Proctor of "Vijitha", 335, Timbirigasyaya Road in Colombo.
 7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace in Colombo.
 8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya in Colombo.
 9. Mr. Rajah *alias* Rajasinghe Hewavitarne, M.S.C., of "Nimalka", Kollupitiya in Colombo.
 10. Mr. Wimala Dhamma Hewavitarne of "Sri Nagar", Kollupitiya in Colombo.
 - 20 11. Mr. B. R. Dias of Kenilworth, Dematagoda Road in Colombo.
 12. Mudaliyar Egodage Alfred Abayasekara of Karagam-pitiya Road, Dehiwela.
 13. Mudaliyar Piyadasa Dhammasiri Abeywardena Ratnatinge of "Sagala", Chapel Lane, Wellawatta in Colombo.
 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda.
- (2nd to 14th defendants as members of the Vidyadhara Sabha of the Vidyodaya Pirivena, Maligakanda, Colombo)
2. S 47 15. Dr. B. E. Fernando of Colombo substituted in place of 14th defendant (dead).

On this 26th day of July, 1943.

The plaintiff of the plaintiff abovenamed appearing by D. Richard de Silva Abhayanayake, his proctor, states as follows :—

1. The 1st defendant resides in Colombo within the Local Limits of the jurisdiction of this Court and the land and premises which is the subject matter of this action is situated also within the jurisdiction of this Court.

2. About the 6th day of December, 1873, Don Philip de Silva Epa Appuhamy, Lansege Andiris Perera Appuhamy, Kalansuriya Arachchige Cornelis de Silva Appuhamy, Gurunanselage Don Pelis Appuhamy, Bulathsinghelage Cornelis Cooray, Don Thomas Weerakody Appuhamy, Willora Arachchige Cornelis Perera Appuhamy, Pattiyawattage Hendrick Perera Appuhamy, Simon Silva Appuhamy, Hewavitaranage Don Carolis Appuhamy, Wettasinghage Don Cornelis Silva Appuhamy, Lansege Simon Perera Appuhamy all of Colombo and Samarasinghe Arachchige Don Harmanis Appuhamy of Pamanakada formed themselves into an Association called "Vidyadhara 10 Sabha". The Chief object of the said Sabha was to obtain a portion of land and premises in Colombo and to establish a Pirivena thereon for the purpose of teaching Buddhism.

3. It was agreed by the said persons :—

(a) That the Membership of the said Vidyadhara Sabha should be limited to thirteen.

(b) That an educated and pious Thera should be placed in charge of the said Pirivena by the said Society.

(c) That the right of appointment of the Principal and teachers of the said Pirivena and the right of dismissal should be with the said 20 Society.

4. The mode of appointment of future members of the said Vidyadhara Sabha was agreed to by the said persons and was prescribed by the rules of the said Sabha.

5. The persons mentioned in para 2 hereof executed on the 6th day of December, 1873, a Deed No. 925 attested by Mr. W. P. Ranasinghe of Colombo, Notary Public, for the better manifestation of the said rules and purposes.

6. The said Lansege Andiris Perera Appuhamy was seized and possessed of or otherwise well and sufficiently entitled to all those 30 two contiguous allotments of lands and premises situated at Dematagoda and fully described in the Schedule marked A hereto attached which the plaintiff prays may be read as part of the plaint. The members of the said Vidyadhara Sabha thereafter collected a sum of money and constructed a building on the said lands and premises. The said members of the Vidyadhara Sabha about the year 1873 established a College called or known as "The Vidyodaya Pirivena" in the said premises for the purpose of teaching Buddhism and other branches of learning to lay persons and bhikkhus.

7. The said Vidyadhara Sabha about the year 1873 appointed 40 the Ven. Hikkaduwe Sri Sumangala Nayake Thera as the Principal (Pirivenadhipathy) of the said Vidyodaya Pirivena, and the said Ven. Hikkaduwe Sri Sumangala Nayake Thera accepted the said

appointment and entered on his duties as Principal of the said Vidyodaya Pirivena about the year 1873.

8. About the beginning of March, 1876, it was agreed by and between the said Lansege Andris Perera and the members of the said Vidyadhara Sabha and the said Venerable Hikkaduwe Sri Sumangala Nayake Thera that the said Lansege Andiris Perera Appuhamy should transfer and convey the said lands and premises to the said Venerable Hikkaduwe Sri Sumangala Nayake Thera, the Principal of the said Vidyodaya Pirivena, and to the successors in the office of
 10 Principal of the said Vidyodaya Pirivena that may be appointed by the members of the said Vidyadhara Sabha subject to the protection and control of the members of the said Vidyadhara Sabha.

9. In pursuance of the said agreement the said Lansege Andiris Perera Appuhamy with the consent of the other members of the said Vidyadhara Sabha by deed No. 1259 dated the 9th day of March, 1876, attested by the said Mr. W. P. Ranasinghe of Colombo, Notary Public, conveyed the said lands and premises together with the buildings thereon to the said Venerable Hikkaduwe Sri Sumangala Nayake Thera, the Principal of the said Vidyodaya Pirivena, and to his successors in
 20 the office of Principal of the said Vidyodaya Pirivena that may be appointed by the members of the said Vidyadhara Sabha to be held by the said Principal for the time being of the said Vidyodaya Pirivena subject to the protection and control of the said members of the Vidyadhara Sabha.

10. One Simon Perera Dharmagunawardhana was seized and possessed of or otherwise well and sufficiently and truly entitled to the portion of land and premises called "Palm House" situated at Dematagoda in Colombo which land and premises adjoin the said portions of lands and premises described in the Schedule A hereto and
 30 which said Palm House and premises are fully described in the Schedule marked B attached hereto which Schedule the plaintiff prays may be read as part and parcel of this plaint.

11. About the 4th day of April, 1884, the members of the said Vidyadhara Sabha arranged with the said Simon Perera Dharmagunawardhana to obtain the said portion of land adjoining the said premises and described in the Schedule marked B for the said Vidyodaya Pirivena and to get a transfer from the said Simon Perera Dharmagunawardhana of the said portion of land and premises called Palm House to Reverend Mabotuvana Siddhartha Thera of
 40 Maligakanda aforesaid.

12. By Deed No. 2134 dated the 4th day of April, 1884, attested by the said Mr. W. P. Ranasinghe of Colombo, Notary Public, the said Simon Perera Dharmagunawardhana in furtherance of the said object transferred and conveyed the said portion of land and premises called Palm House to the said Reverend Mabotuvana Siddhartha Thera.

13. At all material times thereafter the said Reverend Mabotuvana Siddhartha Thera held the legal title to the said portion of the land and premises fully described in the Schedule B hereto in trust for the members of the said Sabha.

14. At various times between the year 1884 and the year 1942 the said Vidyadhara Sabha constructed or caused teaching halls, sets of rooms, for teachers and students, a Shrine Room, a Library, a sick room and other rooms, buildings and structures now standing to be erected on the said premises described in the said Schedules A and B hereto. 10

15. The members of the said Vidyadhara Sabha erected on a part of the said premises described in the Schedule A and B hereto an Aramaya as an appurtenant to the said Vidyodaya Pirivena which Aramaya was intended for the use of the Bhikkhus resident in the said Vidyodaya Pirivena and the students attending the said Vidyodaya Pirivena. The said members maintained and improved the said Aramaya from time to time.

16. The Principal of the said Pirivena so appointed at all times officiated as the Incumbent of the said Aramaya.

17. The said Venerable Hikkaduwe Sri Sumangala Nayake 20
 Thera officiated as Principal of the said Vidyodaya Pirivena till the year 1911.

18. On the death of the said Venerable Hikkaduwe Sri Suman-gala Nayake Thera the said Vidyadhara Sabha about the year 1911 appointed the Venerable Mahagoda Nanissara Nayake Thera as the Principal of the said Vidyodaya Pirivena and the said Venerable Mahagoda Nanissara Nayake Thera accepted the said appointment and entered on his duties as Principal of the said Vidyodaya Pirivena and officiated as Principal thereof and as Incumbent of the said Aramaya till the year 1922. 30

19. The said Vidyadhara Sabha in the year 1922 appointed the said Venerable Kahave Ratanasara Nayake Thera as the Principal of the said Vidyodaya Pirivena and the said Venerable Kahave Ratanasara Nayake Thera accepted the said appointment and entered on his

duties as Principal of the said Vidyodaya Pirivena and officiated as Principal thereof and as Incumbent of the said Aramaya till the year 1936.

No. 2
Plaint and
Documents
filed with the
Plaint
26.7.43—
Continued

20. The said Vidyadhara Sabha in the year 1936 appointed the Venerable Baddegama Piyaratana Nayake Thera, the plaintiff above-named, as Principal of the said Vidyodaya Pirivena and the said Venerable Baddegama Piyaratana Nayake Thera has officiated as Principal of the said Pirivena and entered on his duties as Principal of the said Vidyodaya Pirivena and is officiating as Principal thereof
10 and as Incumbent of the said Aramaya up to date.

21. The Principals of the Pirivena appointed by the said Sabha and holding under it have been in the undisturbed and uninterrupted possession for and on behalf of the said Sabha of the said portions of lands and premises described both in the Schedules A and B hereto for a period of over ten years by a title adverse to and independent of the first defendant and of all others and have acquired a title by prescription to the said lands and premises.

22. The said Venerable Baddegama Piyaratana Nayake Thera holds the said lands and premises described in the said Schedules
20 marked A and B hereto in trust for or as trustee of the members of the said Vidyadhara Sabha.

23. There are on the said two portions of lands various buildings including the Sri Sumangala Memorial Buildings, the Sri Sumangala Hall and an Aramaya, etc.

24. About December, 1941, the 1st defendant wrongfully and unlawfully entered into occupation of a portion of the said Sri Sumangala Hall and since the said date remains in wrongful and unlawful possession of the same to the plaintiff's loss and damage of Rs. 25/- per month and wrongfully and unlawfully claims to be entitled
30 to hold the said lands and premises and denies the right of the plaintiff and of the said Sabha to the said lands and premises described in the said Schedules A and B hereto.

25. The said lands and premises described in the Schedules A and B hereto and fully depicted in the recent Plan No. 786 dated the 10th day of July, 1943, made by Mr. I. W. W. Indatissa, Licensed

No. 2
 Plaint and
 Documents
 filed with the
 Plaintiff
 26.7.43—
Continued

Surveyor, herewith filed marked Letter A and pleaded as part and parcel of this plaint are of the reasonable value of Rs. 48,000/-. The said lands and premises in Schedules A and B hereto are now described as one property as per said Plan No. 786 in the Schedule C hereto.

26. The 2nd to 14th defendants are the members of the said Vidyadhara Sabha and are made parties to this action as the plaintiff holds the said lands and premises for the use and benefit of the said Vidyadhara Sabha.

Wherefore the plaintiff prays—

- (a) that the Court may be pleased to declare that the plaintiff 10 holds the said lands and premises described in the Schedules A and B hereto and now described in the Schedule C hereto as one property in trust for or as trustee of the 2nd to 14th defendants as members of the said Vidyadhara Sabha ;
- (b) that the plaintiff as such trustee be declared entitled to the lands and premises described in the Schedules A and B hereto and now described in the Schedule C hereto as one property ;
- (c) that the first defendant be ejected from the said lands and 20 premises described in the Schedules A and B hereto and now described in the Schedule C hereto as one property and the plaintiff placed in quiet possession thereof and that the 1st defendant be condemned to pay damages at Rs. 25/- per month from December, 1941, till the 1st defendant is ejected from the said lands and premises and the plaintiff is placed in peaceful and quiet possession thereof ;
- (d) for costs of suit ; and
- (e) for such other and further relief as to this Court shall 30 seem meet.

(Sgd.) D. R. de S. ABHAYANAYAKE,
Proctor for plaintiff.

Documents filed with the plaint :

1. Plan No. 786 dated 10th July, 1943, made by Mr. I. W. W. Indatissa, Licensed Surveyor, marked letter " A ".
2. Pedigree of title marked Letter " B ".
3. Abstract of title marked Letter " C ".

No. 2
 Plaint and
 Documents
 filed with the
 Plaint
 26.7.43—
Continued

(Sgd.) D. R. de S. ABHAYANAYAKE,
Proctor for plaintiff.

Documents relied on by the plaintiff :

All documents referred to in the plaint.

10

(Sgd.) D. R. de S. ABHAYANAYAKE,
Proctor for plaintiff.

The Schedule A hereinabove referred to :

1. All that defined allotment of land called and known as Maligakanda situated at Dematagoda in Maradana Ward within the Municipality and in the District of Colombo, Western Province, and bounded on the North by the land of Tangachchipulle Meera Natchi, on the East by the land of Don Lewis Mahavidane, on the South by the land of Reverend J. D. Palm and on the West by the land of Assan Meera Natchiar, containing in extent three square roods 20 (A0 R3 P0) as per plan made by H. F. de Silva, Surveyor.

2. All those two contiguous allotments of lands marked 3 and 4 of Maligakanda situated at Dematagoda aforesaid and bounded on the North by the land belonging to Sinnatangatchi, on the East by the lands marked figure 5, on the South by the high road and on the West by the land claimed by Mr. Mackwood and the land said to belong to Kande Addara Badalge Don Lewis Mahavidane, containing in extent three square roods and twenty-four perches (A0 R3 P24) excluding an extent of five perches (A0 R0 P5) gifted to Kande Addara Badalge Mariya Nachire.

No. 2
 Plaintiff and
 Documents
 filed with the
 Plaintiff
 26.7.43—
Continued

The Schedule B hereinabove referred to :

All that defined allotment of land called and known as " Palm House " situated at Dematagoda aforesaid and which said defined allotment of land is bounded on the North and East by the land belonging to the temple, on the South by the road to Maligakande and on the West by the other part of the said land, containing in extent three roods thirteen and seventy-four upon one hundred perches (A0 R3 P13 74/100) as per plan dated the first day of May, 1880, made by Charles Schwallie, Licensed Surveyor. Registered at the Land Registry, Colombo, in Volume A. 6/26.

10

The Schedule C hereinabove referred to :

All those contiguous allotments of lands and premises now called and known as Maligakanda Vidyodaya Pirivena premises fully depicted in the Plan No. 786 dated the 10th day of July, 1943, made by Mr. I. W. W. Indatissa, Licensed Surveyor, together with all the buildings, trees, plantations, soil and everything standing thereon bearing former Assessment No. 105 and present Assessment No. 131 situated at Maligakanda Road, Maradana, within the Colombo Municipality and in the District of Colombo, Western Province, and which said contiguous allotments of lands now called and known as Maligakanda 20 Vidyodaya Pirivena premises are bounded on the North by premises bearing Assessment Nos. 148 and 158 (1-47), (Dematagoda Road) and 86 and 88 (Reservoir Lane), on the East by Reservoir Lane, on the South by Maligakanda Road, and on the West by premises bearing Assessment Nos. 138 (12-30), 144 and 148, Dematagoda Road and 37 and 55 (Clifton Lane), containing in extent two acres, one rood and thirty-seven perches (A2 R1 P37).

(Sgd.) D. R. de S. ABHAYANAYAKE,
Proctor for plaintiff.

I. W. W. INDATISSA
Licensed Surveyor & Leveller,
QUARRY ROAD,
DEHIWALA.

No. 786.

Assmt. No 148
(Dematagoda Road)

Assmt. No G 158 (1-47)
(Dematagoda Rd)

Assmt. No 86
(Reservoir Lane)

Assmt. No 88
(Reservoir Lane)

Assmt. No 144
(Dematagoda Rd)

Assmt. No G 138 (12-30)
(Dematagoda Rd)

Assmt. No 37
(Clifton Lane)

Assmt. No 55
(Clifton Lane)

A R P
2 1 37

Scale of ONE Chains to an Inch.

PLAN

of
An Allotment of Land

Bearing former Assmt. No 105 and present Assmt. No 131, Maligakanda Road, Maradana

Called
Maligakanda Vidyodya Pirivena

Situated at
Maligakanda Road within the Colombo Municipality
Colombo District

WESTERN PROVINCE

Bounded as follows:-

North : by Premises bearing Assessment Nos 148 & 158 (1-47) (Dematagoda Road) and
86 & 88 (Reservoir Lane)

East : .. Reservoir Lane

South : .. Maligakanda Road

West : .. Premises bearing Assessment Nos 138 (12-30) 144 & 148 Dematagoda Road
and 37 & 55 (Clifton Lane)

Containing in Extent

2

1

37.0 Surveyed on 10th July 1943.

I. W. W. Indatissa

Licd. Surveyor & Leveller



No. 2
Plaint and
Documents
filed with the
Plaint
26.7.43—
Continued

ABSTRACT OF TITLE

No. of Deed	Date	Name of Notary	Nature of Deed	Grantor	Grantee	Boundaries
925	6.12.1873	W. P. Ranasinghe	Agreement	Don Philip de Silva Epa. Appuhamy, Lansege Andiris Perera Appuhamy, K. Cornelis de Silva Appuhamy, Gurunnanselage Don Pelis Appuhamy, Bulathsinhelage Cornelis Cooray, Don Thomas Weerakkody Appuhamy, P. W. Cornelis Perera Appuhamy, P. W. Hendrick Perera Appuhamy, Simon Silva Appuhamy, H. Don Carolis Appuhamy, W. Cornelis Silva Appuhamy, Lansege Simon Perera Appuhamy, and Lansege Haramanis Appuhamy.		
1259	31.3.1876	W. P. Ranasinghe	Deed of Trust	Lansege Andiris Perera Appuhamy.	Hikkaduwe Sri Sumangala Nayaka Thera subject to the control and protection of the Vidyadhara Sabha composed of following members and their successors in office—D. P. de Silva Epa, Lansege Andiris Perera, K. A. Don Cornelis de Silva, B. Cornelis Cooray, W. A. Cornelis Perera, H. Don Carolis, P. Hendrick Perera, W. Don Cornelis de Silva, M. Don Grigoris de Silva, G. Don Felis, Don Thomas Weerakkody, Don Manuel.	The land described in Schedule 'A' in the Plaint annexed hereto.

(Sgd.) D. R. DE S. ABHAYANAYAKE,
 Proctor for Plaintiff.

No. 3**Answer of 2nd to 5th and 7th to 14th Defendants**

IN THE DISTRICT COURT OF COLOMBO

No. 2882/L.

Ven. Baddegama Piyaratana Nayaka Thera as Principal
of the " Vidyodaya Pirivena ", Maligakanda in Colombo
.....*Plaintiff*

vs.

- 10 1. Ven. Vagisvarachariya Morontuduwe Sri Nanesvara
Dhammananda Nayaka Thera of Vidyodaya Piri-
vena, Maligakanda in Colombo.
2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of
Colombo.
3. The Hon. Mr. C. W. W. Kannangara, M.S.C., of
Colombo.
4. Mr. Jacob Moonesinghe of Dickman Road in Colombo.
5. Mr. H. W. Amarasooriya, M.S.C., of Colombo.
6. Mr. W. H. W. Perera, Proctor, of Colombo.
- 20 7. Dr. G. P. Malalasekera of 16, Longden Terrace in
Colombo.
8. Mr. D. L. F. Pedris of Kollupitiya, Colombo.
9. Mr. Rajah Hewavitarne, M.S.C., of Colombo.
10. Mr. W. D. Hewavitarne of Colombo.
11. Mr. B. R. Dias of Dematagoda Road, Colombo.
12. Mudaliyar E. A. Abayasekara of Dehiwela.
13. Mudaliyar P. D. A. Ratnatunge of Wellawatta.
14. Dr. D. B. Perera of Nugegoda.

(2nd to 14th defendnts as members of the Vidyodaya
Pirivena, Maligakanda in Colombo)....*Defendants.*

30 *On this 7th day of March, 1944.*

The answer of the 2nd, 3rd, 4th, 5th, 7th, 8th, 9th, 10th, 11th,
12th, 13th and 14th defendants appearing by their proctor, Durand
Edgar Weerasooria, states as follows :—

1. These defendants are 12 of the 13 members constituting the
Vidyadhara Sabha of the Vidyodaya Pirivena, Maligakanda, and the
6th defendant is the remaining member of the said Sabha.

2. These defendants admit the averments contained in para-
graphs 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the plaint.

No. 3

Answer of the
2nd to 5th and
7th to 14th
Defendants
7.3.44

No. 3
 Answer of the
 2nd to 5th and
 7th to 14th
 Defendants
 7.3.44—
Continued

3. These defendants further admit the averments in paragraphs 10 and 11 of the plaint.

4. Answering to the 12th paragraph of the plaint these defendants admit the averments therein contained and state that the said Vidyadhara Sabha provided and paid the consideration for the purchase of the premises called " Palm House " described in Schedule B to the plaint conveyed by the said deed No. 2134 dated 4th April, 1884.

5. Answering to the 13th paragraph of the plaint these defendants state that the said Rev. Mabotuwana Sidhartha Thero upon the execution of the said Deed No. 2134 became vested with the legal title to the said premises in Schedule B, and held the said premises as Sangheeka property for the use and purposes referred to in paragraphs 8 and 9 of the plaint and for and on behalf of the said Hikkaduwe Sri Sumangala Nayake Thero as Principal of the said Vidyodaya Pirivena and his successors in the said office and subject to the protection and control of the said Vidyadhara Sabha. 10

6. These defendants admit the averments contained in paragraphs 14, 15, 16, 17, 18, 19 and 20 of the plaint.

7. (a) Answering to the 21st paragraph of the plaint these defendants state that the plaintiff and his predecessors in the office of the Principal of the Pirivena and as incumbent of the Aramaya have been in the undisturbed and uninterrupted possession of the premises described in the Schedule A for a period of over 10 years by a title adverse to and independent of the 1st defendant and of all others and have acquired a title by prescription to the said premises subject to the terms and conditions referred to in the paragraphs 2, 3, 4, 5, 6, 7, 8, and 9 of the plaint. 20

(b) Further answering to the said paragraph 21 of the plaint and answering to paragraph 22 of the plaint, these defendants say that the plaintiff as Principal and incumbent as aforesaid and his predecessors in the said office of Principal and incumbent have been in the undisturbed and uninterrupted possession of the premises described in Schedule B to the plaint for a period of over ten years by a title adverse to and independent to the first defendant and all others and have acquired a title by prescription to the said premises subject to the condition that the said premises should be held for the same use and for the same purposes as the premises in Schedule A and subject to the rights of the said Sabha similar to the rights exercised by the said Sabha in respect of premises in Schedule A. 30 40

8. These defendants admit the averments in paragraph 23 of the plaint.

9. Answering to paragraph 24 of the plaint these defendants state that the first defendant is in wrongful possession of a portion of the premises described in Schedules A and B which together are now one property.

10. Answering to 25th paragraph of the plaint these defendants state that the premises described in Schedules A and B are one property and are depicted as such in the Plan No. 786 referred to therein.

11. Answering to paragraph 26 of the plaint these defendants state that the plaintiff and his predecessors have held the said premises
10 described in Schedules A and B subject to the protection and control of the Vidyadhara Sabha of which these defendants are members and subject to the terms, conditions and agreements hereinbefore referred to as a Sangheeka dedication.

Wherefore these defendants pray that the plaintiff be declared entitled to hold the said premises in the Schedules A and B as shown in the said Plan No. 786 and in Schedule C referred to in the plaint as a charitable trust for the purposes referred in the deed No. 925 and in the foregoing paragraphs of this answer;

For costs; and

20 For such other and further relief in the premises as to this Court shall seem meet.

(Sgd.) D. E. WEERASOORIA,

Proctor

for 2nd, 3rd, 4th, 5th, 7th, 8th, 9th, 10th,
11th, 12th, 13th and 14th defendants.

No. 4

Answer of the 1st Defendant

IN THE DISTRICT COURT OF COLOMBO

No. 2882/L

30 Ven. Baddegama Piyaratana Nayaka Thera as Principal
of the "Vidyodaya Pirivena", Maligakanda in Colombo
.....*Plaintiff*

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Nanesvara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo.
2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatte Road in Colombo.
3. The Hon. Dr. Christopher William Wijekoon Kan-
40 nangara, M.S.C.

No. 3

Answer of the
2nd to 5th and
7th to 14th
Defendants
7.3.44—

Continued

No. 4

Answer of the
1st Defendant
5.4.44

No. 4
 Answer of the
 1st Defendant
 5.4.44—
Continued

4. Mr. Jacob Moonesinghe, Proctor, of Colombo.
5. Mr. H. W. Amarasooriya, M.S.C., of Colombo.
6. Mr. W. H. W. Perera, Proctor, of Colombo.
7. Dr. G. P. Malalasekera of Colombo.
8. Mr. D. L. F. Pedris of Colombo.
9. Mr. Rajah Hewavitarne, M.S.C., of Colombo.
10. Mr. Wimala Dharma Hewavitarne of Colombo.
11. Mr. B. R. Dias of Colombo.
12. Mudaliyar E. A. Abayasekara of Dehiwela.
13. Mudaliyar P. D. Abeywardhana Ratnatunga of 10 Wellawatta.
14. Dr. Perera of Nugegoda.
 (2nd to 14th defendants as members of the Vidya-dhara Sabha of Vidyodaya Pirivena, Maligakanda, in Colombo).
2. S. 47 15. Dr. B. E. Fernando of Colombo substituted in place of 14th defendant (dead).....*Defendants.*

On this 5th day of April, 1944.

The answer of the 1st defendant abovenamed appearing by Merrill Wilson Pereira, Lionel Donald Stewart Gunasekera, Corbert 20 Edward Jayewardene and Edgar Dennis Samarawickrame practising in partnership under the name, style and firm of Merrill Pereira and Gunasekera and their assistant, Alfred Lionel Gunasekera, his proctors, states as follows :—

1. Answering to paragraph 1 of the plaint this defendant admits the Local Jurisdiction of this Court.

2. Answering to paragraph 2 of the plaint this defendant states that the Vidyodaya Pirivena which is the Pirivena referred to in the said paragraph was started by the Rt. Ven. Hikkaduwe Sri Sumangala Nayaka Thera prior to 6th December, 1873, and was in existence 30 at the time the Vidyadhara Sabha was formed.

3. Answering to paragraphs 3 and 4 this defendant denies the averments in paragraph 4 and the averments in paragraph 3 (b) and (c).

4. This defendant admits the averments in paragraphs 5 and 6 of the plaint except in so far as the allegations contained in paragraph 6 are inconsistent with the averments in paragraph 2 hereof.

5. This defendant denies the averments in paragraph 7 of the plaint.

6. Answering to paragraphs 8 and 9 this defendant—

(a) denies that the successors in office to the said Rt. Ven. Hikkaduwe Sri Sumangala Nayaka Thera were to be appointed by the members of the said Vidyadhara Sabha subject to the protection and control of the said members of the said Sabha, and

10 (b) states that in 1876 by deed No. 1259 the said property was dedicated to the Sangha and that the devolution of the said property thereafter was in the Sissyanu Sisya Paramparawa of the Rt. Ven. Hikkaduwe Sri Sumangala Nayaka Thera, the Maligakanda Temple was put up on Sanghika property.

7. Answering to paragraphs 10, 11, 12 and 13 this defendant admits the averments in paragraph 10 and the conveyance No. 2134 referred to in paragraph 12. This defendant states that by the said deed the said premises were sold and conveyed to the Rev. Mabotuwana Siddhartha Thera. This defendant denies the other averments therein contained.

8. This defendant denies the averments in paragraphs 14, 15 and particularly the averments in paragraph 16 of the plaint.

9. Answering to paragraph 17 this defendant states that the said Rt. Ven. Hikkaduwe Sri Sumangala was the Viharadhipathy of the said Maligakanda Temple and Principal of the said Pirivena until his death in 1911.

10. Answering to paragraphs 18, 19 and 20 this defendant states that on the death of the said Rt. Ven. Hikkaduwe Sri Sumangala Nayaka Thera his senior pupil, Sri Sumangala Dewundere Jinaratana Nayaka Thera, succeeded to the Viharadhipathiship of the said Temple and that under him the priests referred to in succession officiated as Principals of the said Pirivena. This defendant 30 denies all and singular the other averments in the said paragraphs. This defendant admits that the Vidyadhara Sabha purported to exercise the function of appointing Principals to the said Pirivena. This defendant, however, states that the said Sabha was not entitled to do so and that in any event the said priests were not duly so appointed by the said Society in terms of the said Deed No. 1259.

11. This defendant specially denies the averments in paragraphs 21 and 22 of the plaint.

40 12. Answering to paragraph 23 this defendant admits that in the said portion of land which is Sanghika there are several buildings, all forming part of and being appurtenant to the Maligakanda Temple.

No. 4

Answer of the
1st Defendant
5.4.44—
Continued

No. 4
 Answer of the
 1st Defendant
 5.4.44—
 Continued

13. This defendant specially denies the averments in paragraph 24 of the plaint.

14. This defendant denies the averments in paragraph 26 and particularly denies that the 2nd to 14th defendants are or have been properly elected to membership of the said Vidyadhara Sabha and puts 2nd to 14th defendants to the proof of their membership of the Sabha.

15. (a) It was provided *inter alia* that the said Vidyadhara Sabha should consist of only 13 members and on the death of any member the election of the successor should be by the Dayakayas. 10

(b) Defendants 2nd to 14th were not elected as required by the terms and conditions governing election set out in Deed No. 925 attested by W. P. Ranasinghe of Colombo, Notary Public, dated 6th day of December, 1873, and are not entitled to call themselves members of the said Sabha.

(c) The alleged appointment of the plaintiff as Principal was unlawful and by a body of men who were not duly elected members of the said Sabha.

16. Further answering this defendant states the said premises are Sanghika property governed by the laws of Sisyanu Sisya Param- 20
 parawa. On the death of the said Rt. Ven. Hikkaduwe Sri Suman-
 gala Nayaka Thera his senior pupil, Ven. Dewundera Jinaratana
 Nayaka Thera, succeeded to the Viharadhipathship and to the con-
 trol of the said premises. By Deed No. 2622 of 22nd June, 1941,
 attested by David de Silva, Notary Public, the said Ven. Dewun-
 dera Jinaratana Nayaka Thera appointed this defendant to be the
 said Viharadhipathy of the said Temple.

17. This defendant is the lawful Viharadhipathy of the said Temple and is entitled to the possession of the land and premises set out in the Schedules to the plaint. 30

18. This defendant states that in any event the plaintiff is not entitled to have the defendant ejected from the said premises.

19. The plaintiff and the defendants 2nd to 14th are wrongfully and unlawfully attempting to challenge the right of this defendant as Viharadhipathy of the said Temple and are disturbing the right of the defendant to the possession of the said premises with all the buildings thereon.

20. This defendant further states that the plaintiff and defend-
 ants 2nd to 14th are acting in collusion to defeat the rights of this
 defendant. 40

21. No prescriptive rights have accrued either to the plaintiff or to the 2nd to 14th defendants in respect of the land in question.

22. The plaintiff cannot have and maintain this action without being appointed trustee as required by law, nor have defendants 2nd to 14th any right to the said premises.

Wherefore this defendant prays—

- (a) that the plaintiff's action be dismissed ;
- (b) that the 1st defendant be declared the Viharadhipathy of the said Maligakanda Temple, and all the temporalities thereto belonging ;
- (c) for costs ; and
- (d) for such other and further relief and not herein specifically pleaded as to this Court shall seem meet.

(Sgd.) MERRILL PEREIRA & GUNASEKERA,
Proctors for 1st Defendant.

No. 4
Answer of the
1st Defendant
5.4.44—
Continued

No. 5

Interrogatories on the Plaintiff by the 1st Defendant

IN THE DISTRICT COURT OF COLOMBO

No. 2882/L.

- 20 Ven. Baddegama Piyaratana Nayaka Thera as Principal of the " Vidyodaya Pirivena ", Maligakanda, Colombo
.....*Plaintiff*
- vs.*
- 1. Ven. Vagisvarachariya Morontuduwe Sri Nanesvara Dhammananda Nayaka Thera of " Vidyodaya Pirivena ", Maligakanda, in Colombo, *et al.**Defendants.*

We move for leave of Court to deliver the following Interrogatories on the plaintiff and the 2nd to 14th defendants (except the 6th defendant).

30 We move further that the Interrogatories to be answered by the plaintiff be served on Mr. D. R. de S. Abhayanayake, Proctor, and the Interrogatories to be answered by the defendants be served on Mr. D. E. Weerasooria, Proctor.

- 1. Is the property described in Schedule " A " of the plaint Sanghika ?
- 2. Is the property described in Schedule " B " of the plaint Sanghika ?

No. 5
Interrogatories
on the Plaintiff
by the 1st
Defendant—
26.10.44

No. 5
Interrogatories
on the Plaintiff
by the 1st
Defendant
26.10.44—
Continued

3. Are both or either of the two premises described in Schedules "A" and "B" of the plaint in the Sisyanu Sisya Paramparawa of the Ven. Hikkaduwe Sri Sumangala Nayake Thera ?

4. Is the Ven. Dewundera Jinaratana of the Gangarama Temple, Hunupitiya, the Chief Pupil of the Ven. Hikkaduwe Sri Sumangala Nayake Thera ?

5. If the Interrogatory 4 is answered in the negative who is or was the chief pupil of the Ven. Hikkaduwe Sri Sumangala ?

6. On what date did you become a member of the Vidyadhara Sabha ? 10

7. Were you elected ?

8. Whom did you succeed as a member of the Vidyadhara Sabha ?

Note.—Interrogatories 4, 5, 6, 7 and 8 are to be answered by each of the 2nd to 14th defendants (except the 6th defendant) and Interrogatories 1, 2, 3, 4 and 5 are to be answered by the plaintiff.

Colombo, 26th October, 1944.

(Sgd.) MERRILL PEREIRA & GUNASEKERA,
Proctors for 1st Defendant.

No. 6
Proceedings
before the
District Court
6.11.44

No. 6

20

Proceedings before the District Court

D.C. 2882/L.

6.11.1944.

Advocate M. T. de S. Ameresekera, K.C., with Advocate W. H. Perera, Edussuriya and Samaranayake for plaintiff.

Advocate N. Nadarajah, K.C., with Advocates E. G. Wikramanayake, Jayamanne and H. W. Jayawardene for 1st defendant.

Advocate E. B. Wikramanayake with Advocate Wijetilleke for 2nd to 5th and 7th to 14th defendants.

Sixth defendant is present.

Mr. Jayawardene tenders additional list of witnesses for 1st defendant. 30

Mr. Ameresekera opens his case and suggests the following issues:—

1. Was the Vidyodaya Pirivena founded by the members of the Vidyadhara Sabha ?

2. Was Sri Sumangala Nayaka Thero appointed first Principal of the said Pirivena by the Vidyadhara Sabha ?

3. Did the said Sabha have the right of appointment and dismissal of successors in office of the said Principal ?

4. Was the plaintiff duly appointed Principal of the said Pirivena by the said Sabha ?

5. Did the title to the property described in Schedule A to the plaint vest in the said Sri Sumangala and his successors in office as trustees for the said Sabha ?

6. Did Mabotuwana Sidhartha Thero hold the property described in Schedule B to the plaint in trust for the said Sabha ?

7. Were the lands described in Schedules A and B to the plaint possessed exclusively and adversely for a period of over ten years by 10 the Principals of the said Pirivena as trustees for the said Sabha ?

8. Was the Aramaya standing on the lands mentioned in Schedules A and B to the plaint erected or caused to be erected by the said Sabha ?

9. Was the Aramaya an appurtenant to the said Pirivena and intended for the use of the Bhikkhus resident in the said Pirivena ?

10. Did the Principals of the said Pirivena at all times officiate as incumbent of the said Aramaya ?

11. Did the 1st defendant in or about December, 1941, wrongfully and unlawfully enter into occupation of a portion of Sri Sumangala 20 Memorial Hall as alleged in paragraph 24 of the plaint ?

12. Is the plaintiff entitled to an order of ejectment against the 1st defendant from the premises described in Schedules A and B to the plaint ?

13. Damages—agreed upon at Re. 1 for the whole period. Mr. Wikramanayake, who appears for the 2nd to 14th defendants bar the 6th who is unrepresented, says at the moment he has no issues to suggest. There is a prayer in the answer that the plaintiff be declared entitled to hold the premises as a charitable trust for the purposes referred to in Deed 925. The issues suggested by Mr. Amersekera 30 are sufficient to entitle the plaintiff to be declared the trustee of the 2nd to 14th defendants, whether it is a charitable trust or not.

Mr. Nadarajah suggests that issue 9 be split up into two issues :—

(9a) Was the Aramaya an appurtenant to the said Pirivena ?

(9b) If so, was it intended for the use of the Bhikkhus resident in the said Pirivena ?

Mr. Amersekera has no objection, and the issue will accordingly be amended.

With regard to issue 3, Mr. Nadarajah suggests that it be amended to read :—

No. 6
 Proceedings
 before the
 District Court
 6.11.44—
Continued

(3) Did the said Sabha have the right of appointment and dismissal of successors in office of the Principal of the said Pirivena ?

Mr. Ameresekera has no objection. This issue will accordingly be so amended.

Mr. Nadarajah suggests the following issues on his own account :—

(14) Are the 2nd to 14th defendants duly elected members of the Vidyadhara Sabha ?

(15) Are the 2nd to 14th defendants entitled to any rights of control over the properties set out in Schedules A and B to the plaint ? 10

(16) Were the properties set out in Schedules A and B or either dedicated as Sanghika property to the community of Buddhist monks ?

(17) Is the 1st defendant the controlling Vihara-adhipathy of the properties described in Schedules A and B or either ?

(18) If issue 16 is answered in the affirmative, did the devolution of the control and management of the said properties take place according to the rules of the Sisyanu Sisya Paramparawa ?

(19) Was the plaintiff appointed lawful trustee according to the requirements of the Trusts Ordinance of 1918 and/or the Buddhist Temporalities Ordinance ? 20

(20) Is the plaintiff vested with the properties set out in Schedules A and B ?

(21) If issues 19 and 20 or either of them are answered against the plaintiff, can plaintiff maintain this action ?

(22) If issues 14 and 15 are answered against plaintiff and defendants 2nd to 14th, can plaintiff maintain this action ?

(23) Who were the persons who appointed the plaintiff as Principal of the Pirivena ?

(24) Were such persons duly elected members of the said Vidyadhara Sabha ? 30

(25) Did they constitute a lawful body having the power to appoint a Principal ?

(26) If either issues 24 or 25 is answered in the negative, can plaintiff maintain this action ?

Mr. Ameresekera says that it is nowhere alleged that Sri Suman-gala was incumbent of the Maligakande Temple.

Mr. Nadarajah states that that is the defendant's case. He therefore suggests the following additional issues :—

(27) Was Sri Sumangala the incumbent of the Maligakande Temple ?

(28) Has the said incumbency devolved upon the plaintiff by pupillary succession ?

As arising out of issues 27 and 28, Mr. Amersekere suggests :—

(29) Did the premises described in Schedules A and B or either comprise the Maligakande Temple ?

(30) Is Devundara Jinaratna Nayaka Thero the senior pupil of Sri Sumangala ?

10 (31) Even so, can the 1st defendant maintain his claim to be incumbent of the Temple on deed 2622 dated 22.6.1941 ?

Mr. Wikramanayake suggests :—

(32) Is the plaintiff entitled to the premises described in Schedules A and B in trust for the purposes referred to in Deed 925 ?

Mr. Nadarajah objects to the last issue.

I accept all the issues.

(Sgd.) S. C. SWAN,
A.D.J.

(Interval)

20

After Interval

I have got the issues transcribed, and copies have been handed to counsel for the three parties. The necessary corrections are made.

Mr. Nadarajah wishes me to try certain issues of law *in limine* because it will not be necessary in that event to lead evidence on the disputed questions of fact.

The issues that arise preliminary are : 19, 20 and 21.

I wish to hear Mr. Nadarajah and if the points seem to me to be so absolutely clear that it will not be necessary for me to hear evidence, I shall try these issues preliminary ; but if in the course of the argument
30 I feel that it will be much more convenient to hear all the evidence before deciding the issues of law, I shall intimate to Mr. Nadarajah that I shall hear evidence first.

Mr. Nadarajah invites me to try these three issues on the assumption of but without conceding the truth of the allegation in the plaint that the plaintiff has been duly elected trustee according to the rules of the alleged Society.

He refers me to para 2 of the plaint which speaks of the Society and the object for which it was founded. Such a trust would be a charitable trust as defined in section 99 of the Trusts Ordinance.
40 Section 99 B and C clearly apply and there can be no doubt that it is a public charitable trust.

Paragraph 3 gives the rules of the Board of Control and Management.

Paragraph 6 proves that the Vidyodaya Pirivena was duly established for the purpose of teaching Buddhism and other branches of learning to the clergy and the laity.

Paragraph 7 speaks of the appointment of Sri Sumangala as Principal.

Paragraph 8 speaks of the conveyance to Sri Sumangala and his successors by appointment subject to the control and protection of the Sabha. 10

Paragraph 10 deals with the transfer of another property which was annexed to the original property conveyed to Sri Sumangala.

Paragraph 13 makes it clear that the conveyance of the second land was to Mabotuwana Siddhartha in trust for the members of the Sabha. According to the plaint the property in Schedule A is conveyed to Sri Sumangala and his successors in office as Principal, while paragraph 13 makes it clear that the second land was conveyed to Mabotuwana Siddhartha in trust for the members of the said Sabha.

It is clear on the plaint that the temple was attached more or less as a private chapel for the students of the College. 20

Mr. Nadarajah refers me to the answer of the 2nd to 14th defendants who claim to be the present members of the Vidyadhara Sabha. They state in their answer that the property is held as a charitable trust.

He cites section 75 (2) of the Trusts Ordinance which makes it necessary that the appointment of a trustee by the persons mentioned in the instrument of trust must be by a notarial writing. He submits that this section applies to both private and charitable trusts.

Sub-section 3 requires certain particulars to be furnished for the purpose of registration. There is also a proviso which affects charitable trusts only. 30

Mr. Nadarajah contends that the appointment of a trustee by persons competent to appoint must be by a notarial instrument, and there must be a schedule of the property set out in the instrument,

The absence of a schedule may affect the vesting of the property, which however may be remedied ; but if there is no appointment by a notarial deed of appointment, the appointment is bad.

Sections 75 to 77 deal with the vesting of trust property in a new trustee. From that section it would appear that if there is no proper appointment of a trustee the legal title will be either in the last trustee if he is alive, or if he is dead, in his legal representative. 40

With regard to charitable trusts there are still further special provisions.

Mr. Nadarajah says section 107 is merely an enabling section, giving the Court the right to accept evidence of a *de facto* trust where there is no evidence of the formal constitution of the trust. Section 5 provides that no trust can be established with regard to immovable property unless by will or notarial deed with the exception being made in the case of old trusts which are dealt with under section 107.

He contends that section 107 has nothing to do with the due appointment of a trustee.

In the plaint it is alleged that the plaintiff's appointment was in 10 1936, so that it is clear that the Trusts Ordinance applies.

He now deals with sections 112 and 113. Section 113 (2 and 3) taken in conjunction with sections 75 and 76 makes it clear that the appointment of a trustee must be by a notarial document.

He cites 34 N.L.R., page 359, 12 C.L.W., page 9 and 27 N.L.R. page 15.

He refers me to the Buddhist Temporalities Ordinance, section 222 (Volume 5 L.E.) Ordinance 19 of 1931. Plaintiff has not come into Court as the controlling Viharadhipathi of the Aramaya. He merely claims to be the Principal of the Pirivena.

20 Mr. Ameresekera admits that there is no notarial deed of appointment appointing the plaintiff; there is no memorandum in writing notarially attested appointing the plaintiff as trustee.

Mr. Nadarajah cites 33 Hailsham, page 204 (beginning on page 202).

With regard to section 113 (1) Mr. Nadarajah contends it only applies to a constructive trust. Sub-section 2 applies to all trusts; sub-section 1 only to constructive trusts.

Further hearing tomorrow.

Mr. Wikramanayake tenders an additional list of witnesses and moves for summons.

30

No. 7
Order of the District Court
ORDER

No. 7
Order of the
District Court
6.11.44

As I intend considering the legal position before deciding whether I should hear evidence or not, it is not necessary for me to issue summons immediately on the witnesses. Of course summons will be issued in any event subject to the right of the 1st defendant to take objection to the evidence of those witnesses on the ground that the list has been submitted after the trial started.

(Sgd.) S. C. SWAN,
A.D.J.

40

No. 8
 Proceedings before the District Court

D.C. 2882/L.

7.11.44.

Appearances as before

Mr. Amarasekera addresses me on the preliminary issue:—

He says with regard to the two lands described in the Schedules A and B to the plaint, plaintiff's case can be differentiated. Deed 1259 is in favour of Sri Sumangala and his successors-in-office. He marks the deed P2. (It is agreed that the plan made by Mr. Indatissa be 10 marked X and agreement 925 P1.) (Mr. Nadarajah points out that the translation which he has got of deed 1259 is slightly different from the translation which Mr. Ameresekera is reading from. If it becomes necessary I shall have a translation furnished by the Interpreter of this Court for my own guidance.

Parties agree that for the purpose of the present argument the Court adopt the allegations in the plaint and the implications of the issues suggested by the three parties to this action.

I intimate to counsel appearing in the case that it will be desirable for them to put in a translation on the accuracy of which they can 20 agree. If, however, parties are at variance with regard to the correctness of the translation the matter will have to be decided after I have heard evidence.

With regard to the land in Schedule A Mr. Ameresekera says that the relevant paragraphs are paragraphs 6 to 9 of the plaint. With regard to the land in Schedule B the relevant paragraphs are paragraphs 10 to 13. It would appear from these paragraphs that Mabotuwana Siddhartha Thero held the premises described in Schedule B in trust for the Society. Mabotuwana Siddhartha died in 1909 and Sumangala in 1911. At least from the death of Mabotuwana 30 Siddhartha Thero Sri Sumangala possessed both allotments of land as one property in his capacity as Principal of the Pirivena.

Paragraph 14 makes it clear that from 1884 the Society constructed the buildings on the two allotments. On the death of Sri Sumangala Gneswara was appointed Principal and he officiated as such till his death in 1922. He held the premises in trust for the Society not in his personal capacity but as successor-in-office of Sri Sumangala as Principal of the Pirivena. Then Ratanasara Thero was appointed Principal to succeed Gneswara and he continued as such till 1936. So far as land No. 1 is concerned the plaintiff claims to be entitled 40 thereto not only by reason of the fact that he was appointed Principal by the Society (and in terms of deed 1259 (P2) becomes the trustee),

but by reason of the fact that he was also *de facto* successor-in-office of Sri Sumangala. Mr. Ameresekera contends that the legal title in land A is in the plaintiff. Plaintiff also claims the land by prescription on account of the possession of himself and his predecessors-in-office.

No. 8
Proceedings
before the
District Court
7.11.44—
Continued

With regard to land B he produces deed 2134 of 4.4.1884 marked P3. He concedes that legal title by P3 was vested in Mabotuwana Siddhartha. Mabotuwana Siddhartha did not use the property for his personal purposes but made it part and parcel of the Pirivena. On his death, title would pass to his heirs. So far as this case is concerned the heirs of Mabotuwana Siddhartha have not come forward at any time; but on Siddhartha's death his tutor Sri Sumangala who was the Principal of the Pirivena possessed land B as part and parcel of the Pirivena; he too did not possess it on his own but for the Sabha in his capacity as Principal of the Pirivena and trustee of the Sabha.

The legal position with regard to land B is that Mabotuwana Siddhartha was the constructive trustee for the Vidyadhara Sabha. After the legal heirs of Mabotuwana Siddhartha took possession of the property they too would be deemed in law to be constructive trustees for the Society. With regard to land B Sri Sumangala, at least from the death of Siddhartha, and after Sri Sumangala Gnaneswara were constructive trustees for the Society. Section 96 Trusts Ordinance.

He cites section 113 of the Trusts Ordinance. Referring to section 113, Mr. Ameresekera contends that it applies to all kinds of trusts and not only to constructive trusts as Mr. Nadarajah submitted. From the very language of section 113 it is obvious that it applies to express trusts because it speaks of "the instrument of trust".

At this stage Mr. Wikramanayake, who appears with Mr. Nadarajah for the 1st defendant, says that Mr. Nadrajah's argument was that section 113 did not apply to public trusts but only to private trusts.

Meeting this point Mr. Ameresekera contends that from the section it would appear to apply to all trusts whether private or public because the language is wide enough to apply to all trusts.

Section 113 (2) deals with only a particular case and is confined to charitable trusts and trusts of private or public associations.

He cites :—

- 20 N.L.R. 359—at bottom of 364 and 365.
- 23 N.L.R., page 261.
- 27 N.L.R., page 15, page 21.
- 6 Ceylon Weekly Reporter, page 209.

No. 8
 Proceedings
 before the
 District Court
 7.11.44—
Continued

Mr. Ameresekera says that on the plaint it would appear that the plaintiff's case against the 1st defendant is that the 1st defendant is a trespasser having no title to lots A and B. 1st defendant in para 17 of his answer claims to be the lawful Viharadhipathi of the temple and is in possession of the land and premises described in the schedule to the plaint. Plaintiff is undoubtedly *de facto* trustee of the premises. He submits that a *de facto* trustee can maintain the action without a vesting order.

He cites :—

40 N.L.R. 562. 10

15 Law Recorder 222.

45 N.L.R. 227, at 221.

5 N.L.R. 270 (cites with approval by the Privy Council in 14 N.L.R. 317).

He says 34 N.L.R. 359, cited by Mr. Nadarajah does not apply.

He cites :—

24 Ceylon Law Weekly 55.

Plaintiff further claims to have acquired a title for the Society by prescription—37 N.L.R. 19.

(Sgd.) S. C. SWAN, 20
A.D.J.

(Interval)

7.11.1944.

(After Interval)

Mr. Ameresekera continues his address.

He cites 42 N.L.R. 54.

Section 75 applies only to a case where the office of trustee becomes vacant. When a new trustee is appointed there must be a formal writing in order to vest the property.

Mr. E. B. Wikramanayake addresses me :— 30

He suggests that the question of law can only be decided on the pleadings and issues framed. Whether the averments in the plaint are true or not is a matter to be decided after evidence is led. In paragraph 3 of the plaint the plaintiff alleges that the right of appointment of a Principal was with the Society. Specific issues have been framed and it is a matter of controversy which the Court will have to decide after hearing evidence. The plaintiff alleges that he was properly appointed by the Sabha—that may be right or

that may be wrong, but for the purposes of the preliminary issues the Court will have to go on the footing that the Sabha had the right to appoint and the plaintiff had been rightly appointed. Issue 19, Mr. Wikramanayake submits, necessarily involves a question of fact, viz. whether this temple is subject to the Buddhist Temporalities Ordinance. The two ordinances are mutually exclusive and we must apply the one or the other. The plaintiff's case is that this is a Piri-vena. First defendant maintains it is a temple. So one of the questions which the Court will have to decide is whether it is a temple
 10 within the meaning of the Buddhist Temporalities Ordinance. If section 109 applies, section 113 goes out ; sections 75 to 77 also go out. If this is governed by the Buddhist Temporalities Ordinance, the Trust Ordinance does not apply. If this is exempted from the operation of the Ordinance, there are further questions of fact to be decided. Is the plaintiff the controlling vihara-adhipathi? He is defined as the chief Bhikkhu of the temple. If he is the chief Bhikkhu, and if this temple is exempted from the operation of the Ordinance, and if this is a temple, then plaintiff is entitled to maintain this action.

Mr. Wikramanayake submits that neither section 112 nor 113
 20 (2) and (3) have any relevancy to this matter. It is necessary to decide this case on the averments in the plaint. The plaintiff has come to Court claiming to be the trustee. Whether he is a trustee or not is an entirely different matter. For the purpose of this matter the Court must presume he has a trust. If he is trustee, then clearly he has legal title. If he has legal title then clearly there is no necessity of a vesting order under section 112. Under section 112 there are 2
 30 cases in which the Court can make a vesting order : (1) Where there is uncertainty as to the person in whom legal title is vested ; (2) where a trustee or a person in whom title to trust property is vested is required to convey the property and the trustee refuses. He submits
 40 that on the averments in the plaint there is no uncertainty whatsoever as to the person in whom legal title is vested. Plaintiff says it is vested in him — he may be wrong. As to whether he is wrong or not is for the Court to decide. As far as the pleadings go, plaintiff comes to Court as the person in whom legal title is vested. A vesting order under section 112 can be obtained only where action is brought under sections 101 and 102. That is to say, in cases of charitable trust or religious trust. In no other case can the Court make order. It is not open for anybody to come independent of sections 101 and 102
 and ask the Court to make an order. He refers to the case reported in 34 N.L.R. A person cannot come into Court unless the title is in him. If it is not in him he must get it by some means or other and the only means is by a vesting order. In the case reported in 12 Law Weekly, page 9, a person came into Court asking for a vesting order and nothing else. Under sections 101 and 102 there is a certain legal procedure set out. The plaintiff in that case was refused a

No. 8
 Proceedings
 before the
 District Court
 7.11.44—
 Continued

vesting order by the Supreme Court as the procedure indicated in those sections had not been adopted. In this case no vesting order under section 101 is necessary, firstly as there is no uncertainty in whom legal title is vested; plaintiff says it is in him; the Court has to decide whether it is a fact or not; secondly, this does not come under sections 101 or 102.

Section 113(1) is relevant to this case. Sub-sections (1) and (2) of section 113 are entirely two different cases. Sub-section (1) is not confined to constructive trusts; the words used are "any instrument of trust". There is no reason why it should be given a restricted 10 meaning. Sub-section (1) is based, where there is an express or constructive trust, the trustee is the person holding a public or private office; in that event he is followed by his successors in office. In this case, once a person is appointed Principal, *ipso facto* by reason of the deed he becomes trustee.

Sub-section (2) deals with a different case—where by virtue of the instrument of trust a trustee has got to be appointed in particular manner. This property was vested in Sri Sumangala as trustee. When he died his successor should be appointed by the Sabha, *i.e.* the Sabha should appoint a Principal as trustee, and in that case a formal 20 writing is unnecessary.

He refers me to paragraph 9 of the plaint.

If this is governed by the Buddhist Temporalities Ordinance, still it is a question of fact. Under Section 4 the management of the property belonging to the temple not exempted from the operation of sub-section (1) shall be vested in a person duly appointed trustee. If the plaintiff is the Principal and this is a temple exempted from the operation, then he can maintain this action.

Mr. Nadarajah in reply.

He refers to section 113. In the case of a trustee holdig or acting 30 in any public office, the holder of the office at the time being is the trustee. He contrasts the case of a person holding such office with the case where the author of a trust purports to create an office. In this case the property was conveyed to Sri Sumangala described as Principal or to his successors-in-office as will be appointed by the Vidyadhara Sabha. In the case of a Principal of a Pirivena there is no continuity of office. In this case the property was conveyed to Sumangala who had been elected Principal of the Pirivena by the creators of the trust themselves. The future trustees were to succeed as Principals appointed by the same body. That is entirely different 40 from the case of a person holding or acting in office in any private or public institution. The beneficiaries of the trust are themselves parties to the deed by which the property was conveyed to Sri Sumangala and his successors. The grantor himself is one of the members of the Sabha. The grantor plainly states that he is conveying the

premises to Sri Sumangala and to those Principals succeeding him as will have to be appointed by the Sabha. Deed P2 does not give the mode of appointment ; it does not say whether the appointment should be by nomination, selection or election. He submits that if there is a conflict between sub-sections (1) and (2) of section 113, it is sub-section (2) that applies.

(Mr. Nadarajah states that wherever he has referred to a notarial writing, he meant to say a memorandum in writing as contemplated in sub-section (3) of section 113.)

10 Under sections 75 and 76 too what is required is an instrument in writing notarially executed. He cites 8 N.L.R. 97.

(Further hearing on 9.11.44.)

(Sgd.) S. C. SWAN,
A.D.J.

No. 8
Proceedings
before the
District Court
7.11.44—
Continued

No. 9

Proceedings before the District Court

9.11.44.

Appearances as before

Mr. Wikramanayake continues the address, Mr. Nadarajah
20 not being able to be present.

At the time the 8 N.L.R. case was decided the Ordinance in operation was Ordinance 7 of 1871. That Ordinance provided that where a successor-in-office was to follow a *de facto* trustee the District Court could appoint a successor. There was a conflict of opinion as to whether the section applied to a charitable trust, but in view of the trend of authority that a successor-in-office did not automatically become a trustee, the amending Ordinance of 1915 was passed. That was while the present Ordinance was in contemplation.

Mr. Ameresekera objects to any reference being made to the
30 reasons and objects of the Ordinance. He says they are irrelevant.

Mr. Wikramanayake cites 21 N.L.R. 294. He refers me to the remarks of Bertram, C.J., in 21 N.L.R.

Before ruling whether the objects and reasons of this Ordinance are relevant I shall hear Mr. Ameresekera. He cites : Law Times Reports, January to June, 1935, page 26 (at page 31) : 1892, Appeal Cases, page 498 ; 1914 Appeal Cases, page 877.

Mr. E. B. Wikramanayake takes a similar objection. When there is an apparent inconsistency in the sections of an Ordinance the Court may look at the objects and reasons in order to clear the doubt.
40 In this particular case there is no argument advanced by anybody that there is any inconsistency between sections 113(1) and 113(2).

No. 9
Proceedings
before the
District Court
9.11.44

ORDER

No. 9
 Proceedings
 before the
 District Court
 9.11.44—
Continued

I do not see how my listening to the objects and reasons of this Ordinance of 1915 amending the earlier ordinance of 1871 will affect the issue in this case. It is only of historical interest. I wish however to make it quite clear that the object and reasons of the Ordinance of 1915 will not have any influence on my interpreting sections 113(1) and 113(2).

Mr. Wikramanayake cites : Cardinal Rules of interpretation 324.

At this stage the parties agree to accept as the correct translation of deed 1259 the translation which is now submitted by Muhandiram 10 W. E. Perera, Chief Interpreter of this Court. The translation is marked P2A.

Mr. Wikramanayake contends that if the Principal of the Pirivena was appointed independently of the instrument of trust then section 113 would apply. In such a case neither the trustee nor the *cestin que* trust had any say in the appointment. But where either the outgoing trustee or the *cestin que* trust or the author of the trust had anything to do with the appointment 113(1) would not apply ; it would be section 113(2).

As regards the right of the plaintiff to sue as a *de facto* trustee --- 20 the 14 N.L.R. case was a possessory suit that any person in possession and claiming title was in a position to maintain. In the 20 N.L.R. case the Supreme Court held that there was no trust at all created.

With regard to the suggestion that issue 19 involves the trial of an issue of fact he submits that from the manner in which the plaint was drafted it was impossible to say whether the plaintiff was claiming the right to control these premises as the incumbent of the temple or the principal of the pirivena. That is why the issue was so framed ; but for the argument of the issue of law, in view of the fact that the plaintiff himself does not seek to establish a claim under the Buddhist 30 Temporalities Ordinance, the Court has only to consider whether the plaintiff has been validly appointed under the Ordinance. *Beale : Interpretation of Statutes page 480.*

He says that sections 113(1) and 113(2) are not repugnant. Assuming that they are repugnant the latter must prevail. He however says there is no repugnancy. It is section 113(2) that applies to this case.

Mr. Amarasekera addresses in reply.

(Interval)

Mr. Amarasekera continues his address.

P1, P2 and P2A tendered without a list.

Order on 13.11.

10

(Sgd.) S. C. SWAN,
A.D.J.

13.11.

Order not ready.

Stand Out. 20.11.

(Intld.) S. C. S.,
A.D.J.

No. 10

Judgment of the District Court

D.C. 2882/L.

20

JUDGMENT

The plaintiff has instituted this action against the 1st defendant to be declared entitled as trustees for the 2nd to 14th defendants, to the lands and premises described in Schedules A and B to the plaint, now forming one property as described in Schedule C. The plaintiff has asked for a writ of ejectment against the 1st defendant alleging that the 1st defendant has no right to remain on the premises.

The 1st defendant filed answer claiming that the property in question was Sanghika property and that he was entitled as the controlling Vihare-adhipathi of the Maligakande Temple to the possession and control thereof. The 6th defendant appeared in person; he did not file answer. The 2nd to 5th and 7th to 14th defendants filed an answer more or less on the same lines as the plaint.

Several issues were framed at the trial, and I was invited by Adv. Nadarajah who appeared for the 1st defendant to try *in limine* issues 19, 20 and 21 as they were legal issues and if I held in favour of the 1st defendant on these issues there would be no need to go into evidence regarding the merits of the case. I ultimately decided to try these issues as preliminary issues. They are:—

40 (19) Was the plaintiff appointed lawful trustee according to the requirements of the Trusts Ordinance of 1918 and/or the Buddhist Temporalities Ordinance?

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Proceedings
before the
District Court
9.11.44—
Continued

No. 10
Judgment of
the District
Court
20.11.44

No. 10
 Judgment of
 the District
 Court
 20.11.44—
Continued

(20) Is the plaintiff vested with the properties set out in Schedules A and B ?

(21) If issues 19 and 20 or either of them are answered against the plaintiff, can the plaintiff maintain this action ?

It was agreed that for the purpose of deciding these issues the Court should look into the allegations in the plaint irrespective of the position taken by the 1st defendant in his answer. I should say at once that in considering the legal point taken by Mr. Nadarajah we must omit the latter half of issue 19, viz., whether the plaintiff has been duly appointed trustee in accordance with the Buddhist 10 Temporalities Ordinance. I was given to understand that the issue was framed as it stands because learned counsel for the 1st defendant was not certain what exact position the plaintiff would take, but as the addresses developed it became quite clear that the plaintiff was not basing any claim under the Buddhist Temporalities Ordinance. If anybody is claiming such rights, it is the 1st defendant, and it will be impossible to say whether or not the Buddhist Temporalities Ordinance has any application in this case until evidence is led and the matter fully investigated. Therefore, for the purpose of deciding 20 the preliminary matter, I shall confine issue 19 to the consideration whether the plaintiff has been duly appointed lawful trustee according to the requirements of the Trusts Ordinance of 1918. Issues 20 and 21 will also be considered from this point of view alone, without any reference to the Buddhist Temporalities Ordinance.

According to the plaint, certain pious Buddhist gentlemen on the 6th day of December, 1873, formed themselves into an association called the Vidyadhara Sabha, the chief object of which was to obtain some land in Colombo in order to establish a Pirivena for the purpose of teaching Buddhism. For the sake of brevity, I shall hereinafter refer to this association as the Society. 30

Paragraph 3 of the plaint sets out that the membership of the Society should be limited to 13 ; that an educated and pious monk be placed in charge of the Pirivena by the Society; that the right of appointment of the Principal and the teachers should be with the said Society.

Paragraph 4 of the plaint sets out that the mode of appointment of future members of the Society was duly agreed upon and was prescribed by the rules of the Society.

The plaint thereafter sets out that the said 13 gentlemen entered into deed No. 925 dated 6.12.1873 (P1) for the better manifestation 40 of the said rules and purposes.

The members of the Society thereafter collected a sum of money and constructed a building on a certain land belonging to one of the members, viz., Lansege Andris Perera Appuhamy, and established thereon about the year 1873 a college called or known as the Vidyodaya

Pirivena, and appointed as the first Principal the Ven. Hikkaduwe Sri Sumangala Nayake Thero. The plaint alleges that the said reverend priest duly accepted the appointment and entered on his duties as Principal of the said Pirivena about the year 1873.

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Continued

The plaint continues that in March, 1876, it was agreed between Lansege Andris Perera Appuhamy and the remaining members of the Society and the Ven. Hikkaduwe Sri Sumangala that Lansege Andris Perera Appuhamy should convey the land and premises on which the Pirivena had been built and established to the Ven. Hikkaduwe Sri
10 Sumangala Nayake Thero and to his successors in the office of Principal of the said Pirivena that may be appointed by the members of the Society subject to the protection and control of the members of the Society.

In pursuance of this agreement Lansege Andris Perera, with the consent of the other members of the Society, by Deed No. 1259 dated 9.3.1876 (P2) conveyed the said land and premises with the buildings thereon to the Ven. Hikkaduwe Sri Sumangala. I shall now quote verbatim from the deed : “ And in consideration of the sum of Rupees Two thousand and Seventy paid by the parties of the second part to
20 the said Lansege Andris Perera . . . the said party of the first part (Lansege Andris Perera) with the approval of the parties of the second part does hereby give and assign and has given and assigned to the said Ven. Sumangala Nayake Thero, Principal of the Vidyodaya Pirivena, and on his demise the Principal appointed to the Pirivena by the parties of the second part and on their death by the gentlemen who join the said Sabha as and by way of dedication absolute and irrevocable and as Sanghika property ” the premises described in Schedule A to the plaint.

We now come to the property described in Schedule B to the
30 plaint. The plaint sets out that one Simon Perera Dharmagunawardena was the original owner and that on the 4th day of April, 1884, the members of the Society arranged with him to obtain the said portion of land for the Pirivena and get a transfer thereof in favour of Rev. Mabotuwana Siddhartha Thero, and the premises were accordingly conveyed to the said reverend priest by deed 2134 (P3). This deed makes no reference to successors in office, and ordinarily the legal title would be vested in the heirs and successors of Rev. Mabotuwana Siddhartha Thero; but the plaint proceeds on the footing that Rev. Mabotuwana Siddhartha Thero held that property
40 in trust for the Society. In order to decide the issues of law I shall take it for granted that after the execution of deed P3 the premises described in Schedule B to the plaint were possessed as part and parcel of the Pirivena, and that the Ven. Hikkaduwe Sri Sumangala Thero as Principal of the Pirivena and his successors in office possessed both premises as one lot in trust for the members of the Society.

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Continued

It is not necessary to consider the truth of the allegations in paragraph 16 of the plaint. That is a matter in dispute between the parties. The plaintiff's case is that the temple is appurtenant to the Pirivena; the 1st defendant's case is just the reverse, viz., that the Pirivena is appurtenant to the temple. In order to decide the issue of law I shall take it for granted that the entire property was the property of the Pirivena and the person entitled to be trustee was the Principal of the Pirivena and that the incumbent of the temple as such had nothing whatsoever to do with this trust.

The plaint does not say when Rev. Mabotuwana Siddhartha Thero 10 died, but it was stated at the argument that he departed this life in 1909; the date of his death is immaterial. The plaint continues that Sri Sumangala officiated as Principal till his death in 1911, and that on his death the Society appointed the Ven. Mahagoda Nanissara Nayake Thero as Principal of the Pirivena and that he officiated as such till his death in 1922; thereupon the Society appointed the Ven. Kahave Ratanasara Nayake Thero as Principal of the Pirivena and that he officiated as such till 1936 when the Society appointed the plaintiff as the Principal. The plaint alleges that the plaintiff as Principal entered on his duties and is still officiating as Principal. 20

Paragraph 21 of the plaint is to the effect that the principals of the Pirivena have been in possession, for over the prescriptive period, of the premises in question.

Paragraph 22 sets out that the plaintiff holds the said lands as trustee for the members of the Society.

The question to decide is whether the plaintiff has a status in law to maintain this action. Advocate Nadarajah submits that section 113(2) of the Trusts Ordinance applies and that the plaintiff cannot claim that the trust property vested in him as trustee unless his appointment had been made in the manner prescribed by sub- 30 section (3).

Sub-sections (2) and (3) of section 113 read as follows:—

“(2) Where, whether before or after the commencement of this Ordinance, in the case of any charitable trust, or in the case of any trust for the purpose of any public or private association (not being an association for the purpose of gain), a method for the appointment of new trustees is prescribed in the instrument of trust (other than nomination in the manner referred to in paragraph (a) of section 75), or by any rule in force, or in the absence of any such prescribed method is established by custom, 40 then upon any new trustee being appointed in accordance with such prescribed or customary method, and upon the execution of the memorandum referred to in the next succeeding sub-section, the trust property shall become vested without any

conveyance, vesting order, or other assurance in such new trustee and the old continuing trustees jointly, or if there are no old continuing trustees, in such new trustee wholly.

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Continued

“(3) Every appointment under the last preceding subsection shall be made to appear by a memorandum under the hand of the person presiding at the meeting, or other proceeding at which the appointment was made, and attested by two other persons present at the said meeting or proceeding. Every such memorandum shall be notarially executed.”

10 Messrs. Ameresekera and E. B. Wikramanayake on the other hand contend that no such appointment was necessary; that the plaintiff is a *de facto* trustee; that there is no need for him to be armed with a vesting order under section 112 to give him a *locus standi in judicio*. They further contend that if any section of the Trusts Ordinance is applicable, it is section 113(1). During the course of the argument I became more and more convinced that the applicable section was 113(2).

Section 113(1) seems to me to apply in the case of a person holding a public office or a person holding a private office with the
20 appointment of whose successor neither the creator of the trust nor the beneficiaries nor the previous trustee has any concern or part. It is quite easy to think of the successor of a person holding a public office; even a person temporarily discharging such office would be clothed with the rights of the trustee. The idea is a continuity of the office. Even in private institutions, bodies, corporations, associations or communities we can think of something parallel, where the appointment to the office has nothing to do with the parties to the trust. In this particular case the original trustee was Sri Sumangala. He was to be followed by his successors in office, not successors
30 appointed in the ordinary course by some third party or parties; but successors to be elected or nominated by the members of the Society themselves.

Mr. Ameresekera tried to make a point of the fact that the Society was not concerned with the appointment of the trustee; what they were concerned with was the appointment of a Principal; and that, therefore, the successor to the outgoing Principal automatically became trustee. I think he was trying to make a distinction without

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 the District
 Court
 20.11.44—
Continued

any difference. The plaint makes it quite clear that the new Principal who automatically became trustee was to be elected by the Society, and in these circumstances I think that section 113(2) is undoubtedly applicable. In this case we may take the instrument of trust to be deed No. 1259, and for the manner of appointment we will have to look into that deed as well as into deed No. 925 which it recites. It would be naturally presumed that there being 13 members and no particular majority being required for the election of the Principal, the ordinary rule would apply, viz. the choice would be with the majority of the members present at the particular meeting. In this 10 case there is no allegation in the plaint that the plaintiff was elected trustee in the manner set out in deeds 1259 and 925. But assuming that he was so elected, sub-section (3) makes it necessary that his appointment should have been by a memorandum under the hand of the person presiding at the meeting or the proceedings at which the appointment was made, and attested by two other members present at the said meeting or proceeding. It also makes it necessary that such a memorandum should be notarially executed. It is conceded in this case that there is no such memorandum. Now, sub-section (2) provides that “upon any new trustee being appointed in accordance 20 with such prescribed or customary method, and upon the execution of the memorandum referred to in the next succeeding sub-section, the trust property shall become vested without any conveyance, vesting order, or other assurance”. My interpretation of this section is that the memorandum in writing notarially executed is a *sine qua non* without which the trust property does not become vested in the newly appointed trustee and without which he cannot claim a *locus standi in judicio*.

This is the independent conclusion to which I came on the plain reading of section 113, sub-sections (1) (2) and (3). But Advocate 30 E. G. Wikramanayake, who appeared with Advocate Nadarajah and who continued the address on the last day of the argument, gave me the history of section 113. The provisions of this section were first introduced by the Ordinance of 1915 which was enacted to amend the property and Trustees Ordinance, 1871. The objects and reasons of the amendment are set out in the Gazette of 26th February, 1915.

At that time the present Ordinance in force was in contemplation. The objects and reasons of the present Ordinance will be found in the Gazette of 25th August, 1916. There we find it set out that “ the first part of section 113 re-enacts Ordinance 9 of 1915 which was recently passed as a special enactment ”. It is also stated that “ the second part of this section should prove of some use to religious societies which have property vested in trustees. Such societies seldom take the trouble to see to the execution of the necessary conveyance on a change of trustees. It is generalized and modelled upon
 10 the Indian Religious Societies Act of 1880.” Now, the schedule to the Indian Religious Societies Act gives the manner in which new trustees chosen at a meeting or other proceedings are appointed. The only difference between the requirements of that Ordinance and ours seems to be that in Ceylon a notarial attestation is an additional requisite.

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 Judgment of
 the District
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Continued

In my opinion section 113, sub-sections (2) and (3) apply, and I therefore must answer the preliminary issues against the plaintiff. I hold that the plaintiff has no status to maintain this action as trustee of this Pirivena inasmuch as he has not been duly appointed in the
 20 manner set out in section 113 (2) and (3) of the Trusts Ordinance. The plaintiff’s action is dismissed with costs payable to the 1st defendant. The 2nd to 14th defendant’s are dismissed from the case without costs.

(Sgd.) S. C. SWAN,
A.D.J.

20.11.1944.

Judgment delivered in open Court in the presence of:—

Mr. D. R. de S. Abhayanayake, proctor for plaintiff.

Mr. Jayewardene, proctor for 1st defendant.

30 Mr. D. E. Weerasooria, proctor for 2nd to 5th and 7th to 14th defendants.

(Sgd.) S. C. SWAN,
A.D.J.

No. 11
 Petition of
 Appeal to the
 Supreme Court
 30.11.44

No. 11

Petition of Appeal to the Supreme Court

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

D.C. No. 2882/Land.

Ven. Baddegama Piyaratana Nayake Thero as Principal of
 the "Vidyodaya Pirivena", Maligakande in Colombo

.....*Plaintiff-Appellant*

S.C. No. 215(F)

vs.

1945

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayake Thero of Vidyodaya Pirivena, Maligakande in Colombo, 1st defendant-respondent.
2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatta Road in Colombo.
3. The Hon. Christopher William Wijeykoon Kanningara, M.S.C., of "Crauford", 29, Alfred Place, Kollupitiya in Colombo.
4. Mr. Jacob Moonesinghe, Proctor, of "Winton", Dickman Road in Colombo.
5. Mr. Henry Woodward Amarasuriya, M.S.C., of 20 No. 9, Gower Street in Colombo.
6. Mr. Willorage Henry William Perera, Proctor, of "Vijitha", No. 335, Timbirigasyaya Road in Colombo.
7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace in Colombo.
8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya in Colombo.
9. Mr. Rajah *alias* Rajasinghe Hewavitarne, M.S.C., of "Nimalka", Kollupitiya in Colombo.
10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya in Colombo.
11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road, Colombo.
12. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwela.
13. Mudaliyar Piyadasa Dharmasiri Abeywardene Ratnatunga of "Sagala", Chapel Lane, Wellawatte in Colombo.

14. Dr. D. B. Perera of No. 40, High Level Road,
Nugegoda.

(2nd to 14th defendants as members of the Vidya-
dhara Sabha of the Vidyodaya Pirivena, Maliga-
kanda in Colombo)
.....2nd to 14th Defendants-Respondents.

No. 11
Petition of
Appeal to the
Supreme Court
30.11.44—
Continued

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

On this 30th day of November, 1944.

10 The petition of appeal of the plaintiff-appellant abovenamed
appearing by his proctor, D. Richard de Silva Abhayanayake, states
as follows :—

1. The plaintiff-appellant instituted the above styled action
No. 2882/L in the District Court of Colombo asking that he be
declared entitled as trustee for the 2nd to 14th defendants to the lands
and premises described in Schedules A and B to the plaint now forming
one property as described in Schedule C and asking that the 1st
defendant be ejected therefrom.

20 2. The 1st defendant-respondent filed answer denying that the
plaintiff and 2nd to 14th defendants had any right and stating that
the said lands were appurtenant to the Maligakande Temple and
claiming a right to possession thereof as the controlling Viharadhipathy.
He also stated that the plaintiff could not have and maintain this
action without being appointed trustee as required by law.

3. At the trial the following issues of law raised by the 1st
defendant were tried first at the instance of the 1st defendant. The
plaintiff and the other defendants requested the Court to proceed to
trial on all the issues.

30 (19) Was plaintiff lawfully appointed trustee according to the
requirements of the Trust Ordinance of 1918 and/or
the Buddhist Temporalities Ordinance ?

(20) Is the plaintiff vested with the properties set out in
Schedules A and B ?

(21) If issues 19 and 20 or either of them are answered against
the plaintiff, can the plaintiff maintain this action ?

4. After argument the learned District Judge held that the
instrument of trust deed No. 1259 of 31.3.1876 (P2) prescribed a
mode of appointment within the meaning of section 113 (2) of the
Trust Ordinance and did not declare or intend that the trustee should
40 be a person holding office in a private institution or body within the
meaning of section 113 (1) as the plaintiff contended. As no
memorandum of appointment notarially executed had been made as
required by section 113 (2) and (3) he dismissed plaintiff's action with
costs.

No. 11
 Petition of
 Appeal to the
 Supreme Court
 30.11.44—
 Continued

5. Being aggrieved by the said order the plaintiff-appellant appeals therefrom to Your Lordships' Court on the following among other grounds which may be urged by Counsel at the hearing of the appeal :—

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

(b) The learned District Judge holds that the operation of section 113 (1) is limited to persons holding public office and in private institutions and communities to cases where the appointment to the office has nothing to do with the parties to the trust. It is submitted that 10 such limitation is arbitrary and unwarranted and entirely contrary to the provisions of the sub-section.

(c) The learned District Judge has rejected the contention of the plaintiff that the society was not concerned with the appointment of the trustee but with the appointment of a Principal who thereupon in terms of the instrument of trust became trustee by operation of law as making a distinction without a difference. It is submitted that it makes just that difference which brings the matter within the scope of section 113 (1).

The learned District Judge has failed to appreciate the fact that 20 the Principal of the Vidyodaya Pirivena becomes trustee by virtue of the instrument of trust and that it is not open to the Society to appoint a trustee. For example, if they appointed one person trustee and another Principal the former appointment will be void.

(d) It is submitted that the learned District Judge is in error in drawing a sharp distinction between cases in which sub-sections 1 and 2 of section 113 apply. Both sub-sections are designed to vest property in a succeeding trustee without all the formalities required in other cases. Sub-section 2 after setting out the circumstances in which a prescribed or customary method may be followed says that if 30 such method is followed and a memorandum of appointment executed then the property will vest. It does not say that in these circumstances, such method of appointment shall be followed and that only if such method is followed will the property vest. It is submitted that if the method of appointment prescribed in any particular case is such as to attract the provisions of sub-section (1) that sub-section

too would apply. It is submitted the learned District Judge was therefore wrong in not going on to examine whether sub-section (1) also did not apply after he had decided that sub-section (2) applied.

(e) It is submitted that the reason underlined the requirement of a notarially executed memorandum of appointment under sub-section (2) while none is required under sub-section (1) is that where the instrument of trust provides that the trustee is to be a person discharging an office either public or in a private institution, the trustee at any time is sufficiently designated and easily ascertained by any one who has referred to the instrument of trust; where, however power of appointment is given reference to the instrument of trust gives no clue to the person appointed trustee at any point of time and so the appointment is required to be notarially executed and the duty is cast upon the notary to forward a copy to the Registrar-General to be entered on a special Register of Trustees.

(f) Judged from this standpoint the only possible requirement would be that the holder of the office could at any particular point of time be easily known. It is submitted that the Principal of the Vidyodaya Pirivena, which is a Pirivena of international fame, is a person who would not at any time be unknown. It is further submitted that whether the appointment to the post of Principal is to be made by parties to the instrument of trust or not is, on the above reasoning, irrelevant.

(g) In any event the instrument of trust does not stipulate that the Principal should be appointed by the Sabha but merely refers to the fact that under the rules governing the Pirivena the Principal should be appointed by the Sabha. In other words, it is submitted that the reference to the appointment is merely by way of description.

Wherefore the plaintiff-appellant prays :—

- 30 (i) that Your Lordships' Court be pleased to set aside the order of the learned Judge and send the case back for trial in due course on all the issues raised.
- (ii) for costs; and
- (iii) for such other and further relief as to Your Lordships' Court may seem meet.

(Sgd.) D. R. de. S. ABHAYANAYAKE,
Proctor for Plaintiff-Appellant.

No. 12
Judgment of the Supreme Court

S.C. 215/D.C.(F.) Colombo, 2882 L.

Present : Keuneman, S.P.J. and Jayatileke, J.

R. L. Pereira, K.C. and L. A. Rajapakse, K.C., with G. Samarawickrema and Dharmakirti Peiris for the Plaintiff-Appellant.

N. Nadarajah, K.C., with H. W. Jayawardene for 1st Defendant-Respondent.

E. B. Wikramanayake for other Defendants-Respondents. ¹⁰
 (Except the 6th).

Argued : 23rd October, 1946 : *Decided* : 25th October, 1946.

KEUNEMAN, S.P.J.

In this case a large number of issues were framed but, at the suggestion of counsel for the 1st defendant, issues 19, 20 and 21 were tried as preliminary matters.

The issues in question are as follows :—

19. Was the plaintiff appointed lawful trustee according to the requirements of the Trust Ordinance of 1918 ?

20. Is the plaintiff vested with the properties in Schedules ²⁰
 A and B ?

21. If issues 19 and 20 or either of them are answered against the plaintiff, can plaintiff maintain this action ?

It was agreed that these three issues should be tried “ on the assumption but without conceding the truth of the allegations in the plaint ”.

The District Judge decided these issues against the plaintiff and dismissed his action with costs payable to the 1st defendant.

In his plaint the plaintiff alleged that thirteen persons on or about the 6th December, 1873, formed themselves into an association ³⁰
 called Vidyadhara Sabha. The chief object of the Sabha was to obtain a portion of land in Colombo and to establish a Pirivena thereon for the purpose of teaching Buddhism. Certain agreements by the said persons were then set out, including the agreement that the right of appointment of the Principal and teachers of the said Pirivena should be with the Sabha. The mode of appointment of future members was to be prescribed by the Sabha, the membership being restricted to thirteen persons. Provisions was also made for the filling of vacancies among the thirteen persons by reasons of their death. I may add that the agreement in question was embodied in document P1—No. 925 of the 6th December, 1873.

The Sabha collected money and constructed a building for the Pirivena, and established the Vidyodaya Pirivena, and about 1873 appointed the Venerable Hikkaduwa Sri Sumangala Nayaka Thero as the Principal.

No. 12
Judgment of
the Supreme
Court
25.10.46—
Continued

By deed No. 1259 dated 9th March, 1876 (P2A) one of the thirteen persons, who was the owner of the premises on which the Pirivena was built, in furtherance of the common object, transferred the premises in Schedule A of the plaint to the Venerable Hikkaduwa Sri Sumangala Nayaka Thero and to his successors in the office of Principal.

10 The actual deed took the form of a gift and assignment to the priest I have mentioned and “on his demise to the Principals appointed to the Pirivena” by the thirteen persons, “and on their death by the gentlemen” who joined the Sabha. The gift was “by way of a dedication absolute and irrevocable and as Sanghika property”.

The plaint further alleged that the Sabha made arrangements to acquire the adjoining premises—described in Schedule B of the plaint—for the Vidyodaya Pirivena, and that these premises were transferred by deed No. 2134 dated 4th April, 1884 (P3). This deed took the form of a plain transfer to the Rev. Mabotuwana Sid-
20 dharta Thero, but the plaint alleged that he held the legal title in trust for the members of the Sabha.

It was further alleged that certain buildings had been erected on these premises. It was also stated that on the death of each Principal his successor was appointed by the Sabha, the last Principal appointed being the plaintiff.

The plaint finally alleged that the 1st defendant about December, 1941, wrongfully and unlawfully entered into occupation of a portion of the premises.

The plaintiff prayed *inter alia* for a declaration that he held the
30 premises in question in trust for and as trustee of the 2nd to the 14th defendants as members of the Sabha, and for ejection of the 1st defendant from the premises.

The argument addressed to the District Judge and in appeal by the 1st defendant was that the plaintiff had not been duly appointed trustee within the terms of section 113 of the Trust Ordinance (Cap. 72). It was contended that the case did not fall within section 113(1)—which runs as follows:—

“Where, whether before or after the commencement of this
40 Ordinance, it is declared or intended in any instrument of trust that the trustee shall be the person for the time being . . . holding or acting in any office or discharging any duty in any public or private institution the title to the trust property shall devolve from time to time upon the person for the time being holding or acting in any

such office, or discharging such duty, without any conveyance, vesting order, or other assurance otherwise necessary for vesting the property in such person.”

It seems clear that the language used is wide enough to cover the present case, at any rate as far as the premises in Schedule A are concerned. The deed P2A grants the legal estate to the Venerable Sumangala Nayake Thero, Principal of the said Pirivena, and on his demise to the Principals appointed by the Sabha. On the plain terms of the sub-section the legal title should devolve upon “the person for the time being holding . . . that office” without the need 10 of any conveyance, vesting order or other assurance.

It has been argued before us that this sub-section does not apply where the appointment to the office is made by the author of the trust or, as in this case, by the persons who are alleged in the plaint to be the beneficiaries. No authority has been cited in support of this contention, and we are unable to import such a meaning into the sub-section. In our opinion Section 113(1) applies to the present case, so far as the deed P2A is concerned. The deed P3 does not raise the present point. The plaintiff no doubt will have to establish his contention with regard to the land in schedule B. But that is a 20 matter of evidence, and the preliminary objection raised does not apply to these premises.

The 1st defendant further argues that section 113(2) and (3) apply to the present case, and contends that these sub-sections, if applicable, exclude the operation of section 113(1). I have doubts whether the last part of the argument is good, but I do not think it is necessary to decide the point and shall merely determine the question whether sub-sections (2) and (3) are applicable to this case.

The relevant portions of the sub-sections are as follows:—

113(2)—“Where, whether before or after the commencement 30 of this Ordinance, in the case of any charitable trust, or in the case of any trust for the purpose of any public or private association (not being an association for the purpose of gain) a method for the appointment of new trustees is prescribed in the instrument of trust . . . or by any rule in force, or in the absence of any such prescribed method is established by custom, then upon any new trustee being appointed in accordance with such prescribed or customary method, and upon the execution of a memorandum referred to in the next succeeding sub-section, the trust property shall become vested without any conveyance, vesting order, or other assurance in such new trustee . . .” 40

113(3)—“Every appointment under the last preceding sub-section shall be made to appear by a memorandum under the hand of the person presiding at the meeting or other proceeding at which the appointment was made, and attested by two other persons present

at the said meeting or proceeding. Every such memorandum shall be notarially executed.”

It was argued in this case that a method for the appointment of new trustees was prescribed in the instrument of trust, or in the alternative was established by custom in this case. I do not agree with this contention which is based upon a misconception. Nowhere in the document P2A is there any mention of the appointment of trustees. On the contrary the trustees are declared to be the Principals appointed by the Sabha. There is no doubt reference to the method
 10 of appointment of the Principals. But that is an entirely different matter. The considerations which may influence the Sabha to appoint a Principal are not necessarily the same as they would take into account in appointing a trustee. Further, the reference to the method of appointment of the Principals are at the most words of description put in order to give greater clarity to the term “Principal”. The method of appointment of the Principal is laid down in document P1, and has only been referred to in document P2A to indicate the kind of ‘Principal’ that is meant. I do not think the sub-sections (2) and (3) apply to the present case. I may add that the document
 20 P3 is not affected by the argument of the 1st defendant, for reasons already mentioned.

Counsel for the 1st defendant further argued that the prayer of the plaint was incorrect, inasmuch as the members of the Sabha are not the beneficiaries, and that the trust is in reality a charitable trust. This may be a matter for investigation in the District Court and may affect the decree which the plaintiff may obtain, but it has no bearing on the present argument.

In the circumstances I hold that as regards the matters raised under issues 19, 20 and 21 there is no bar to the maintenance of the
 30 present action. I set aside the judgment of the District Judge and send the case back for the determination of the other issues in the case. The plaintiff will have the costs of appeal and of the inquiry in the District Court from the 1st defendant.

(Sgd.) A. E. KEUNEMAN,
Senior Puisne Justice.

JAYATILEKE, J.
 I agree.

(Sgd.) E. G. P. JAYATILEKE,
Puisne Justice.

No. 13
Decree of the Supreme Court

D.C. (Final) 215 L
1945

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.

IN THE SUPREME COURT OF THE ISLAND OF
CEYLON

10

Venerable Baddegama Piyaratana Nayaka Thera as
Principal of the Vidyodaya Pirivena, Maligakanda in
Colombo *Plaintiff-Appellant*

against

1. Venerable Vagisvarachariya Morontuduwe Sri
Naneswara Dhammananda Nayaka Thera of
Vidyodaya Pirivena, Maligakanda in Colombo
.....*1st Defendant-Respondent.*
2. The Hon. Mr. D. S. Senanayake and 12 others
.....*2nd to 14th Defendants-Respondents.* 20

Action No. 2882/L.

(District Court of Colombo)

This cause coming on for hearing and determination on the 23rd and 25th days of October, 1946, and on this day, upon an appeal preferred by the plaintiff before the Hon. Mr. A. E. Keuneman, K.C., and the Hon. Mr. E. G. P. Jayatileke, K.C., Puisne Justices of this Court, in the presence of Counsel for the appellant and respondents.

It is considered and adjudged that the Order entered in this action by the District Court of Colombo and dated the 20th day of November, 1944, be and the same is hereby set aside and the case is 30 sent back for the determination of the other issues in the case.

And it is further ordered and decreed that the 1st defendant-respondent do pay to the plaintiff-appellant his taxed costs of the inquiry in the said District Court and of this appeal.

Witness the Hon. Mr. Francis Joseph Soertsz, K.C., Acting Chief Justice, at Colombo, the 25th day of October, in the year of our Lord One Thousand Nine Hundred and Forty-Six and of Our Reign the Tenth.

(Sgd.) N. NAVARATNAM,
Deputy Registrar, S.C. 40

No. 14

Amended Plaintiff

No. 14
Amended Plaintiff
2.4.47

IN THE DISTRICT COURT OF COLOMBO

- No. 2882/L. Venerable Baddegama Piyaratana Nayaka Thera as
Nature : Land Principal of the " Vidyodaya Pirivena ", Maligakanda in Colombo.....*Plaintiff*
- vs.*
- 10 (dead) 1. Venerable Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo.
- (dead) 2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of " Woodland ", Kanatta Road in Colombo.
- (dead) 3. The Hon. Mr. Christopher William Wijekoon Kannangara, M.S.C., of " Cranford ", 29, Alfred Place, Kollupitiya in Colombo.
- 20 (dead) 4. Mr. Jacob Moonesinghe, Proctor, of " Winton ", Dickman Road in Colombo.
5. Mr. Henry Woodward Amarasooriya, M.S.C., of 9, Gower Street in Colombo.
6. Mr. Willorage Henry William Perera, Proctor, of " Vijitha ", 335, Timbirigasyaya Road in Colombo.
7. Dr. Gunapala Piyasena Malalasekera of " Samanala ", 16, Longden Terrace in Colombo.
8. Mr. D. L. F. Pedris of " Pedris Villa ", Alfred Place, Kollupitiya in Colombo.
9. Mr. Rajah *alias* Rajasinghe Hewavitarne, M.S.C., of " Nimalka ", Kollupitiya in Colombo.
- 30 10. Mr. Wimala Dharma Hewavitarne of " Sri Nagar ", Kollupitiya in Colombo.
11. Mr. B. R. Dias of " Kenilworth ", Dematagoda Road in Colombo.
12. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwela.
13. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratnatunge of " Sagala ", Chapel Lane, Wellawatta in Colombo.
- (dead) 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda. (2nd to 14th defendants as members of the Vidyadhara Sabha of the Vidyodaya Pirivena, Maligakanda, Colombo.)
- 40*Defendants.*
- 2.5.47 15. Dr. B. E. Fernando of Colombo substituted in place of 14th defendant—dead.

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Continued

- 30.9.49
16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant—dead.
17. N. S. Munasinghe substituted in place of Dr. Amarasinghe, who is substituted in place of 15th defendant Dr. B. E. Fernando. *Vide* Journal Entry dated 15.5.50.
18. Honourable Mr. Dudley Shelton Senanayake is substituted in place of 2nd defendant—dead, *vide* Journal Entry ~~15.6.50~~ Intld. 18/6. 10
19. Jothipala Subasinghe substituted in place of 11th defendant, *vide* Journal Entry ~~15.6.50~~ Intld. 18/6.
- J.E. ~~16.3.54~~ 20. Dr. A. M. Samarasinghe of Reid Avenue substituted in place of the 20th defendant—dead, Intld. *vide* Journal Entry ~~16.3.54~~
- J.E. ~~17.5.55~~ 21. Gamini Jayasuriya of 494/6, Galle Road, Colombo 3, substituted in room of 6th defendant (deceased).
22. P. U. Ranatunge is substituted in place of the 20 16th defendant deceased, *vide* proceedings of 9.8.56 (236).

On this 2nd day of April, 1947.

The amended plaintiff of the plaintiff abovenamed appearing by D. Richard de Silva Abhayanayake, his proctor, states as follows :—

1. The 1st defendant resides in Colombo within the local limits of the jurisdiction of this Court and the land and premises which is the subject-matter of this action is situated also within the jurisdiction of this Court.

2. About the 6th day of December, 1873, Don Philip de Silva 30 Epa Appuhamy, Lansege Andiris Perera Appuhamy, Kalansuriya Arachchige Cornelis de Silva Appuhamy, Gurunanselage Don Pelis Appuhamy, Bulathsinghalage Cornelis Cooray, Don Thomas Weerakody Appuhamy, Willora Arachchige Cornelis Perera Appuhamy, Pattiyawattage Hendrick Perera Appuhamy, Simon Silva Appuhamy, Hewavitaranage Don Carolis Appuhamy, Wettasinghage Don Cornelis Silva Appuhamy, Lansege Simon Perera Appuhamy all of Colombo and Samarasinghe Arachchige Don Harmanis Appuhamy of Pamanakada formed themselves into an Association called "Vidyadhara Sabha". The chief object of the said Sabha was to obtain a portion 40 of land and premises in Colombo and to establish a Pirivena thereon for the purpose of teaching Buddhism.

3. It was agreed by the said persons :—

(a) That the Membership of the said Vidyadhara Sabha should be limited to thirteen.

(b) That an educated and pious Thera should be placed in charge of the said Pirivena by the said Society.

(c) That the right of appointment of the Principal and teachers of the said Pirivena and the right of dismissal should be with the said Society.

4. The mode of appointment of future members of the said Vidyadhara Sabha was agreed to by the said persons and was prescribed by the rules of the said Sabha.

5. The persons mentioned in paragraph 2 hereof executed on 10 the 6th day of December, 1873, a Deed No. 925 attested by Mr. W. P. Ranasinghe of Colombo, Notary Public, for the better manifestation of the said rules and purposes.

6. The said Lansege Andiris Perera Appuhamy was seized and possessed of or otherwise well and sufficiently entitled to all those two contiguous allotments of lands and premises situated at Dematagoda and fully described in the Schedule marked " A " hereto attached which the plaintiff prays may be read as part of the plaint. The members of the said Vidyadhara Sabha thereafter collected a sum of money and constructed a building on the said land and premises. 20 The said members of the Vidyadhara Sabha about the year 1873 established a College called or known as " The Vidyodaya Pirivena " in the said premises for the purpose of teaching Buddhism and other branches of learning to lay persons and Bhikkhus.

7. The said Vidyadhara Sabha about the year 1873, appointed the Venerable Hikkaduwe Sri Sumangala Nayaka Thera as the Principal (Parivenadhipathy) of the said Vidyodaya Pirivena, and the said Venerable Hikkaduwe Sri Sumangala Nayaka Thera accepted the said appointment and entered on his duties as Principal of the said Vidyodaya Pirivena about the year 1873.

30 8. About the beginning of March, 1876, it was agreed by and between the said Lansege Andiris Perera and the members of the said Vidyadhara Sabha and the said Venerable Hikkaduwe Sri Sumangala Nayaka Thera that the said Lansege Andiris Perera Appuhamy should transfer and convey the said lands and premises to the said Venerable Hikkaduwe Sri Sumangala Nayaka Thera the Principal of the said Vidyodaya Pirivena and to his successors in the Office of Principal of the said Vidyodaya Pirivena that may be appointed by the members of the said Vidyadhara Sabha subject to the protection and control of the members of the said Vidyadhara Sabha.

40 9. In pursuance of the said agreement the said Lansege Andiris Perera Appuhamy with the consent of the other members of the said Vidyadhara Sabha by Deed No. 1259 dated the 9th day of March, 1876, attested by the said Mr. W. P. Ranasinghe of Colombo, Notary Public,

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Amended Plaintiff
2.4.47—
Continued

conveyed the said lands and premises together with the buildings thereon to the said Venerable Hikkaduwe Sri Sumangala Nayaka Thera the Principal of the said Vidyodaya Pirivena and to his successors in the office of Principal of the said Vidyodaya Pirivena that may be appointed by the members of the said Vidyadhara Sabha to be held by the said Principal for the time being of the said Vidyodaya Pirivena subject to the protection and control of the said members of the Vidyadhara Sabha.

10. One Simon Perera Dharmagunawardhana was seized and possessed of or otherwise well and sufficiently and truly entitled to the portion of land and premises called "Palm House" situated at Dematagoda in Colombo which land and premises adjoin the said portions of lands and premises described in the Schedule A hereto and which said "Palm House" and premises are fully described in the Schedule marked B attached hereto which Schedule the plaintiff prays may be read as part and parcel of this plaint.

11. About the 4th day of April, 1884, the members of the said Vidyadhara Sabha arranged with the said Simon Perera Dharmagunawardhana to obtain the said portion of land adjoining the said premises and described in the Schedule marked B for the said Vidyodaya Pirivena and to get a transfer from the said Simon Perera Dharmagunawardhana of the said portion of land and premises called "Palm House" to Reverend Mabotuvana Siddhartha Thera of Maligakanda aforesaid.

12. By Deed No. 2134 dated the 4th day of April, 1884, attested by the said Mr. W. P. Ranasinghe of Colombo, Notary Public, the said Simon Perera Dharmagunawardhana in furtherance of the said object transferred and conveyed the said portion of land and premises called "Palm House" to the said Reverend Mabotuvana Siddhartha Thera.

30

13. At all material times thereafter the said Reverend Mabotuvana Siddhartha Thera held the legal title to the said portion of the land and premises fully described in the Schedule B hereto in trust for the charitable purposes hereinafter referred to.

14. At various times between the year 1884 and the years 1942 the said Vidyadhara Sabha constructed or caused teaching halls, sets of rooms, for teachers and students, a Shrine Room, a Library, a Sick Room and other rooms buildings and structures now standing to be erected on the said premises described in the said Schedules A and B hereto.

40

15. The members of the said Vidyadhara Sabha erected on a part of the said premises described in the Schedules A and B hereto an Aramaya as an appurtenant to the said Vidyodaya Pirivena which Aramaya was intended for the use of the Bhikkhus resident in the

said Vidyodaya Pirivena and the students attending the said Vidyodaya Pirivena. The said members maintained and improved the said Aramaya from time to time.

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2.4.47—
Continued

16. The Principal of the said Pirivena so appointed at all times officiated as the Incumbent of the said Aramaya.

17. The said Venerable Hikkaduwe Sri Sumangala Nayaka Thera officiated as Principal of the said Vidyodaya Pirivena till the year 1911.

18. On the death of the said Venerable Hikkaduwe Sri Sumangala Nayaka Thera the said Vidyadhara Sabha about the year 1911 appointed the Venerable Mahagoda Nanissara Nayaka Thera as the Principal of the said Vidyodaya Pirivena and the said Venerable Mahagoda Nanissara Nayaka Thera accepted the said appointment and entered on his duties as Principal of the said Vidyodaya Pirivena and officiated as Principal thereof as Incumbent of the said Aramaya till the year 1922.

19. The said Vidyadhara Sabha in the year 1922 appointed the said Venerable Kahave Ratanasara Nayaka Thera as the Principal of the said Vidyodaya Pirivena and the said Venerable Kahave Ratanasara Nayaka Thera accepted the said appointment and entered on his duties as Principal of the said Vidyodaya Pirivena and officiated as Principal thereof and as Incumbent of the said Aramaya till the year 1936.

20. The said Vidyadhara Sabha in the year 1936 appointed the Venerable Baddegama Piyaratana Nayaka Thera the plaintiff above-named as Principal of the said Vidyodaya Pirivena and the said Venerable Baddegama Piyaratana Nayaka Thera has officiated as Principal of the said Pirivena and entered on his duties as Principal of the said Vidyodaya Pirivena and is officiating as Principal thereof and as Incumbent of the said Aramaya up to date.

21. The Principals of the Pirivena appointed by the said Sabha and holding under it have been in the undisturbed and uninterrupted possession as Trustees of a Charitable trust for the purposes referred to in the said deed No. 925 of the said portions of lands and premises described both in the Schedules A and B hereto for a period of over ten years by a title adverse to and independent of the first defendant and of all others and have as such Trustees acquired a title by prescription to the said lands and premises.

22. The said Venerable Baddegama Piyaratana Nayaka Thera holds the said lands and premises described in the said Schedules marked A and B hereto in trust for or as trustee of the said Charitable trust.

23. There are on the said two portions of lands various buildings including the Sri Sumangala Memorial Buildings. The Sri Sumangala Hall and an Aramaya, etc.

No. 14
Amended Plaint
2.4.47—
Continued

24. About December, 1941, the 1st defendant wrongfully and unlawfully entered into occupation of a portion of the said Sri Suman-gala Hall and since the said date remains in wrongful and unlawful possession of the same to the plaintiff's loss and damage of Rs. 25/- per month and wrongfully and unlawfully claims to be entitled to hold the said lands and Premises and denies the right of the plaintiff to the said lands and premises described in the said Schedules A and B hereto.

25. The said lands and premises described in the Schedules A and B hereto and fully depicted in the recent Plan No. 786 dated the 10th 10 day of July, 1943, made by Mr. I. W. W. Indatissa, Licensed Surveyor, herewith filed marked letter A and pleaded as part and parcel of this plaint are of the reasonable value of Rs. 48,000/-. The said lands and Premises in Schedules A and B hereto are now described as one property as per said Plan No. 786 in the Schedule C hereto.

26. The 2nd defendant to 14th defendants are the members of the said Vidyadhara Sabha and are made parties to this action to give them notice of this action but no relief is claimed as against them.

Wherefore the plaintiff prays : —

(a) That the Court may be pleased to declare that the plaintiff 20 holds the said lands and premises described in the Schedules A and B hereto and now described in the Schedule C hereto as one property in trust for or as trustee of the said Charitable trust.

(b) That the plaintiff as such trustee be declared entitled to the lands and premises described in the Schedules A and B hereto and now described in the Schedule C hereto as one property.

(c) That the first defendant be ejected from the said lands and premises described in the Schedules A and B hereto and now described in the Schedule C hereto as one property and the plaintiff placed in quiet possession thereof and that the 1st defendant be condemned to 30 pay damages at Rs. 25/- per month from December, 1941, till the 1st defendant is ejected from the said lands and premises and the plaintiff is placed in peaceful and quiet possession thereof.

(d) For costs of suit ; and

(e) For such other and further relief as to this Court shall seem meet.

(Sgd.) D. R. De S. ABHAYANAYAKE,
Proctor for Plaintiff.

The Schedule A hereinabove referred to:

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Amended Plaint
24.47—
Continued

1. All that defined allotment of land called and known as Maligakande situated at Dematagoda in Maradana Ward within the Municipality and in the District of Colombo, Western Province and bounded on the North by the land of Tangachchipulle Meera Natchi on the East by the land of Don Lewis Mahavidane, on the South by the land of Revd. J. D. Palma and on the West by the land of Assan Meera Natchiar containing in extent three square roods (A0. R3. P0) as per Plan made by N. F. de Silva, Surveyor.
- 10 2. All those two contiguous allotments of lands marked 3 and 4 of Maligakande situated at Dematagoda aforesaid and bounded on the North by the land belonging to Sinnatangatchi, on the East by the lands marked figure 5, on the South by the High Road and on the West by the land claimed by Mr. Mackwood and the land said to belong to Kande Addara Badalge Don Lewis Mahavidane containing in extent three square roods and twenty-four perches (A0. R3. P24) excluding an extent of five perches (A0. R0. P5) gifted to Kande Addara Badalge Mariya Nachchire.

Schedule B referred to :

- 20 All that defined allotment of land called and known as " Palm House " situated at Dematagoda aforesaid and which said defined allotment of land is bounded on the North and East by the land belonging to the temple, on the South by the road to Maligakande and on the West by the other part of the said land containing in extent three roods thirteen and seventy-four upon one hundred perches (A0. R3. P13., 74/100) as per plan dated the first day of May, 1880, made by Charles Schwallie, Licensed Surveyor, registered at the Land Registry, Colombo, in Volume A 6/26.

Schedule C referred to :

- 30 All those contiguous allotment of lands and premises now called and known as Maligakande Vidyodaya Pirivena premises fully depicted in the Plan No. 786, dated the 10th day of July, 1943, made by Mr. I. W. W. Indatissa, Licensed Surveyor, together with all the buildings, trees, plantations, soil and everything standing thereon bearing former Assessment No. 105 and present Assessment No. 131, situated at Maligakanda Road, Maradana, within the Colombo Municipality and in the District of Colombo, Western Province, and which said contiguous allotments of lands now called and known as Maligakande Vidyodaya Pirivena premises are bounded on the North by
40 premises bearing Assessment Nos. 148 and 158 (1 to 47), (Demata-

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Amended Plaintiff
2.4.47—
Continued

goda Road) and 86 and 88 (Reservoir Lane) on the East by Reservoir Lane, on the South by Maligakande Road, and on the West by premises bearing Assessment Nos. 138 (12-30), 144, and 148, Dematagoda Road and 37 and 55 (Clifton Lane) containing in extent two acres, one rood and thirty-seven perches (A2. R1. P37).

(Sgd.) D. R. De S. ABHAYANAYAKE,
Proctor for Plaintiff.

Settled by

Dr. L. A. RAJAPAKSE, K.C.
G. T. SAMARAWICKREMA,
Advocate.

10

No. 15
Proceedings and
Order of the
District Court
24.9.47

No. 15
Proceedings and Order of the District Court

D.C. 2882/L.

24th September, 1947.

Adv. Mr. W. H. Perera with Adv. Mr. Samarawickrema instructed by Mr. D. R. de S. Abhayanayake for the plaintiff.

Adv. Mr. Jayamanne instructed by Mr. S. Gunasekera for the defendant.

Adv. Mr. E. B. Wikramanayake instructed by Mr. D. E. Weerasooria for the 2nd to 5th and 7th to 15th defendants.

20

Mr. W. H. Perera submits that this is an action brought by the Principal of the Vidyoda Pirivena, claiming to be the trustee of certain properties under a certain deed 925 of 6th December, 1873. The lands are shown in Schedules A and B to the plaint. There was a Sabha acting under another deed in order to help the priest who was in charge of the trust property to carry on the trust. The present members of that Sabha are the defendants who are not contesting the plaintiff. The first defendant denies the rights of the plaintiff altogether. He claims the incumbency of the temple attached to the Vidyodaya Pirivena and to have control of the properties in question. A number of issues 30 were framed at the trial. At the trial the late Mr. N. Nadarajah, K.C., suggested that issues 20 and 21 should be tried first and this Court held in favour of the first defendant on those issues. On appeal the judgment of this Court was set aside and the case has been sent back for further determination of the other issues. Mr. Perera now draws attention to para 5 of the plaint dated 26.7.43. He seeks to (torn) para 13 which is one of the paragraphs sought to be amended. The original paragraph runs "at all material times thereafter the said Morontuduwe Siddhartha Thera held the legal title to the portion of land and premises fully described in the Schedule 40

B in trust for the members of the said Sabha". The amendment now sought to be made is by deleting the words "for the members of the said Sabha" and substituting therefor "for the charitable purpose hereinafter referred to".

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Proceedings and
Order of the
District Court
24.9.47—
Continued

Next paragraph sought to be amended is para 21 of the plaint dated 26.7.43 which is read out. The motion is to amend this para in the following manner by deleting the words "for on behalf of the said Sabha" and substituting therefor "as trustee for a charitable trust for the purposes referred to in the said deed No. 92...and as
10 such trustee have acquired a prescriptive title".

The next paragraph sought to be amended is para 22 which is read out, by deleting the words "for the members of the Vidyadhara Sabha" and substituting therefor "said charitable trust".

Para 24 is read out. Delete the words "and of the said Sabha".

Para 26 is the next para sought to be amended which is read out. Delete "as the plaintiff holds the said lands and premises for the use and benefit of the said Sabha" and substitute "to give them notice of this action but no relief is claimed against them".

Lastly the prayer to the plaint para (a) of the prayer read out.
20 Delete the words "2nd to 14th defendants as members of the said Vidyadhara Sabha" and substitute therefor "said charitable trust".

The position taken up in the answer filed by Mr. D. E. Weerasooria is in conformity with the amendment. Mr. Perera refers to the prayer in the answer filed by Mr. Weerasooria.

Mr. Perera submits that he is not in any way going to enlarge the scope of the action and it causes no prejudice to the other side—date of trial has been fixed in this case.

Mr. Wikramanayake submits that on the last date of trial—
30 issue was raised as to who the beneficiaries were, viz. as to whether they were the members of the Sabha or the general public.

Mr. Jayamanne submits the amendment sought to be made now is.....such as can be made by them because that introduces a new cause of action and in the next event even if the amendment is of such a.....as would enable them to get your honour's consent to this amendment it is too late at this stage and in any event if it is allowed there should be a proper order for costs so far as the 1st defendant is concerned. He draws the attention of the Court to the plaint. In the plaint the plaintiff sets out there was a Sabha and that the Sabha was formed for the purpose of teaching Buddhism.
40 They have come to Court on the footing in para 13 of the plaint and the issues that were raised that the trustee was a particular.....

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 Proceedings and
 Order of the
 District Court
 24.9.47—
Continued

In para 14 of the plaint they set out their cause of action upon which they come to Court so that I deny his right as the trustee of the Sabha. The cause of action is the denial of the right by 1st defendant, namely the right asserted in the plaint. Now he says in the amended plaint that I am disputing his title not as the trustee of the Sabha ; if that be so the cause of action on which he came to Court originally is different to the cause of action now.

ORDER

The plaint in this action was filed on the 26th July, 1943, and the answer of the second to fifth and seventh to fourteenth defendants 10 was filed on the 7th March, 1944. First defendant filed a separate answer on the 5th April, 1944, in which he disputed the position taken up by the plaintiff. The other defendants who filed answer were with the plaintiff but they took up the position that the actual beneficiaries of the trust pleaded in the plaint was not the Vidyadhara Sabha but that the subject matter of the action formed a charitable trust. This matter came up for trial before this Court and certain preliminary issues were tried and it was held that the plaintiff could not maintain this action. On appeal the order of this Court was reversed with costs in favour of the plaintiff and the case has been 20 sent down for retrial. Now the plaintiff wants to amend the plaint, the purpose of this amendment being to bring out that the subject matter of this action formed a charitable trust and that the beneficiaries were not the Vidyadhara Sabha. The first defendant objects to this amendment. The other defendant for whom Mr. E. B. Wikramanayake appears today do not object to this amendment.

In fact, as I stated earlier, the plaintiff's proposed amendment will bring the plaint into line with the answer filed by Mr. Weerasooria's clients. I see no reason why the present application to amend the plaint should be disallowed. It is not a case where the plaintiff 30 is trying to convert one kind of action into another. He in the original plaint stated that the beneficiaries were the Vidyadhara Sabha. Now he says that the trust created by deed 925 was a public charitable trust. I allow the amendment. As regards costs claimed by Mr. Jayamanne a proper order will be made at the conclusion of the trial. If the first defendant or any of the other defendants want to file amended answers they should do so and this case will be called on the 22nd October for that purpose.

A copy of the plaint with the proposed amendments incorporated has been filed in this action and it bears the date 2nd April, 1947. 40

(Sgd.)
 A.D.J.

No. 16

Amended Answer of the 1st Defendant

IN THE DISTRICT COURT OF COLOMBO

Ven. Baddegama Piyaratana Nayaka Thero as Principal
of the Vidyodaya Pirivena, Maligakanda in Colombo.

.....*Plaintiff*

No. 2882/L.

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Nanesvara
Dhammananda Nayaka Thero of Vidyodaya Piri-
vena, Maligakanda and others.....*Defendants*.

10

On this 21st day of January, 1948.

The Amended Answer of the 1st defendant abovenamed appearing
by Somaweera Gunasekera, his proctor, states as follows :—

1. This defendant admits the local jurisdiction of the Court
pleaded in paragraph 1 of the amended plaint.

2. Answering to paragraph 2 of the amended plaint this
defendant denies that the persons referred to therein formed themselves
into an Association called " Vidyadhara Sabha " and states that in
or about 1873 the persons who assembled at a meeting on the land
20 called Maligakandawatta belonging to Andiris Perera referred to in
the said paragraph appointed the persons referred to to form an
association called the " Vidyadhara Sabha ". Yet further answering
the said paragraph this defendant denies the objects of the said Sabha
as those referred to and states that the objects of the persons who
assembled at the said meeting were to appoint the said persons
referred to in order to receive and protect the Rs. 6,000/- that was
proposed to be collected, to buy the land of Andiris Perera where the
Vidyodaya Pirivena had been temporarily started.

3. This defendant denies the averments in paragraph 3(b) and
30 (c) and in paragraph 4.

4. This defendant admits the averments in paragraph 5 of the
amended plaint.

5. Answering paragraph 6 of the amended plaint this defendant
admits the averments contained therein save that the Vidyodaya
Pirivena referred to therein was established by the said Sabha and
states that the Rt. Ven. Hikkaduwe Sri Sumangala Nayaka Thero
prior to 6th December, 1873, started it and that it was in existence
at the time the persons were appointed to form the Vidyadhara
Sabha.

40 6. This defendant denies the averments in paragraph 7 of the
amended plaint.

No. 16

Amended
Answer of the
1st Defendant
21.1.48

No. 16
Amended
Answer of the
1st Defendant
21.1.48—
Continued

7. This defendant denies the averments in paragraphs 8 and 9 of the amended complaint and states that : —

(a) In the year 1876 by the said deed No. 1259 the property referred to therein was dedicated to the Sangha with the said Rt. Ven. Hikkaduwe Sri Sumangala Nayaka Thero as the Chief recipient.

(b) The said Rt. Ven. Hikkaduwe Sri Sumangala Nayaka Thero having resided with other monks on the said premises since 1873, upon the said dedication in 1876 the said property became the Maligakanda Temple.

(c) The devolution of the control of the said Temple was in the 10 Sisyanusisya Paramparawa of the said Right Ven. Hikkaduwe Sri Sumangala Nayaka Thero who continued to be the controlling Viharadhipathi of the temple and the parivenadhipathi of the Pirivena established therein until his death in the year 1911.

8. This defendant admits the averments in paragraph 10 of the amended complaint.

9. This defendant denies the averments in paragraph 11 of the amended complaint and puts the plaintiff to the proof thereof.

10. This defendant admits the execution of the conveyance and transfer made by Deed No. 2134 referred to in paragraph 12 of the 20 amended complaint in favour of Rev. Mabotuvana Siddhartha Thero but denies that it was made in furtherance of the objects referred to.

11. Answering to paragraph 13 of the amended complaint this defendant states that from the date of his purchase upon Deed No. 2134 the legal as well as the beneficial title to the property referred to in the Schedule B of the complaint was in the said Rev. Mabotuvana Siddhartha Thero who was the Kruthyadhikari (Manager) of the Maligakanda Temple. This defendant specially denies that the said Rev. Mabotuvana Siddhartha Thero ever held the said premises in trust for the purposes referred to in the said amended complaint and 30 states that the said Rev. Mabotuvana Siddhartha Thero held the said premises as part of the Maligakanda Temple and for and on behalf of the Viharadhipathi of the said temple.

12. This defendant denies the averments in paragraphs 14 and 15 of the amended complaint and in particular the averments in paragraph 16 of the amended complaint and puts the plaintiff to the strict proof thereof.

13. Answering to paragraph 17 of the amended complaint this defendant states that the said Rt. Ven. Hikkaduwe Sri Sumangala Nayaka Thero was the controlling Viharadhipathi of the said Maliga- 40 kanda Temple and the Principal of the said Pirivena until his death in 1911.

14. Answering to paragraphs 18, 19 and 20 this defendant states that on the death of the said Rt. Ven. Hikkaduwe Sri Sumangala Nayaka Thero his senior pupil Sri Sumangala Dewundera Jinaratana Nayaka Thero succeeded to the Viharadhipathiship of the said Temple and that under him the priests referred to in succession officiated as Principal of the said Pirivena. This defendant denies all and singular the other averments in the said paragraphs. This defendant admits that the Vidyadhara Sabha purported to exercise the function of appointing principals to the said Pirivena. This defendant however
10 states that the said Sabha was not entitled to do so and that in any event the said priests were not duly so appointed by the said Society in terms of the said Deed No. 1259.

No. 16
Amended
Answer of the
1st Defendant
21.1.48—
Continued

15. This defendant specially denies the averments in paragraphs 21 and 22 of the plaint.

16. Answering to paragraph 23 this defendant admits that on the said land which is Sanghika there are several buildings all forming part of and being appurtenant to the Maligakanda Temple.

17. This defendant specially denies the averments in paragraph 24 of the plaint.

20 18. This defendant denies the averments in paragraph 26 and particularly denies that the 2nd to 14th defendants are or have been properly elected to membership of the said Vidyadhara Sabha and puts the 2nd to 14th defendants to the proof of their membership of the Sabha and pleads that in any event they are improperly made defendants.

19. (a) It was provided *inter alia* that the said Vidyadhara Sabha should consist of only 13 members and on the death of any member the election of the successor should be by the Dayakayas.

(b) Defendants 2nd to 14th were not elected as required by the
30 terms and conditions governing election set out in deed No. 925 attested by W. P. Ranasinghe of Colombo, Notary Public, dated 6th day of December, 1873, and are not entitled to call themselves members of the said Sabha.

(c) The alleged appointment of the plaintiff as Principal was unlawful and by a body of men who were not duly elected members of the said Sabha and in the circumstances the plaintiff cannot in any event have and maintain this action.

Claim in Reconvention

20. (a) The said Rt. Ven. Hikkaduwe Sri Sumangala Nayaka
40 Thero died in the year 1911 and on his death the controlling Viharadhipathiship of the said temple devolved on his chief pupil Ven. Dewundera Sri Jinaratana Nayaka Thero who by deed No. 2662 dated 22nd June, 1941, appointed this defendant to the same.

No. 16
Amended
Answer of the
1st Defendant
21.1.48—
Continued

(b) This defendant is the lawful Viharadhipathi of the said temple and as such is entitled to the possession of the land and premises set out in the Schedules to the plaint.

(c) This defendant states that in any event the plaintiff is not entitled to have the defendant ejected from the said premises.

21. The plaintiff purporting to be appointed by the 2nd to 14th defendants the Parivenadhipathi of the Vidyodaya Pirivena and claiming as such to be entitled to the said Maligakande Temple premises has disrupted this defendant's rights to the control of the said temple premises and the Pirivena therein and has claimed in this 10 action a writ to eject this defendant from the said temple premises.

22. This defendant has therefore consequent on the conduct of the plaintiff retained for and/or appointed himself the Parivenadhipathi of the Vidyodaya Pirivena.

23. A cause of action has accrued to this defendant to ask for a declaration that he is the controlling Viharadhipathi of the Maligakande Temple and all the temporalities belonging thereto and the Parivenadhipathi of the Pirivena therein and for an order to eject the plaintiff therefrom.

Wherefore this defendant prays : —

20

- (a) that the plaintiff's action be dismissed ;
- (b) that the 1st defendant be declared the Viharadhipathi of the said Maligakande Temple and all the temporalities thereto belonging and the Parivenadhipathi of the Vidyodaya Pirivena therein ;
- (c) that the plaintiff be ejected from the said lands and premises described in Schedules A and B which together are the Maligakande Temple land and are described in Schedule C of the plaint and that this defendant be placed in quiet possession thereof ; 30
- (d) for costs ; and
- (e) for such other and further relief and not herein specifically pleaded as to this Court shall seem meet.

(Sgd.) S. GUNASEKERA,
Proctor for 1st Defendant.

No. 17

Replication of the Plaintiff

IN THE DISTRICT COURT OF COLOMBO

No. 17
Replication of
the Plaintiff
17.3.48

Ven. Baddegama Piyaratana Nayake Thera as Principal
of the Vidyodaya Pirivena, Maligakande, in Colombo.
.....Plaintiff

No. 2882/L.

vs.

1. Ven. Vagisvarachariya Morontuduwa Sri Nanesvara
Dhammananda Nayake Thero of Vidyodaya Piri-
vena, Maligakande, and others.....Defendants.

10

On this 17th day of March, 1948.

The replication of the plaintiff abovenamed appearing by D. Richard de Silva Abhayanayake, his proctor, states as follows:—

1. The plaintiff joins issue with the 1st defendant on the various denials contained in his answer.

2. Further replying to the answer of the 1st defendant the plaintiff denies that the controlling Viharadhipathiship of the Maligakande Temple ever devolved on the Ven. Dewundera Sri Jinaratana Nayake Thero. The plaintiff also denies that Dewundera Sri Jinaratana Nayake Thero was the senior pupil of the Ven. Sri Sumangala Nayake Thero.

20

3. Still further replying to the answer of the 1st defendant the plaintiff denies that the defendant is the lawful Viharadhipathi of the said Temple and/or the Parivenadhipathi of the Pirivena. The plaintiff states that the 1st defendant's pertinacious refusal to recognize plaintiff's rights and his insistence on his own unfounded claims to the said temple and its temporalities entitles him to have the defendant ejected from the said premises.

4. The plaintiff further states that he and his predecessors in title have been in occupation of the office of the Viharadhipathi of the said temple ever since the death of the Ven. Sri Sumangala Nayake Thero on or about the year 1911 and that therefore any cause of action in favour of the Ven. Dewundera Sri Jinaratana Nayake Thero or of the 1st defendant to the said office of Viharadhipathi is barred by prescription.

30

Wherefore the plaintiff prays:—

(a) that the 1st defendant's claim in reconvention be dismissed;

(b) for costs; and

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

40

(Sgd.) D. R. de S. ABHAYANAYAKE,
Proctor for Plaintiff.

No. 18
Proceedings before the District Court

D.C. 2882/Land.

15th May, 1950.

Advocate Mr. R. L. Pereira, K.C., with Advocate Mr. W. H. Perera for plaintiff instructed by Mr. D. R. de S. Abhayanayake.

Advocate Mr. E. G. Wikramanayake with Advocate Mr. Corbet Jayawardene, Advocate Mr. A. B. Perera, Advocate Mr. Subasinghe and Advocate Mr. Mahinda de Silva for 1st defendant instructed by Mr. S. Gunasekera.

Advocate Mr. E. B. Wikramanayake, K.C. with Advocate Mr. 10 Kottegoda and Advocate Mr. G. T. Samarawickreme for 2nd, 3rd, 5th, 7th, 8th, 9th, 10th, 11th, 12th, 13th and 17th defendants instructed by Mr. D. E. Weerasooria.

The 4th defendant is dead, but he does not transmit his rights to anybody. 16th defendant is substituted in place of the 4th defendant and 15th defendant, Dr. B. E. Fernando in place of the 14th defendant. According to this caption the 14th defendant is dead. 16th defendant has been substituted in place of the 4th defendant.

The 14th defendant died and in his place Dr. B. E. Fernando was substituted. He was numbered 15th defendant. He died and 20 Dr. S. A. Amarasinghe was substituted in his place. Dr. Amerasinghe's name has not been added to the caption. Mr. N. S. Munasinghe was substituted in place of the 15th defendant, but his name has not been added to the caption. On 30.9.1949, in place of the 4th defendant deceased, Mr. Daya Hewavitarne was substituted. His name has been added to the caption as the 16th defendant. Mr. Munasinghe has not been added to the caption. He is now added to the caption as the 17th defendant. I find in the proceedings that 17th and 18th defendants are mentioned and that they had not been numbered at that time. In future it will be that the 15th 30 defendant is Mr. Daya Hewavitarne and 17th defendant is Mr. N. S. Munasinghe.

Mr. Gunasekera for 1st defendant files a list of witnesses today. They are two of the defendant, plaintiff and again the defendants. There is no objection to this. This list is accepted.

Mr. R. L. Pereira opens his case : —

1. In December, 1873, 13 persons formed themselves into the Vidyadhara Sabha. Object : to acquire land and establish a Pirivena.
2. Deed No. 925 of 6.12.1873 entered into. It gives the purposes.
3. Principal of the Pirivena a learned and spiritual Bhikkhu. 40

4. Right of appointment of Principal and teachers reserved by them. Also right to nominate any suitable person.
5. Simon Perera Dharmagunawardene, one of the thirteen, owned the property in Schedule A.
6. Schedule A to the plaint—North east of lead pencil line in plan 786.
7. Deed 1259 of 9.3.1876 P2A conveyed this land to Sri Suman-gala and his successors in office of Principal that may be appointed by the Vidyadhara Sabha.
- 10 8. Simon Perera Dharmagunawardene got this on deed 3030 of 15.8.1871. Buildings on this block were constructed from 1873 onwards with the permission of Simon P. Dharmagunawardene.
9. Consideration on P2A Rs. 2,070/-. Balance Rs. 3,930/- a gift by Simon Perera Dharmagunawardene.
10. Sri Sumangala was appointed Principal in 1873 and he accepted the office.
11. Simon Perera Dharmagunawardene and another man owned the land in Schedule B the south-western portion in plan 786 west of the lead pencil line.
12. In 1884 this block was part of a property called Palm House and Simon P. Dharmagunawardene bought this block in favour of Mabotuwana Siddhartha Thero on deed 2134 of 4.4.1884 P3.
13. Mabotuwana Siddhartha was a co-pupil of Sri Sumangala.
14. Siddhartha died on 15.1.1909. He acquiesced in this part promoting part of the trust.
- P4, certified copy of Registration of Death of Mabotuwana Siddhartha.
15. The Sabha constructed various halls, rooms and other buildings.
- 30 16. The Principal officiates as incumbent.
17. P5. Death Certificate of Sri Sumangala who died on 13.4.1911 at the age of 85 years.
18. He was succeeded by Mahagoda Nanissara, who was appointed Principal of the Pirivena and by virtue of his office was also the incumbent. P6, Death Certificate of Mahagoda Nanissara on 6.11.1922 at the age of 59 years. Succeeded by Kahave Ratanasara appointed by Sabha. He continued till 1936 as Principal and incumbent of the premises.

19. In February, 1925, the present plaintiff was appointed Vice-Principal on invitation. Baddegama Piyaratana.

20. Plaintiff appointed Principal and incumbent from 1936.

21. In 1919 or 1920 the 1st defendant appointed a teacher. He functioned as teacher till 1934. Plaintiff was then functioning as Vice-Principal.

22. 1st defendant suggested he be appointed Vice-Principal.

23. From 1936 he particularly claimed.

24. Deed P7, Devundera Jinaratana who was claiming to be a pupil of Sri Sumangala (dated June, 1941) appointed the defendant 10 as controlling Viharadhipathi of this temple.

25. Towards the end of 1941 the 1st defendant got into the Sri Sumangala memorial building. He is now living in block 8. He has let out the Sri Sumangala Memorial building to a private individual for running a boys' English School.

26. Mr. Pereira says that the issues have been framed, but they have to be amended in view of the amended plaint filed on 22.4.1947.

In issue 3 the last word should be " Pirivena".

In issue 5 the words " for the said Sabha " should be eliminated and the following substituted : " of a charitable trust for the purposes 20 referred to in deed No. 925 ".

In issue 6 eliminate the words " the said Sabha " and substitute " the charitable purposes referred to in deed No. 925 ".

Issue 7 : Substitute " for the charitable trust referred to in issues 5 and 6 ".

Issue 33 (anew): " Is the claim of the 1st defendant to the office of Viharadhipathi of the Vidyodaya Pirivena barred by prescription."

Mr. E. G. Wikramanayake objects to issue 33 in the present form. He says he has no objection to it if for the words " Vidyodaya 30 Pirivena " is substituted " Maligakande Temple ". He says that the defendant never claimed to be the Viharadhipathi of the Vidyodaya Pirivena but he claims to be the Viharadhipathi of the Maligakande Temple. He says that if Mr. Pereira does not want to amend this issue in this form he is not going to frame another issue.

1. In 1873 there was no Pirivena in Ceylon.

2. Deed 1295 of 1873 is between L. Andiris Perera and 16 persons —two of the original 13 have dropped out and 5 others have

come in. It is not known how 2 dropped out or why the 5 came in. This is not a transfer to the Sabha but to a certain number of persons.

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Proceedings
before the
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15.5.50—
Continued

3. Deed 1295 property given to the Sangha. Boundaries. Aramaya premises. All the land in the plan dedicated to the Sangha.

4. Sisyanu Sisya Paramparawa.

5. The defendant got the deed in 1941 because the plaintiff's side got a deed from some one.

Issues :

Issue 5(a) : Was the property described in Schedule A conveyed 10 by deed 1259 to Hikkaduwe Sri Sumangala and his successors-in-office as trustees of a charitable trust.

5(b) If so, were the purpose of the charitable trust those set out in deed 925 and deed 1259.

Mr. Pereira accepts these two issues 5(a) and 5(b) raised by Mr. Wikramanayake in place of his amended issue No. 5. He says that issues 6 and 7 as amended by Mr. Pereira can be stated in this form—instead of “ for the purpose in deed 925 ” it should be “ for the said trust ”.

6. Did M. Siddhartha Thero hold the property described in 20 Schedule B to the plaint in trust for the aforesaid trust.

7. Were the lands described in Schedule A and B to the plaint possessed exclusively and adversely for a period of 10 years by the principals of the said Pirivena as trustees of the said trust.

Mr. Wikramanayake says that issue 9 has been split into issue 9 (a) and (b). I find that on the last trial date in 1944 all the issues have been accepted.

Issue 28. Not “ Upon the plaintiff ” as written here, but “ Upon 1st defendant ”. “ Has the said Incumbency devolved upon the 1st defendant by pupillary succession ”.

30 Mr. E. G. Wikramanayake states that according to the amended plaint the 2nd to 17th defendants are not necessary parties. In the original plaint they were shown as the beneficiaries of the trust and therefore he could not object to their presence but now they are not necessary because in the amended plaint the charitable purpose was set out and Sri Sumangala did not hold the property in trust for these people but for a charitable trust. He raises a further issue : —

34. “ Have the 2nd to 17th defendants been either necessarily or properly made parties to this action.”

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 Proceedings
 before the
 District Court
 15.5.50—
Continued

He states that this only affects the question of costs. Mr. E. G. Wikramanayake agrees to issue 33 standing as framed by Mr. Pereira. Mr. E. B. Wikramanayake states that the word "Aramaya" in issue 9(a) refers to the dagoba No. 1, the Vihare No. 2, the Bomaluwa and the land on which these stand. Mr. E. G. Wikramanayake says that by the "Maligakanda Temple" he means all the buildings which are shown in the plan No. 786.

Mr. Pereira also agrees with Mr. E. B. Wikramanayake with regard to the definition of the word "Aramaya".

Mr. E. B. Wikramanayake suggests a further issue : 10

35. If the premises described in Schedules A and B or either of them comprise the Maligakanda Temple is the 1st defendant's claim if any, to the incumbency of the said Temple barred by prescription?

Mr. E. G. Wikramanayake says that this issue has not been raised by Mr. E. B. Wikramanayake in his answer. I hold that Mr. Pereira may raise this issue, to make the Court hold that the Aramaya did not form part of the temple.

Issues 19, 20 and 21 have already been decided by the Supreme Court.

Trial proceeds : 20

Mr. Pereira calls :

Evidence of
 I. W. W. Indatissa
 Examination

I. W. W. INDATISSA. Affirmed. Licensed Surveyor.

I am a Licensed Surveyor. I was requested to make a plan of the Maligakande Vidyodaya Pirivena and appurtenant structures on it. I made this Plan No. 786 of the 10th of July, 1943. (Mr. Pereira produces that plan and marks it as P8.)

Q. Did you have for the purpose of making your plan a copy of the survey plan of 1885 ?

A. I did not make use of this plan. I have not seen this. According to my survey, the extent of the entire land today is 2 acres, 30 2 roods, 75 perches. I did not see the title deeds with the schedules when I made this plan. I just surveyed the site. I have marked on my plan various buildings, steps, a well and other structures. No. 1 is the dagoba. No. 2 is the Vihare. That is the Shrine room. I have got just to the North of that a Bomaluwa. No. 4 is the Principal's quarters. No. 3 is the Sri Sumangala Dharmasalawa. That is an upstairs building and a comparatively new thing. No. 5 is a set of rooms. No. 6 is another set of rooms. No. 7 is the library. This is also an upstairs building. No. 8 is living quarters. At the time I made this survey the 1st defendant was living there. He has been 40 living in a room at No. 8. No. 9 is living quarters. No. 10 is a set of

rooms at right angles to each other. No. 11 is the kitchen and the Dansalawa. No. 12 is another set of rooms. Below No. 12 and adjoining it is the Sri Sumangala Memorial building. There was an English School functioning in that building in 1943. I have got a red floor passing a flight of steps. Between the Sri Sumangala Memorial building there is a garage way up to the road near the well.

(To Court :

From the road you descend to this. The other steps also descend.)

10 That roadway which I have put in a broken line indicates that I have not surveyed it.

Q. That was only an approximate location ?

A. That was only a track.

Q. Is it correct that that roadway only leads up to the Principal's quarters up to the garage and a driver's room ?

A. There is a track leading on to that garage.

It is all possessed as one land. There were no demarcating boundaries at that time.

Cross-examined by Mr. C. Jayawardene.

Q. How many times did you visit this land ?

20 A. For the purpose of the survey I went about three days.

Q. At what time ?

A. Usually in the morning.

By morning I mean from about 8 to about 12 o'clock. I did not notice classes being conducted at the time I went.

Q. Then you are not able to tell whether it was an English or a Sinhalese school ?

A. No.

(Shown Plan 1D1, plan of 11.7.1888:)

Q. On that plan lot A is marked at the very top ?

30 A. There is a lot A marked at the top.

Q. Are the words " Lot A " there ?

A. In the body of the plan you find various other markings. At the top it is marked " Lot A ". I do not think it is the Surveyor's marking.

Q. You see those buildings there ?

A. There is a building marked H on 1D1.

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Continued

Evidence of
I. W. W. Inda-
tissa
Examination—
Continued

Evidence of
I. W. W. Inda-
tissa
Cross-examin-
ation

No. 18
 Proceedings
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 District Court
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Continued

Q. Does that correspond to No. 2 in your plan ?

A. Not in the same position. H on the plan is called temple or shrine room in 1D1.

Evidence of
 I. W. W. Indatissa
 Cross-examination—
Continued

Q. On 1D1 H, which is marked as temple or shrine room, is it in the same place as what you have marked as the Vihare in your plan ?

A. It is almost in the same place. A portion of it comes on to the same place.

(Court adjourned for lunch).

(Sgd.) V. S. JAYAWICKREMA,
A.D.J. 10
 15.5.50.

After Lunch.

15.5.50.

Evidence of
 I. W. W. Indatissa
 Cross-examination—
Continued

I. W. W. INDATISSA. Affirmed.

Cross-examined by Mr. Jayawardena (Contd.).

In 1D1, " H " is a temple. That corresponds more or less to the Vihare in P8 ; " C " in 1D1 is the bana preaching hall, which corresponds to what is called dhana salawa in P8. " E " in 1D1 is a building where bana books are kept ; it corresponds to the library in P8. F in 1D1 corresponds to the living quarters No. 8 in P8. Buildings in P8, *i.e.* the Sri Sumangala Memorial Building, room No. 12, kitchen 20 and dhana sala, living quarters No. 9, room No. 5, priests' quarters and the garage in P8 are buildings which have come up 1D1.

I produce 1D2 in Plan P8 attached to the deed in favour of the Rev. Mabotuwana Siddhartha. In respect of this Plan P8 1D2 is to the South-West corner of the present building (that is marked in pencil on P8) ; that is the Sri Sumangala Memorial Building. The well is still there.

Evidence of
 I. W. W. Indatissa
 Re-examination

Re-examination.

I have said that I have superimposed on P8 a tracing of 1D2. That plan is on the same scale as P9. That plan, which is attached to 30 P3, is dated 19th August, 1885. I have marked the tracing on the Plan P8.

The buildings in 1D1 approximate with the buildings in Plan P8. The Plan 1D1 does not state the extent, and it is definitely a plan with a bigger extent of land than P8, *i.e.* on the western side. The boundary on the western side is a line running practically North and South ; the western boundary as ascertained by me runs North and South to only about half the distance. The rest of it runs from North-West

to South-East. When I said that the dhana salawa No. 3 is approximately the same as the building C, it is very approximate. It is not in the same position. It shows a smaller building. The scales differ; and so with the library No. 7 and the buildings EE. The buildings marked on 1D1 find no comparative buildings on P8. The building A, "printing office", finds no comparative building on my plan; and the portion in Schedule B as appearing in 1D1 contains no buildings at all.

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Continued

Evidence of
I. W. W. Inda-
tissa
Re-examina-
tion—
Continued

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

10

FRANCIS PANDITHARATNE. Affirmed. Ayurvedic physician.
70 years of age, residing in Hikkaduwa.

Evidence of
Francis
Panditharatne
Examination

I was a pupil under the Hikkaduwe Sri Sumangala Nayaka Thero. I learned at the Pirivena. I joined the Pirivena in 1897. I was resident there. I was there till the death of Sri Sumangala Thero, that is in 1911. I was there for 14 years, that is from 1897 to 1911. I know Mabotuwana Siddhartha Thero. He was also resident in that Pirivena. I know that Sri Sumangala Thero and Siddhartha Thero were co-pupils.

20 (Mr. E. G. Wikramanayake objects to the last sentence on the ground that it is hearsay evidence.)

(Court :

Q. How do you know that they were co-pupils ?

A. They talked to each other, and from their talks I found it out.)

(Mr. Pereira produces deed No. 1676 of 31st May, 1879, marked P10. He says it is a certified copy of the deed.)

Mr. E. G. Wikramanayake objects.)

(Court :

30 Q. Do you know of any deeds executed by Hikkaduwe Sri Sumangala Thero ?

A. I have heard of it.)

I rule out this document P10 at this stage. It should be produced at an appropriate stage by a proper witness.

(To Court :

I learned in various classes at the Pirivena.)

I have stated that I was there till Rev. Sri Sumangala died. There were pupils of Rev. Sri Sumangala in the Pirivena, but none of them were ordained by him. Following are some of the priests

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 before the
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Continued

Evidence of
 Francis
 Panditharatne
 Examination—
Continued

ordained by him. One is Mabotuwana Siddhartha. He was his first pupil. Second is Telwatte Seelananda who was in Kandy. Then Rambukpotha Pannasara ; then Mahabole Gnaneswara, then Kahawe Premaratne ; then Borukgomuwe Revatha, presently of Gangodawila ; then Seelananda of Matale ; he went to Siam.

At the time I joined the Vidyodaya Pirivena there was the library, that is the present library. The library building that is there now was erected when I was there. I know the Sri Sumangala Dharma Salawa. That was not there when I joined. It was put up subsequently. I think that was built in 1912 or 1913. I am not quite 10 sure. I also contributed to it. At that time the Principal was Kahawe Ratanasara Thero.

Rev. Sri Sumangala was succeeded by Gnaneswara Thero. He was appointed by the Vidyadhara Sabha.

(To Court :

I know that he was appointed by that Sabha because I was awaiting that appointment. There were two candidates. They were Vice-Principals. The other was Heyantuduwe priest. Gnaneswara Thero was appointed. One of these priests was appointed the Principal and the other was appointed the Director. Heyantuduwe 20 Thero was appointed the Director.)

(Mr. E. G. Wikramanayake objects to the evidence of this witness on this point unless he says he attended the meeting at which these appointments were made. He says witness was not a member of the Sabha and therefore could not have been present at the meeting.)

(To Court :

I know that these appointments were made at the meeting, because I was standing outside the meeting room and listening to the proceedings. There was a hall called Muniyasiriwardhana Hall where meetings were held at that time. That building was broken down 30 later.

Court :

Q. Were you inside the hall or outside the hall when that meeting was held ?

A. Inside the hall.

At that time I was residing in those premises.)

After his appointment he functioned as Principal. He functioned till he died. He died in 1920 or thereabout. I cannot say the exact date.

Even after I left the Pirivena I was in touch with it. I was staying in Gampaha after I left the Pirivena, and whenever I came to Colombo I used to visit the Pirivena. I used to visit about once a month or sometimes twice a month.

I have said that the first pupil of Rev. Sri Sumangala was Mabotuwane Siddhartha. At the time of the latter's death I was a pupil there. At that time Siddhartha was the Manager of the temple. He had been the Manager even before I went there. When I was there he was looking after the health of Rev. Sri Sumangala who was very
10 old then.

I know the Dagoba that is there now. The construction of that Dagoba started before I joined, and at the time I joined it was nearing completion. I think it was completed in 1908. The "kotha" was kept about 4 or 5 years after I became a pupil. That Dagoba is still there. At that time there was a small Vihare. That Vihare room was about 30 feet long and about 15 feet wide. That was pulled down and another was erected. That was done about 6 or 7 years after I joined. That was after the completion of the Dagoba. The new Vihare was built after the completion of the Dagoba.

20 There was a boundary wall there. It was broken in some places. I know the portion that was transferred to Rev. Mabotuwana Siddhartha. That portion was included with the rest of the Pirivena premises. That wall was there when I joined.

The new Vihare which I just referred to is about the same size as that of this Court building. It is a big building. The bo-tree was planted when I joined.

The name given to this block of land is Vidyodaya Pirivena. This Dagoba and the Vihare were put up for the students to worship; it is similar to the Chapel attached to St. Thomas' College.

30 I know the Nayaka Thero's quarters. When I joined, it had been constructed. The garage was also there at that time. He had a carriage and also a dolawa. I know the Sri Sumangala Memorial Building. That was erected after I left the Pirivena.

I was not present at the meeting of the Sabha that was held immediately after the death of Rev. Naneswara for the appointment of his successor.

Q. Do you know how Ratanasara Thero functioned as Principal?

(Mr. E. G. Wikramanayake objects to this question.)

(*To Court :*

40 I know that Rev. Ratanasara functioned as Principal after the death of Rev. Naneswara.)

No. 18
 Proceedings
 before the
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 15.5.50—
Continued

Evidence of
 Francis
 Panditharatne
 Examination—
Continued

I had seen him frequently there. Whenever I came to Colombo I used to go there. He lived in the quarters that is occupied by the present Principal, Rev. Sri Sumangala was occupying the same quarters which Rev. Morentuduwe was occupying. That building is close to the kitchen and the dhana salawa. I say that Rev. Ratana-sara and Rev. Piyaratane were occupying the same quarters. Those quarters are to the South of the dhana salawa. I can tell definitely from a Plan. (Shown plan P8.) The quarters of Piyaratane Thero is to the North of dhana salawa. (Witness points out No. 4.)

I did not attend the meeting at which the appointment of the 10 next Principal was made after the death of Ratanasara Thero. I know it is Baddegama Piyaratana Thero who functioned as Principal after the death of Ratanasara Thero. I used to go and see him when I come down to Colombo.

I know the portion of the land that was got by Rev. Mabotuwana Siddhartha. There was a school in that block.

(To Court :

There was a school outside that block. I mean outside the wall. That is the Clifton School.)

That was a Christian School. There was also a building in the 20 block of Rev. Mabotuwana Siddhartha. That building is not there now. A new building was erected later. The building is called Sri Sumangala Memorial Hall. There was also a row of rooms for the priests there. The operation of the Sri Sumangala Memorial Building started at the time of Rev. Ratanasara, and the building was completed during the time of Rev. Baddegama Piyaratane, the plaintiff. Some of my relations also contributed to that building fund. I know one Panditha Gunawardene contributed Rs. 1,500/- to that fund.

I know that Rev. Siddhartha went to India. It is about four or 30 five years after his return from India that he died.

I have said that I was present at the meeting at which Rev. Naneswara was elected. There were 13 members of the Sabha present at that meeting. Among whom I can remember are Messrs. Simon Hewavitarne, Jacob Moonasinghe, Edmund Hewavitarne, D. D. Pedris, W. H. W. Perera, and D. D. Abeyratne.

There are coconut and jak trees on this land, and in my time it was the Manager who took the income from those trees. The Manager at that time was Rev. Hikkaduwe Premanande. He was appointed by Rev. Sri Sumangala. Rev. Premanande was functioning as Manager till his death. He died about five or six years ago. Till 40 then he was functioning as Manager and receiving the income from that land. Rev. Mabotuwana Siddhartha never enjoyed the produce of this land.

I know Rev. Devundara Jinaratane. He was in Hunupitiya Gangaramaya. He never came and took the produce from this land. To my knowledge he did not ask for any rights there.

Cross-examined by Mr. E. B. Wikramanayake—Nil.

Cross-examined by Mr. E. G. Wikramanayake.

That Hunupitiya which I mentioned just now is Hunupitiya in Slave Island where there is the Empire Theatre.

I have said that Rev. Premanande was the Manager in my time and that he was appointed by Rev. Sri Sumangala. He was therefore
10 answerable to Rev. Sri Sumangala. It was on the responsibility of Rev. Sri Sumangala that he collected any income from these premises.

Q. Were there money offerings also ?

A. Yes.

Q. There were till boxes kept there and they were in charge of Rev. Premanande as Manager ?

A. Money offerings were taken by the Vidyadhara Society.

Q. Was the whole Society present there to open the till boxes ?

A. The till boxes that were kept there were under lock and key.

Q. Was there no representative of the Society present to open
20 or to remove the till boxes ?

(No reply.)

The people who came to the temple gave the offerings. There is no other temple there in that particular area. The people who come to worship there offer flowers also.

(*To Court :*

They offer the flowers in the Shrine Room.)

The till boxes are also kept there. It is the worshippers who come there and offer money. The produce of the land was taken by Krithia Addhikara who at the time was Rev. Premanande.

30 (Mr. Pereira says that the Krithia Addhikara is the term used for the Manager.)

Apart from collecting the income of the land Rev. Premanande was looking after the priests who come there from outside. That was one of his duties as Manager. Rev. Premanande had the keys of the temple. The keys of the other buildings were also with Rev. Premanande.

(*To Court :*

The preparation of breakfast for the pupils was also in his charge. The lay pupils used to go out for breakfast.)

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Evidence of
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Continued

There were decorations, etc., done in the Temple premises on Wesak Day and other days of ceremony. That work was done under the direction of the Principal and Rev. Premanande. The members of the Sabha are also dayakayas. There are thousands of dayakayas and it is from them that members of the Sabha are chosen. At the death of one member of the Sabha another is appointed and the appointment is made by the remaining twelve members of the Sabha. It is by means of circulation that a vacancy is published. I do not know whether it is by publishing an advertisement in the press that the appointments are made. 10

Q. You personally do not know of any instance where such an appointment is published ?

A. No.

Q. You yourself was a dayakaya in the Temple ?

A. Yes.

Q. And you as dayakaya was never informed of an election before it was made ?

A. No.

I have stated that all matters were managed by Rev. Premanande. I know that so far as buildings are concerned contributions were made 20 by Rev. Sri Sumangala himself, and that the money that came in were in charge of Rev. Premanande. I know that that money was utilised for the construction of the buildings, I have also said that I was so interested in the Pirivena that I used to go there whenever I come to Colombo.

I know that there were annual reports issued.

I have some of them with me. I get all information from those annual reports.

I have said that Rev. Sri Sumangala ordained certain priests and gave a list of some of those priests. I was not present at the ordina- 30 tion of those priests whom I have mentioned. I have told to Court only what I have been told. I know about the ordination of those priests because Rev. Siddhartha had told me. It is he who told me about the ordination of those priests. I did not ask from Rev. Sri Sumangala about it.

(To Court :

It is in a conversation that I gathered the information about these ordinations.)

Q. You did not ask from Rev. Sri Sumanagala about this ?

A. No.

Q. You were only a pupil there and you did not speak to him with regard to these things ?

A. No.

Q. You were not told by anybody else about it ?

A. Some of the other priests also told me about it.

I know that the ordinations are registered in Lekammitiya. I have said that Rev. Siddhartha was the first pupil of Rev. Sri Sumangala. I was about 17 or 18 years old when I joined the Pirivena. I know what happened in 1879.

10 Q: Have you seen reports of the Vidyodaya Pirivena issued with the sanction of the Principal ?

A. Yes.

Q. And with the approval of the Sabha ?

A. I do not know that.

Q. They were reports of the Pirivena itself ?

A. Yes.

Q. Those reports contained all the activities of the Pirivena ?

A. Yes.

20 was Q. From those reports did you come to know that Rev. Jinaratana was a pupil of Rev. Sri Sumangala ?

A. No. I did not see any such things.

Q. Rev. Jinaratana was not in this Pirivena ?

A. No.

Q. The reports were issued with the authority of the Principal ?

A. Yes.

From the time of Rev. Naneswara the report contained reference to Rev. Jinaratana as being the first pupil. At that time he got it inserted as such.

30 Q. How do you know that Rev. Jinaratana got his name inserted as the first pupil ?

A. He must have come there and got it inserted.

Q. Is that an inference that you are drawing ? Are you merely supposing that that was so ?

A. I think so.

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Continued

I have met Rev. Jinaratana about 30 or 40 times in Hunupitiya.

Q. You said that Rev. Jinaratana got his name inserted as the first pupil? Are there any other cases where he got things done?

A. I know he got a land transferred in his name by Rev. Mabotuwana Siddhartha.

Q. That was a piece of Gangaramaya which Rev. Siddhartha got?

A. Yes.

Q. To whom was the rest of the land dedicated?

A. I do not know that. 10

Q. There was a temple in the land that was presented to Mabotuwana Siddhartha?

A. Yes.

Rev. Jinaratana was the Vihara Adhipathi of that temple. Rev. Mabotuwana Siddhartha was its incumbent before that. I do not know to whom the other portion of Gangaramaya was presented.

I do not know whether Rev. Jinaratana was the first pupil or not. But I know that he got his name inserted as the first pupil. Rev. Nanessara knows about this better. The other person who lived with Rev. Sri Sumangala was Rev. Ratanasara. 20

(To Court :

During Rev. Sri Sumangala's lifetime Rev. Jinaratana was the Vihare Adhipathi of Gangaramaya.)

When Rev. Jinaratana went to Gangaramaya as Vihare Adhipathi Rev. Sri Sumangala went and helped him. And it is on behalf of Rev. Sri Sumangala that he got P3 written. I have already said that that deed was written in his name, and that it was included with the rest of the Pirivena premises. That was taken in the name of Rev. Sri Sumangala.

(Sgd.) V. S. JAYAWICKREMA, 30
A.D.J.

Further hearing tomorrow.

Witnesses to attend Court.

(Intld.) V. S. J.,
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(Corrections to proceedings, if any, of the previous date to be done later.)

Mr. Wikramanayake says that yesterday the plaintiff was seated in Court and that he sees him in Court even today. He says that he should not be in Court if he is going to give evidence in this case.

10 Mr. Pereira admits that he was seated in Court yesterday.

Mr. Wikramanayake says that if the plaintiff wants to give evidence he must leave the Court.

Mr. Pereira says that there is no such rule.

Mr. Wikramanayake submits that it is the practice of this Court to ask the parties to the case who want to give evidence to go out.

Mr. Pereira refers to section 174 and says that under that section the plaintiff is entitled to remain in Court.

ORDER

Under section 151 if a party conducts a case in person he is
 20 entitled to remain in Court, and has to do so ; it provides for that party to produce his evidence and to call his witnesses. The Evidence Ordinance says that a party to a case is a competent witness. This section 151 does not compel that party to give evidence first and then to call a witness. He can call his witnesses, and give evidence later. I do not think that the position is changed where the party has retained a proctor or Counsel to conduct his case. When a party retains a proctor or Counsel to conduct his case he has to stay in Court to give him instructions.

Section 174 in my opinion does not apply to the parties to a case
 30 who wishes to give evidence. In the course of the argument I pointed out the difference between a party and a witness, under section 175 of the C.P.C.

Mr. Wikramanayake argues that that proviso is an exception.

I do not think that that is so.

I allow the plaintiff to remain in Court and help his Counsel to conduct his case if he so desires.

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It was pointed out that the practice is for the plaintiff to leave the Court if he is going to be called subsequently, or if his Counsel or proctor advises him to get out. But I am not aware of any practice where if a party chooses to remain in Court he can be compelled to leave. The plaintiff can remain in Court.

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

Mr. Pereira submits an additional list of witnesses and moves that the Court summon the Registrar of Lands to produce a duplicate of deed dated 18th May, 1879, and also Mr. W. H. W. Perera, Proctor, 10 Colombo. Mr. Pereira says that Proctor Perera's name is in the defendant's list of witnesses.

Mr. Wikramanayake says that he cannot object to the filing of a list of witnesses, but that he has a right to object to a witness being called at the time when that witness is called in.

I agree with Mr. Wikramanayake on this point.

I allow the application for the issuing of summons on these witnesses. An objection can be raised at the proper time and I shall then decide the matter.

Issue summons returnable tomorrow.

20

(Intld.) V. S. J.,
A.D.J.

At this stage Mr. Wikramanayake withdraws his objection to a certified copy of deed No. 1676 of 18th May, 1879, being put in. He also says that in these circumstances the Registrar of Lands need not be cited to produce the duplicate deed.

ORDER

Summons on the Registrar of Lands is to be stopped. Issue summons on Mr. Perera only.

(Intld.) V. S. J., 30
A.D.J.

Evidence of
 Francis
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 Cross-
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Continued

FRANCIS PANDITHARATNE. (Reaffirmed.)

Cross-examined by Mr. E. G. Wikramanayake (*Contd.*).

I have told the Court yesterday that Rev. Premanande was the Manager of the Maligakande Temple, that he was appointed by Rev. Sri Sumangala, and that till his death he functioned as Manager. Rev. Premanande died about 5 or 6 years ago. I was a dayaka and was residing in the Maligakande Temple for a time. I was a student as well as an abithiya (*acolyte*) under Rev. Sri Sumangala.

Q. Do you know the practice obtaining in that temple ?

A. Yes.

Q. And also in quite a number of other temples ?

A. Yes.

Q. Do you know that in quite a large number of temples, particularly in big temples, there is a Viharadhipathy to look after and manage the affairs of the temple ?

A. I do not know about that.

Q. You said that Rev. Premanande was appointed the manager
10 of this temple by Rev. Sri Sumangala to look after the affairs of this temple ?

A. Yes.

Q. Do you suggest that Rev. Premanande was appointed to look after the affairs other than Rev. Sri Sumangala's ?

A. No.

Q. Rev. Sri Sumangala who had the control of these premises rightfully appointed someone to deputise for him in the management and gave him the power to manage ?

A. Yes.

Q. In a similar way, you know that in other temples the Vihara-
20 dhipathy appoints someone to act on his behalf ?

A. That I do not know.

Q. You yourself being a dayakaya of the Hikkaduwa temple know that the Viharadhipathy of that temple is not residing there ?

A. Yes.

Q. And that he has appointed somebody to look after the affairs on his behalf there ?

A. Yes.

Q. Who is that person ?

30 A. He is called Depasse.

This is an instance of which I am personally aware.

Rev. Premananda was not a pupil of Rev. Sri Sumangala. I know that he was a pupil of a brother of Rev. Sri Sumangala. He was a pupil of a co-pupil of Sri Sumangala. He was a pupil of Rev. Mahajeevananda who was a co-pupil of Sri Sumangala. Rev. Sonuthara, Mahajeevananda and Sri Sumangala were all co-pupils and their tutor was Revatha Nayaka Thero.

Q. Rev. Mabotuwana Siddarta was also a pupil of Revatha
Nayaka Thero ?

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Evidence of
 Francis
 Panditharatne
 Cross-
 examination—
Continued

A. Yes, I have heard of it.

Q. And he was a co-pupil of Rev. Sri Sumangala ?

A. Yes.

Q. Rev. Premananda was never a pupil at any time of Rev. Sri Sumangala ?

A. No.

Q. You have told the Court that Rev. Premananda was appointed Manager by Rev. Sri Sumangala ?

A. Yes.

Q. Rev. Premananda was at no time appointed by the Sabha 10 or by anybody else as Principal of the Pirivena ?

A. No.

Q. So that at no time then was he the Principal of this institution ?

A. No.

I am a dayakaya of Tilakaramaya Temple at Hikkaduwa, where Rev. Soratha is the Viharadhipathi.

Q. Do you remember the time when Rev. Premananda wrote a deed in favour of Rev. Soratha at Hikkaduwa ?

A. I have heard of it. 20

Q. You as a dayakaya was not present when that deed was executed ?

A. No. I heard that that deed was executed in Ambalangoda.

Q. Did Rev. Piyaratana also go there ?

A. I do not know that.

Q. That was at the time when this dispute between Rev. Piyaratana and Rev. Morontuduwe Sri Nanessara was going on ?

A. I do not know that.

I have said that I used to visit the Pirivena whenever I came to Colombo, and that those visits were once or twice a month. 30

Q. These disputes and other matters connected therewith were known by the public ?

A. Yes.

Q. And incidents arising out of such disputes were published in the papers ?

A. Yes.

Q. Being a past pupil of that Pirivena and being a person who visits the Pirivena frequently and takes an interest in it, you say that you do not know whether that deed was executed at the time when this dispute was going on ?

(No answer.)

(To Court :

I only heard about that dispute and that dispute was with regard to giving a deed. Before giving that deed there was no dispute.)

I knew that Rev. Morontuduwe Sri Nanessara fasted in 1932.
10 I do not know the cause of that fast. I do not know whether that fast was as a result of a dispute with regard to the charging of fees from the priests. When I went to the temple I did not care to find it out because I was not interested in it.

Q. You went there merely to find out information which you think would be helpful for Rev. Piyaratana in this case ?

A. I deny that. I am in favour of Rev. Morontuduwe also.

Q. Do you deny that certain priests from various temples, such as Malwatta Temple, came there to settle a dispute ?

A. I have heard of that.

20 Q. You went there regularly but you did not care to find out what the cause of this fast was and why various priests from all over Ceylon came to the temple to settle it ?

(Mr. Pereira objects to that question being repeatedly asked. I ask Mr. Pereira to allow Mr. Wikramanayake to cross-examine the witness without interruption.)

I have told the Court that I was so interested in the Pirivena that I went there whenever I come to Colombo, and on those occasions I was interested to find out the progress of the Pirivena.

30 Q. Do you consider it proper for priests to be charged fees at that Pirivena ?

A. Yes ; otherwise the lights cannot be maintained.

Q. So you know that there was some trouble about charging of fees ?

A. Yes.

Q. And you found that out when you went to that Pirivena ?

A. Yes.

(To Court :

I performed the function of dayakaya only occasionally, not every day.)

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As a dayakaya of that special character I approved of that fee being charged from the priests. When I went there I was told about it. I was told that the dispute was about a fee charged for lighting to enable the students to study at night. I heard that Rev. Morontuduwe was fasting, but I do not know why he was fasting. I think there was a mention in the papers of this fast and I myself read that article in the paper. I did not go on a particular date to the Pirivena to find out about this, but when I came down to Colombo I visited as usual and then found it out.

Q. And you made inquiries and found out that the fast was 10 as a result of the charging of that fees ?

A. Yes.

Q. And you also came to know that that matter was settled by the visit to that temple of the priests from various parts of Ceylon, including the High Priests of Malwatta and Asgiriya ?

A. I do not know whether those priests came in connection with that fast, but I know they came to settle something.

Q. You did not care to find out what dispute they came to settle ?

A. I heard that they came there and went away. That is all I know. 20

There is no necessity for me to find out all those things.

Q. Did the High Priests of Malwatta and Asgiriya temples ever come on any occasion to that temple before ?

A. Not to my knowledge.

Their coming there is not a matter of interest to me. I cannot say whether that fast took place in 1953. I have heard of the fast, but do not know the date. I cannot say how long before the time at which Rev. Premaratana executed that deed that this fast took place. Whenever I went to the Pirivena I found that that dispute, which started at the time of the fast of Rev. Morontuduwe, was 30 continuing and that that dispute went on without a break to date.

I know that at the time of the execution of that deed there was some trouble between Rev. Piyaratana and the Sabha on the one side and Rev. Morontuduwe on the other. I do not know whether Rev. Premananda made reference to the Viharadhipathi of the Maligawatte Temple in that deed. Rev. Premananda had no right at any time either to be Viharadhipathi or Parivenadhipathi. If Rev. Premananda purported to describe himself as Viharadhipathi of Maligawatte Temple in January, 1940, I do not know any reason for it. I have heard about a deed on which Rev. Morontuduwe was claiming. That 40 was a deed executed in his favour by Rev. Jinaratana. I have heard that it was a deed executed in June, 1941. I do not know whether that was the deed that was executed in Ambalangoda.

Rev. Jinaratana was never a pupil of Rev. Sri Sumangala. I know that definitely. I was born in 1877. I have said yesterday that Rev. Jinaratana was officiating as Viharadhipathi in Gangaramaya Temple at Hunupitiya, Slave Island. I do not know whether Gangaramaya Temple was a temple which had been dedicated to Rev. Sri Sumangala.

(Mr. E. G. Wikramanayake wants to show to witness a deed dated 19th November, 1873, and to mark it as 1D3.

Mr. Pereira says that it is not to be assumed that he consents
10 to this document going in. He says he will object to this document when it is produced.)

(Shown that document to witness.) Its writing is very illegible and I cannot read it.

I was the "abitthaya" of Rev. Sri Sumangala, and I can remember his signature. (Shown the signature on the deed just referred to.) This is the signature of Sri Sumangala.

Yesterday I told the Court that I used to receive the Principal's reports from time to time and that the name of Rev. Jinaratana had been inserted there as the chief pupil of Rev. Sri Sumangala.
20 I have seen those reports and have read them. I have seen Rev. Jinaratana's name inserted at the time of Rev. Nanessara and also at the time of Rev. Ratanasara and Rev. Baddegama Piyaratana.

I am from Hikkaduwa and Rev. Piyaratana is from Baddegama. I do not know whether he is from Weheragoda or Kodagama. Kodagama and Baddegama are close to Hikkaduwa. I have heard of him. I have known Rev. Piyaratana before he started to function in this temple. When he was at Ananda Pirivena I have gone to see him. I knew him from that time. Occasionally I have been going there and talking to him.

30 Q. Then why did you say that you have heard of him when I asked you whether you knew him?

A. Because you referred to a priest in Weheragoda.

After the plaintiff became the principal of Maligakande Pirivena I was meeting him occasionally. I did not notice any pride in him in the fact that he is a scholar in Sanskrit. I know that he has written several books and stanzas. I was myself a pupil in the Pirivena studying Sanskrit. I was interested in that subject. He knew that I was interested in Sanskrit. He had never shown me any of his compositions in Sanskrit. But I have seen some of his compositions.
40 I have told him that they were good compositions, but there are other good writers also. About the fact that he wrote certain verses on the occasion of the 80th Birthday of Rev. Jinaratana I do not know.

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I live in Hikkaduwa and I did not hear of such a thing. This is the first time that I heard of such a composition. I am certain that I did not hear or see such a composition by him.

R3(v). Baddegama Piyaratana might be aware who the pupils of Rev. Sri Sumangala were.

I do not remember of any prize-giving during the time of Kahawe Ratanasara Thero, at which His Excellency presided. But I remember of such a prize-giving during the time of Rev. Nanessara. I know that during that time His Excellency distributed the prizes, but I cannot tell the exact year. I even contributed to that prize-giving. 10 I did not attend that function, but I only contributed.

(Shown a printed report which had been published concerning the period 1919 to 1927.) I did not get a copy of this Report. I did not see this particular report, but I had seen earlier reports. I did not attend that prize-giving even after contributing because those days I had more important duties to attend.

(Shown a similar report covering the period 1928 to 1939.) I have seen this report. It is a report that was published at a prize-giving, with the authority of the Principal. I do not know whether that report was written out by Rev. Baddegama Piyaratana. In 1939, 20 I think the Principal was Rev. Kahawe Ratanasara and not Rev. Piyaratana. I cannot say exactly who was the principal in July, 1940. I can remember Rev. Ratanasara's time. I even attended his funeral, but I cannot say exactly how many years ago he died. It may be in 1936 that he died. I knew Rev. Piyaratana when he was the Vice-Principal.

(Shown signature at page 6 of the above report.) This is the signature of Rev. Piyaratana. He has signed here as the Principal of the Pirivena. The date given is 1940. This report had been distributed at the prize-giving, with the authority of Rev. Badde- 30 gama Piyaratana, the plaintiff.

(Mr. Wikramanayake marks that report as 1D4 and says that the above information appears at page 6.)

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.
 16.5.50.

Court adjourned for lunch.

D.C. 2882/Land.

16th May, 1950.

No. 19

(*After Lunch.*)

FRANCIS PANDITHARATNE. Affirmed. Recalled.

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Cross-examination (Contd.) :

The Vidyodaya Pirivena used to publish occasionally a magazine. That magazine was published as a magazine of the Pirivena and under the control of the Principal of the Pirivena. As an old pupil of the Pirivena I contributed towards the magazine and purchased it.

Evidence of
Francis
Panditharatne
Cross-
examination—
Continued

10 (Shown a copy of the magazine : This is a copy of the magazine of the Vidyodaya Pirivena and to which I subscribed. The editor in 1926 was Dr. C. A. Hewavitarne. He is the father of one of the defendants and Hewavitarne was one of the members of the so-called Vidyadhara Sabha. He was the Secretary also.)

I received it at the time of publication and I saw at page 21 the editorial by the editor, Dr. C. A. Hewavitarne. At page 22 of that magazine there is a statement. (It is marked 1D5.)

To Court :

20 *Q.* Did you read the statement in this magazine that Jinaratana was the chief pupil ?

A. I may have.

I am a Sinhalese scholar myself. I was interested in the Pirivena. That is why I paid for and bought the magazine. In the normal course I read that editorial, and in the normal course I must have read that statement. I have seen other statements also that Jinaratana was the chief pupil. I saw also in this magazine a statement under the authority of Dr. C. A. Hewavitarne that Jinaratana was the chief pupil of the Chief Priest. It is there, but I cannot believe it.

30 *Q.* Why do you think Dr. Hewavitarne was making false statements ?

A. He was ignorant. I say that Dr. Hewavitarne did not know.

Q. Do you know Rev. Weliwitiye Sorata's signature, the present Viharadhipathi of that temple of which you are a Dayakaya ?

A. I have seen his signature and his handwriting. I cannot be definite about his signature.

(Shown a document :)

Q. Is that the signature of Weliwitiye Sorata ? The handwriting ?

40 *A.* There is a similarity to his handwriting.

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 Panditharatne
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Q. You cannot recognise the signature ?

A. It may be his.

Q. Is it not his signature ?

A. I will not deny that it is his signature.

Q. Was Rev. Weliwitiye Sorata in Calcutta at any time ?

A. Yes.

Q. In 1940 ?

A. I do not know the year, but he had been to Calcutta.

Q. If Sorata refers to Rev. Jinaratana as the chief pupil of Rev. Sri Sumangala, can you explain why he should do so ? 10

A. I can say why.

Q. Why.

A. Because he was not a pupil. I can say the truth of it about what I have heard.

I knew the Rev. Sri Sumangala. He was the head of the Malwatta Chapter, although not a Maha Nayaka priest. He died very recently. He died at the ripe old age of over 90. As well as I am aware he was at the Malwatta Temple.

Q. Do you know these gentlemen ? D. D. Abeyeratne ?

A. Yes. He was Gate-Muhandiram. 20

I remember the time I left the Pirivena in 1911 or 1912. At that time this gentleman was alive. He was a member of the so-called Vidyadhara Sabha. I know Simon Perera Dharmagunawardena. At the time I left the Pirivena he was also a member of the Vidyadhara Sabha. So was Jacob Munasinghe. So was Edmund Hewavitarne. So was W. John Perera. So was D. D. Pedris, Simon Hewavitarne, John Silva, M. Don Juwanis Appuhamy who lives in Dam Street. So was Don Stephen Senanayake. So was K. Edmond Silva. So was A. D. M. Perera, and L. Don Hendrick Appuhamy. I knew these people, and in 1911 or 1912 at the time 30 I left the Pirivena they were members of the Vidyadhara Sabha and they were all alive.

Q. Yesterday you gave the names of the persons who formed the Vidyadhara Sabha that elected Rev. Nanissara ?

A. I gave certain names.

Q. There was a meeting in which you were so interested that you were present in the hall ?

A. Yes.

Q. And the names of the persons you gave were names that impressed themselves on your memory?

A. Yes.

Q. Those you mentioned were those you were certain were present there?

A. Yes.

I mentioned among others the name of W. H. W. Perera.

Q. I have given you 13 names of persons as they were in 1911 or 1912 the members of the Vidyadhara Sabha. They were all alive
10 at the time of this magazine ?

A. Most of them were alive.

Q. You just told me that at the time you left the Pirivena they were all alive ?

A. (No answer.)

I left the Pirivena after the death of Sri Sumangala, that is, after the appointment of Rev. Nanissara.

Q. Can you explain how W. H. W. Perera came to be present at that meeting ?

A. I cannot say why he was present.

20 Q. Or why he functioned as a member of the Sabha that was elected?

A. I remember him in the hall. I do not know whether he was a member or not.

Q. You told the Court after that, that among the members who elected this priest was W. H. W. Perera ?

A. That is how my recollection goes.

Q. Rev. Nanissara gave up the robes at one time ?

A. For about one day.

Q. One day or one week ?

30 A. One day.

Q. When he gave up the robes he ceased to be a priest ?

A. But there was a thread that was attached to his person.

According to Buddhist ceremonies there is a thread that is tied to a priest.

Q. Was he re-robed and re-ordained ?

A. He was taken to Kandy.

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Evidence of
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 Panditharatne
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Q. And there re-robed and re-ordained ?

A. I know he was only taken to Kandy. I do not know what happened.

Q. He was re-robed and re-ordained by Devundara Sri Jinaratana ?

A. I do not know that but I only heard that he was taken by some dayakayas.

Q. For what purpose ?

A. I did not hear. I do not know for what purpose he was taken. 10

Q. Can anybody other than a priest be the Principal of this Pirivena ?

A. A person who is appointed by the Vidyadhara Sabha.

Q. Can a person other than a priest be appointed by anybody at all as Principal of this Pirivena ?

A. A layman cannot be appointed. Only a priest can hold that office.

Q. When Nanissara gave up his robes he ceased to be a priest for the time being ?

A. He took off his robes, but had his yellow thread. 20

Q. You told us that he gave up his robes for 24 hours ?

A. But still he was wearing that yellow thread.

He never told me he was disrobing.

Q. When he was taken to Kandy was he taken without his robes by the dayakayas ?

A. I was not present. I cannot say how he was taken.

To Court :

I was not present on the occasion when he gave up his robes. I was an Abithaya of Sri Sumangala. He was the High Priest of Sri Pada. 30

Q. From Sri Pada he got a large revenue ?

A. No. Only a small portion.

Q. But that small portion of what he got from there amounted to a large sum ?

A. Yes.

Q. And that money was expended by Sumangala on the Maligakande Temple ?

A. I know that he sent that money to Don Carolis' shop and put it into an account there.

I received a half-century report of the Vidyodaya Pirivena.

A half-century would be 1924, at which time Dr. Hewavitarne was the Secretary of the Vidyadhara Sabha. I saw on pages 23 and 24 a statement of the improvements and where that money was spent as improvement.

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10 (Mr. Wikramanayake marks that document as 1D6.)

That was published on the authority of the Vidyadhara Sabha. It was issued by the then Principal Kahawe Ratanasara and signed by him. It states among other things "out of moneys received from our Nayaka priest and the money received for exhibiting the casket. The Image House was put up at a cost of Rs. 30,000/- from the money received from Adam's Peak by our Nayaka priest."

Q. Have you any reason to state that Kahawe Ratanasara made a false statement in regard to that ?

A. No.

20 Collections at Adam's Peak are divided into two—one to the Devales and the other to the Buddhist priests. The Buddhist priests' portion is collected and the Devale portion is spent by the Devale authorities. Rev. Sri Sumangala, as the Nayaka priest, had access to certain funds that were collected from alms at Adam's Peak.

Q. And from the statement of Kahawe Ratanasara, which you accept, he had spent Rs. 30,000/- for the building of the Image House at Maligakande ?

A. He may have spent even more.

30 A meeting hall was built by Nanissara at an expense of about Rs. 8,000/-.

Q. You have told us that when the Nayaka priest got the collection that came to him from the collection at Adam's Peak they were sent to Don Carolis' shop ?

A. He kept an account there and to that he sent the money.

The money that came to him was as the Incumbent of Adam's Peak. It was his share of the income from there as Incumbent.

Don Carolis' shop was the shop belonging to the Hewavitarne. They were the Dayakayas of this temple. They were the chief Dayakayas and the members of the Vidyadhara Sabha.

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Continued

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 Panditharatne
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Q. As Chief Dayakayas the money was entrusted by the priest to them to be taken charge of and spent under the priest's directions ?

A. That is a different thing.

Q. What is a different thing ?

A. In order that the money may be secure it was sent to them.

Q. It was sent to the Hewavitarnes' shop for safe-keeping. They were the Dayakayas who were looking after the Nayaka priest ?

A. Yes.

Q. And those dayakayas who owned the shop neither spent that money on their own matters, but spent it under the direction 10 of the priest ?

A. Yes. They expended it at the direction of the priest.

Q. That was the money that was spent for this Image House ?

A. Not only that. That and other lakhs of Rupees were spent on it.

(Mr. Wikramanayake says that a witness called Kaluaratchi on the plaintiff's list of witnesses is in Court. Mr. Pereira says he is not calling him.)

Evidence of
 Francis
 Panditharatne
 Re-examina-
 tion—

Re-examination :

I said that Mabotuwana Siddhartha was at one time in the 20 Gangaramaya Temple.

Q. In what capacity was he there ?

A. I think he was the Incumbent.

Q. Where was Jinaratana at that time ?

A. He may have been there under Mabotuwana Siddhartha.

Mabotuwana Siddhartha thereafter came back to the Vidyodaya College. Owing to Jinaratana harrassing him he came back to the Vidyodaya College. I said that thereafter he ministered to the requirements of Sri Sumangala. But he died a couple of years before Sri Sumangala. 30

Q. During the period of your direct connection with this place or thereafter had Jinaratana anything whatsoever to do with the Maligakande Pirivena or the Aramaya ?

A. He had nothing to do.

Q. You heard the suggestion of Counsel for the 1st defendant that Nanissara and Ratanasara and even the plaintiff were there as representatives of Jinaratana ?

A. I do not know anything of such a thing. Such a thing never came within my knowledge.

Q. You were asked about the alleged fasting by this defendant ?

A. Yes.

Q. Were you present at any time ? Did you see him fast ?

A. No. I did not even take notice of it.

This gentleman is rather fond of fasting when he wants to have his own way. On Sumangala's death Nanissara, I said, was appointed by the Sabha. They were the then members of the Vidyadhara Sabha.

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tion—
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(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

10

C. A. JAYATILAKA. Affirmed.

I am a Notary Public practising in the Sinhalese language. As a youth I was a pupil at the Vidyodaya Pirivena.

Q. From what year to what year ?

A. From 1905 to 1913, but in the intervening period I stopped going there for a short period.

At the outset I was resident at the Pirivena. All along I was residing there.

Q. Were you also one of those who looked after the High Priest,
20 Hikkaduwe Sri Sumangala ?

A. I had to look after him with some others.

I was present when Sumangala died. I was present at the appointment of Nanissara as Principal also.

Q. By whom was he appointed Principal ?

A. By the Vidyadhara Sabha.

(Mr. Wikramanayake objects to this.)

I was personally present when Nanissara was appointed Principal by the Vidyadhara Sabha. Nanissara was a pupil of Sri Sumangala. I knew Mabotuwana Siddhartha.

30 *Q.* Whose pupil was he ?

A. He was also, I think, a pupil of Sri Sumangala.

(Mr. Pereira produces a certified copy of a deed by Hikkaduwe Sri Sumangala appointing Mabotuwana Siddhartha a pupil of his, deed No. 1676 dated 31.5.1879. Mr. Pereira reads out the deed.)

I know Heyantuduwa. During the time I was a scholar he was a teacher. Heyantuduwa was the Vice-Principal.

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C. A. Jaya-
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Examination

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Evidence of
 C. A. Jayatilaka
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Q. When you joined in 1905 was the block of land that was known as the Vidyodaya Pirivena the same as it is today ?

A. The land was the same.

There was a boundary wall right round. It was possessed as one block of land.

Q. Did you know that part of that block of land ? The title was originally conveyed to Mabotuwana Siddhartha ?

A. I did not know about it before this case.

All I say is that from the date I joined in 1905 it has been possessed as one land with a wall right round. I left the Pirivena about 1913. I visited the Pirivena thereafter as well.

Q. About how often did you come ?

A. Whenever there was an important matter at the Pirivena I used to attend.

I was also one of the helpers or the Dayakayas outside to help this Vidyadhara Sabha. I was a member of what is known as the Vidyodaya Uppakara Sabha. I used to subscribe as such for the maintenance of the Vidyodaya Pirivena.

Q. All the time you knew the place, was there anybody known as Viharadhipathi there ?

20

A. I only knew what was the Principal of the Pirivena. There was no Viharadhipathi of the Pirivena, but only a Parivena Adhipathi.

I said that Nanissara was appointed as such. On Nanissara's death was appointed Ratanasara.

Q. Were you present on that occasion as well ?

A. I was not present at the time he was appointed, but I came that same day in the night. But I learned of his appointment there.

Q. In fact, thereafter, who functioned as the Principal of the Vidyodaya Pirivena in 1922 when Nanissara died ?

A. Kahawe Ratanasara.

30

He did so till his death. He died about 1936 or 1937 — I am not quite certain. On his death the present plaintiff Piyaratana succeeded him.

Q. Before he was appointed Principal did he hold any office of that Vidyodaya Pirivena ?

A. He was the Vice-Principal.

Q. Can you say for what period ?

A. I cannot be definite, but for about 4 or 5 years he was Vice-Principal.

On Ratanasara's death he was appointed Principal.

Q. Were you present at that appointment or was that something you learned ?

A. I was not present but I heard.

Q. But who actually functioned to your knowledge as Principal after Ratanasara's death ?

A. The plaintiff.

Q. During all those years, to your knowledge, had Devundara Jinaratana anything to do with this temple ?

10 A. He had nothing to do with the Pirivena.

Q. Had he anything to do with the premises, the land, or any part of the land ?

A. No.

Q. After you qualified as a student you were a teacher yourself at the Vidyodaya Pirivena for a short time ?

A. While I was at the Pirivena I was a teacher also.

Q. How many years were you a teacher ?

A. For 2 years.

Q. In what subject ?

20 A. In Arithmetic.

After I left the Pirivena I was an examiner for the Oriental Studies Examination.

Q. For how many years did you function as an examiner ?

A. For about 20 years, but not continuously. I examined, then some other examiner continued and again I was appointed. When I am asked to come and I have too much work I ask them to excuse me, but I go when I have no work.

Q. When was the last time you were an examiner ?

30 A. Even this year I have been correcting some examination papers. I correct papers that I set.

Q. What classes do you examine ?

A. Most of my examination is in the higher forms of the Vidyodaya Pirivena.

Q. To your knowledge did the then Vidyadhara Sabha meet from time to time ?

A. Yes.

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Continued

Q. And was there a meeting sometimes for the appointment of fresh members of the Sabha—Sabhapathis—when others died ?

A. Always a meeting was held to elect a fresh member.

Q. Did you yourself attend such meetings ?

A. Generally we do not go and peep into those meetings, but when there is a very important meeting we do go and have a peep.

Q. Were you yourself a member of this Vidyadhara Upakara Sabha ?

A. Yes.

Q. Were they summoned when a new member or Sabhapathi 10 proper was going to be elected. (Mr. Wikramanayake objects.)

(To Court :

Q. How did the Upakara Sabha come into existence ?

A. I do not know how it came into existence, but I have been informed some time back that I was appointed a member of this Upakara Sabha and later when I got a letter that I should give alms to the resident priest I sent alms.

I was appointed by the Vidyadhara Sabha. As a member of the Upakara Sabha I did not attend any of the Vidyadhara Sabha meetings. I cannot remember whether I was invited, but I remember 20 well that I never attended such meetings.)

Apart from sending money I did not attend any meeting of this Upakara Sabha.

(To Court :

Q. For what purpose was this Upakara Sabha appointed ?

A. For the assistance of the Pirivena .

Q. In what form ?

A. When the Pirivena got enlarged the payments became very high and the Sabha could not bear the expenses and the Sabha got another Sabha to help the Vidyadhara Sabha.) 30

They always ask for something in kind.

(To Court :

This Sabha was for maintaining the priests who are resident there—the Upakara Sabha.

Q. About how many years ago were you appointed to this Upakara Sabha ?

A. Between 1920 and 1930 I was appointed a member of the Upakara Sabha.)

Q. In your time what were the buildings that existed on this land ?

A. There was an old school in the place where they have built the Sri Sumangala Memorial Hall.

When I joined in 1905 the old school was in existence.

Q. When was the Sri Sumangala Memorial building put up ?

A. In the time of Kahawe Ratanasara. That would be about 1935 or 1936.

Q. Whom was it put up by ?

10 *A.* When Kahawe Ratanasara was the Nayaka priest he was responsible for this building and he got the Dayakayas to help as well as the Vidyodaya Pirivena Sabha.

Q. What were the buildings there ?

A. To the north of that old school there were three rooms used by the Japanese priests.

Q. Are those rooms any longer in existence or are they replaced ?

A. They are not in existence now.

There is now a set of rooms immediately to the north of the Sri Sumangala Memorial building.

20 *Q.* Was there a Dagoba ?

A. In the same place where it is now.

Q. What about the Vihare ?

A. In 1905 the work of the Vihare was started.

Q. Is that the Vihare at present in existence or are you talking of the old Vihare ?

A. That is the present Vihare.

Q. This present Vihare was built where there was a smaller Vihare before ?

A. That was the same Vihare.

30 I said it was nearly completed when I joined in 1905.

Q. Do you know, or not, whether there was any other building there ?

A. I do not know.

This Sri Sumangala Dharmasalawa was built during Kahawe Ratanasara's time. There is a piece towards the north which was built during the time of the Nayaka priest.

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 C. A. Jaya-
 tilaka
 Examination—
Continued

Q. This Dharmasalawa stood where there was an older building originally ?

A. Before Sri Sumangala Dharmasalawa was built there was an old Salawa where teaching was carried on. That was pulled down and this new salawa was put up.

The library was in the present condition during my time.

Q. Where did Sri Sumangala live with reference to the library during your time ?

A. To the west of the library there used to be an old building in which Sri Sumangala was living. 10

Q. Now there are many sets of rooms for pupil priests and others ? Many more than in 1905 ?

A. I did not notice any change between 1905 and now.

Q. All those rooms are there as they were in 1905 ?

A. With regard to that old building there is nothing new to be seen. I think they are in the same condition.

There are priests' rooms along the boundary.

Q. You say they were in existence in 1905 ?

A. In that place there were about three rooms during the time I attended the Pirivena, but those three even are not in existence now. 20

Q. Instead, are there new rooms ?

A. Yes. There are new rooms built there now.

Q. Did Jinaratana, to your knowledge, have anything to do with these improvements ?

A. No.

Q. What is the meaning of the word "Aramaya" ?

A. The meaning of the word is "a place pleasing to the eye", but now the word Aramaya is used for the residence of the priests.

Q. Was there any distinction in the position where the Dagoba and the Vihare stand and the rest of the premises to your knowledge ? 30

A. Nothing before this recent dispute.

Q. That is the dispute by the 1st defendant ?

A. Yes.

Q. When was that ? How long ago ?

A. For the last 5 or 6 years.

Q. Before that was there ever any question that the Principal was also in charge of all the premises, the whole ground and all the buildings ?

A. There was no question at all.

Cross-examined by Mr. Kottegoda :

Q. How long after the plaintiff assumed duties as head of the Pirivena did the 1st defendant raise a dispute ?

A. Before eight or ten years.

Cross-examined by Mr. Wikramanayake :

10 *Q.* When did Piyyaratana assume duties as Principal ?

A. I think in 1936. I cannot remember.

Q. It was seven or eight years after that that 1st defendant, according to you, began to raise a dispute ?

A. Yes.

Seven or eight years from 1936 would bring one to 1943 or 1944.

Q. To your knowledge, prior to 1943 or 1944 there were no disputes whatsoever ?

A. No.

Q. Either in these premises or about these premises ?

20 *A.* There was no dispute with regard to the land, but there was some trouble about the tutorship of Morontuduwa.

Q. There were no dispute with regard to the Adhipathiship of this Pirivena ?

A. No.

Q. Nothing prior to 1943 or 1944 ?

A. No.

I know that very well. I am a Notary practising in Ambalangoda. I remember attesting a deed by Rev. Premananda in favour of Sorata. I attested the deed in 1942, on 17.2.1942, whereby Premananda appointed Sorata as his pupil. Prior to that in 1941 I had
30 executed an earlier deed by Rev. Premananda in favour of Sorata.

Q. Did they give you instructions that they wanted to amplify or rectify an earlier deed ?

A. I cannot remember without looking at the deed.

Q. The instructions given to you on that occasion were that Premananda desired to appoint Sorata as his pupil ?

A. May be.

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ation

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 tilaka
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Q. In respect of the Gangaramaya Temple ?

A. I cannot remember.

Q. Why ?

A. But I remember that he gave what belonged to him to the other man as his pupil.

Q. He wanted the other man to be appointed as his pupil so that he would succeed to what he had ?

A. May be.

Q. Were you a witness in the Talagasdeniya temple case?

A. My name was there as a witness. 10

Q. As a Notary you attested that deed ? That case was not so long ago ?

A. I was served with summons. I attended Court.

Q. And refreshed your memory with the deed for the purpose of your case ?

A. I went to say that I attested the deed.

Q. And I take it you refreshed your memory with what was in the deed, etc. ?

A. (No answer.)

(To Court :

20

I keep an instruction book. All instructions are recorded in that.)

Q. Can you give instructions with regard to any particular deed without looking at that book ? Why are you answering these questions ?

A. I only said I cannot remember.

Q. You know you told us very clearly that the Parivena Adhipathi of the Vidyodaya Temple after Sri Sumangala was Nanissara ?

A. Yes.

After Nanissara came Ratanasara. After Ratanasara came Badde-
 gama Piyaratna. I was aware of the appointments, I said, by hear-
 say and I was aware of the fact that they functioned from my per-
 sonal knowledge. And I was aware of the fact that Premananda was
 at no time Viharadhipathi. 30

(Shown certified copy of deed 31079 dated 17.2.1942 ; 1D7 :
 This is a certified copy issued by me of the deed which I attested.

Q. Read the very first line of the deed and the description of
 Rev. Premananda. How does he describe himself ?

A. He has described himself as *Parivena Vasi Thath Parivena Adikari Thanpath*.

“Thath” means ‘that’. “Parivena Vasi” means ‘the controller of the Pirivena’.

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Q. Adikari and Adhipathi are synonymous ?

A. No.

Q. What is the difference ?

A. Parivena Adikari is not Adhipathi.

Q. Vihare Adhipathi and Vihara Adhikari ?

10 A. There are places where there are two officers like that.)

(To Court :

Q. Is the office of Adhipathi the same as the office of Adhikari ?

A. They are different ?.

Q. What is the difference ? What is the meaning of the word Adhipathi in relation to a Vihare ?

A. The chief of the persons.

Q. What is the meaning of Adikari in relation to a Vihare ?

A. Some temples have an Adikari as well.

Q. What does the Adikari do ?

20 A. “Adikari” is derived from the word “Karana”. Where there are a great many things to be done there is an Adikari. Where there is not much work the Adhikari and Adhipathi do the same work. An Adikari can do the work of an Adhipathi. The Adikari does not live alone. The Adikari and Adhipathi must go together. Without an Adhipathi there cannot be an Adikari.

Q. You as Notary, are you versed in the Buddhist Temporalities Ordinance ?

A. Sufficient for my official work I know.

Q. The word in the present Ordinance of 1931 is Adhipathi ?

30 A. I know Sinhalese.

What I stated are the meanings according to the derivation. What the translation is I do not know.

Q. Do you know that the word used in the 1931 Ordinance is Adhipathi ?

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A. Without looking at the Ordinance I am unable to give an answer.

Q. This deed 31079 of 17.2.42 was a deed whereby Premananda describe himself as Pirivena Adikari and appointed Sorata as his chief pupil ?

A. The Sorata priest is appointed as the Adikari.

He described himself as his pupil and appointed him as the Adikari of Sri Nalagastheniya Temple.

Q. At the time this deed was written were you not told that Premananda had not written an earlier deed in respect of the identical 10 temple conveying it to the same person Sorata ?

A. No.

Q. You registered this deed ?

A. I do not know whether the original is registered, but this copy is not registered.

Q. A copy is never registered, but it is the original that is registered.

A. I cannot say whether I registered the original.

Q. Were you given permission to dispense with a search ?

A. The instructions were given to me at the Pansala.

20

(Further hearing tomorrow).

(Sgd.) V. S. JAYAWICKREMA,
 A.D.J.

This witness says that he has a great deal of work to be done at Ambalangoda tomorrow and is unable to come. Mr. Wikramanayake has no objection to this witness coming on Thursday. Mr. Pereira also has no objection. This witness can attend Court on 18th May. Mr. Wikramanayake wants the witness to bring his Protocol and his Instruction Book.

(Intld.) V. S. J., 30
 A.D.J.
 16.5.50.

No. 20

Proceedings before the District Court

D.C. 2882/L.

17th May, 1950.

*Same Appearances as Before.**Trial Continues.*

KESELWATUGODA SRI RATNAJOTI. Affirmed :

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I am the Principal of the Vidyodaya Pirivena at Polgahawela. I was appointed by the Malwatta Karaka Sabha in 1923. It was I who started the Pirivena in 1916. I am also the Chief Nayake of
10 the Dambadeniya Hatpattu appointed by the Malwatta Karaka Sabha in 1928. I was a student at the Vidyodaya Pirivena from the year 1905 onwards.

Evidence of
Keselwatugoda
Sri Ratnajoti
Examination

Q. To what year were you there ?

A. Till 1915. I won the Siam prize once. It is a much-prized prize. It is a very important prize. I was a pupil of Hikkaduwe Sri Sumangala from 1905 till his death, and thereafter a pupil of the Reverend Nanissara. I have also been examining at the Vidyodaya Pirivena. I am still an examiner of the Vidyodaya Pirivena.

Q. Where did you occupy a room when you joined ?

20 A. The original room is not in existence today. At present there is a big Pirivena hall there.

Q. You occupied a room, is it correct to say, where the Sri Sumangala Dharmasalawa is today ?

A. Yes.

Q. And during the time of Hikkaduwe Sri Sumangala he functioned as Principal and was in charge of the whole premises ?

A. The whole thing was in his charge.

Q. On his death were you also present when his successor was appointed ?

30 A. I did not get inside the hall where the appointment took place, but I was in close proximity.

The Vidyadhara Sabha met to appoint his successor.

Q. Were you within earshot of these proceedings ?

A. Within earshot as well as within sight.

Q. How many people of the members of the Vidyadhara Sabha assembled to appoint a successor to Hikkaduwe Sri Sumangala ?

A. There were 13 members in that Sabha, but at that moment I cannot remember now how many of them were present.

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Q. Who was duly appointed to succeed Sri Sumangala ?

A. Sri Mahagoda Nanissara.

He functioned thereafter as the person in charge of the premises till his death. He was what is known as the Parivenadhipathi.

Q. Did you come down to Colombo at all after his death ?
 Is it after the death of Rev. Nanissara ?

A. Yes.

I came to Colombo after that.

Q. Were you present on the appointment of his successor ?

A. I was not present that day. 10

Q. Do you know who succeed him as Principal after Nanissara's death ?

A. Kahawe Ratanasara.

Q. Did you often come to the Pirivena ?

A. About once, twice or three times a month I used to come. During those days I think I came on even more occasions than that.

Q. Who functioned as Pirivenadhipathi ?

A. Kahawe Ratanasara Thero.

After Ratanasara's death Baddegama Sri Piyaratana was functioning. That is the plaintiff. I know the Rev. Devundara Jinaratana of Gangaramaya. I know the Rev. Mabotuvana Siddhartha. 20

Q. Were they both pupils of Hikkaduwe Sri Sumangala ?

A. I do not know whether both of them were pupils, but I know that Mabotuvana Siddhartha was a pupil of Sri Sumangala.

Q. Did the Rev. Devundara Jinaratana ever come and play any part in the Pirivena ?

A. No. Nothing at all.

Q. In fact, you say you did not even know he was a pupil of Sri Sumangala ?

A. Yes. I do not know. 30

Q. When you joined in 1905 where was Mabotuvana Siddhartha living ?

A. From hearsay I heard that he was at Hunupitiya. I have heard but I did not go to Hunupitiya at that time.

(Mr. Wikramanayake objects to hearsay evidence.)

(To Court :

Q. Let us know what you know and not what you have heard from others. You have learned under Sri Sumangala, that is why you say you have seen him. This is what I want to tell you.

Q. You have said that Jinaratana never did anything in these premises. That is what you know. We do not want to hear from you anything that you have heard from other people.)

Q. Did Siddhartha come to Vidyodaya Pirivena ?

10 A. Yes.

Q. During the latter part of his life what was it he did ?

A. He was attending to the Hikkaduwa Nayake priest.

Whatever the Hikkaduwa Nayake priest was saying he was doing. I know Francis Panditharatne and Jayatilaka.

Q. Were they pupils during your time at the Vidyodaya Pirivena ?

A. Yes.

Q. When you first knew the premises was it bounded by a wall as it is today ?

20 A. Yes.

There was an entire land encroached by a wall. There is a wall even today.

Q. Did anybody claim any portion of what was there within those boundaries in your time ?

A. No one claimed. The whole thing was under the control of this Nayake priest, that is, the Pirivenadhipathi, and he was in charge. The Vidyadhara Sabha had the control over matters.

(Court adjourned for lunch.)

(Sgd.) V. S. JAYAWICKREMA,

30

A.D.J.

17.5.50.

After lunch.

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KESELWATUGODA SRI RATNAJOTI. Affirmed.

Examination-in-Chief (Contd.).

I have told the Court that Rev. Hikkaduwe Sri Sumangala was in charge of the whole premises as Parivenadhipathy. I also spoke

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about the Vidyadhara Sabha. The Sabha was managing or looking after the financial side only. It had nothing to do with the Pirivena.

I know that there was a deed by which certain blocks of land were gifted to Hikkaduwe Sri Sumangala. Many of our priests have copies of that deed. (Shown P2—deed No. 1259 of 1876.)

(Mr. Wikramanayake states that P2 has not been produced in this case. He admits that there was some argument on P2 at the previous trial. It was produced for that purpose, and not produced in this case.)

Mr. Pereira says that the defendant himself has relied on P2 in his answer. He says that this document has already been produced and marked.

Mr. Pereira says that he will formally tender it later on, if necessary.)

(Shown paragraph 2 of deed P2) — (Witness reads out that portion of the deed.) The three parties mentioned herein are members of Vidyadhara Sabha. I have read this deed myself. This is not an ordinary deed to which the rules of Sisyanu-sisya Paramparawa apply. As a member of the delegation I have accepted this deed.

The property gifted to Sri Sumangala is in two blocks. (Witness reads out the description of the two blocks given in the deed.) The value Rs. 2,500 mentioned covers Aramaya together with the “godanegili” which means the buildings. After the description of the boundaries there is again the mention of Aramaya in regard to the other block also. The two blocks are separately called “Aramayas”.

Q. Was there ever more than one Vihare in the whole block ?

A. As far as I know there was not more than one at that time.

Q. The new Vihare was built during your time ?

A. The major portion of it had been completed when I joined and there was little more work of construction to be done. 30

Q. What was that Vihare used for ?

A. It was meant for the use of the priests and pupils who were residing there. There were novices there at that time.

Q. Was there anybody known as Viharadhipathy there at that time ?

A. No.

Q. Was there a Parivenadhipathy ?

A. Yes, there was one ; that is Nayake Thero ; and at that time it was Sri Sumangala.

Q. Apart from the controlling priest, was there anybody else doing any work there for him ?

A. There was one Premanande doing the work of manager under him.

Cross-examined by Mr. E. G. Wikramanayake.

I am the Parivenadhipathy of a temple. I have got three other temples. In my Pirivena at Polgahawela there is a Vihare. I started the Pirivena first. The Vihare was built later. There was a bo-tree at that time, but there was no dharma-salawa. There was also a small building where flowers were offered. There were a few images.

Q. Does the number of images make any difference in the sanctity of an image-house ?

A. That depends on the fancy of each person.

Q. In your view does the sanctity of an image-house vary with the number of images there ?

A. The more the images the more sacred the place will be.

Q. Where did you get that from ? Is it from the scriptures ?

A. It is not in the scriptures. It is my view.

(To Court :

20 When I went there, there was a bo-tree. There was a small place to offer flowers. There were a few images. Before I went people had been offering flowers there.)

There was an awasa. Before the Pirivena was built I was not resident in that awasa. I used to lodge somewhere else and come there.

Q. Is it because that building was old that you were not living there ?

A. Yes.

30 Q. There were several other places for you to live in at that time ?

A. Yes.

Q. But this was an awasa and it was a place where other priests were living ?

A. Yes, from time to time.

Q. It is in order to find more comfort that you lived in another place ?

A. Yes.

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Q. Buddhists came to this place for worship ?

A. Yes.

Q. And before you started this Pirivena that property was a Sangeeka property ?

A. No.

Q. Then whose property was it ?

A. It was not a Sangeeka property. It was not a big property.

Q. To whom did it belong ?

A. I had heard that it was a sort of Crown property.

Having seen a bo-tree people started to go there and it then 10 developed into a small temple. It is not correct to say that my tutor priest was in control of this. My tutor was Sri Dhammanande. It is he who ordained me. I was ordained at Malwatte Temple. It was Dhammanande who presented me for ordination.

Q. At least two priests are required to present anybody for ordination. So was there no other priest in your case ?

A. No. In my case there was only one priest.

I was registered under the Ordinance of 1931. In my declaration I mentioned the name of only one priest as my ordaining priest. I am sure about it. 20

Dhammanande was not looking after the old awasa and other things in the Polgahawela premises at any time. It is on those premises that I started this Pirivena.

Q. Can you tell the Court of any single Pirivena in any part of the Island which is not inside a temple premises ?

A. I have not searched for any such place.

Q. A priest like any other priest must reside somewhere ?

A. Yes.

Q. A priest can reside in the house of a private individual if that individual allows it ? 30

A. If that house is specially kept for that purpose, a priest might live there. By that I mean a priest can live for a short time in a private individual's house, if that house is specially reserved for that priest.

Q. Can't he dwell there permanently ?

A. Yes, if it is a suitable place for a priest to live in, and not otherwise.

Q. Can that private individual still have the ownership of that building ?

A. Yes, if that building is not dedicated.

A Sangha has several divisions. I belong to the Siamese Sect. It is not correct to say that the properties that are dedicated to the Siamese Sect belong to all the temples of the Siamese Sect. There are various kinds of dedications.

(To Court :

A priest can live in a private house.

He can also live in a Sangeeka property. If I am living in a private house given by a private individual any other layman can
10 enter that house.)

Q. If the private owner of that premises wants to stop that other layman from entering the premises, can he do it ?

A. If he comes to worship he will not be turned out.

(To Court :

When a house is given for the occupation of a priest that house can be given to certain persons of distinctions. But if an outsider comes to occupy that house, the private owner can object to it.)

Q. Once a property is dedicated the private owner cannot keep out the lay people from going there to worship ?

20 A. It all depends on the terms of the dedication. If it is dedicated to all over the globe, then nobody can do anything. But if it is dedicated to a special Sect, then it is different.

Q. If it is dedicated to the Buddhist Monkhood ?

A. Then nobody can do anything.

Q. If a person dedicates to the Buddhist Monkhood and lay down any conditions thereafter, those conditions will be valueless ?

A. If the conditions are laid down later, those conditions are valueless.

If the building is dedicated to the Sarwa-Sangeeka, that is the
30 entire Buddhist priesthood, then the layman cannot do anything. The Sarwa-Sangeeka appoints a certain priest to manage. The appointment is made among themselves.

(To Court :

In the same deed the donor can lay down a condition that he would keep the right for himself to appoint a chief priest.)

Q. If a member of the Sangha accepts on behalf of the Sangha subject to those conditions, then the donor may have the right to appoint a Viharadhipathy from time to time ?

A. Yes.

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(To Court :

The donor can then appoint a Viharadhipathy. That is only if it is mentioned in the conditions and not otherwise.)

Q. If the donor mentions in the conditions that he reserves the right (i) to appoint a Viharadhipathy from time to time, and (ii) to remove a Viharadhipathy from his office and appoint another if he so desires, then will that deed be accepted under those conditions ?

A. Yes.

Q. And then he will have the power to exercise those rights ?

A. Yes.

10

In my Pirivena I have my chief pupil. He is Sumangala. In the normal course of things he will succeed me in my Pirivena.

Q. And in the normal course he will also succeed to the control of this Pirivena at Polgahawela, unless you appoint somebody else from among your pupils ?

A. Yes, provided there is no deed with conditions requiring otherwise.

Q. For your Polgahawela premises is there a deed with such conditions ?

A. I intend setting up some method as mentioned in this same 20 deed (witness points out deed P2 that is before him).

Q. You intend setting up what ?

A. I want to make my Pirivena to go down to Parivenadhipathy Paramparawa instead of to Sissiyadi Paramparawa : that is on the lines of Vidyodaya Pirivena.

There is no deed made as yet. That is only my intention. It is almost a pudgalika property. The dayakayas paid for it and the deed is written in my name. What I mean by "pudgalika wage" (like pudgalika) is dayakayas have paid for it. The deed is written in my name.

30

Q. Who conveyed it to you ? Is that a gift given to you ?

A. The people paid for it out of their money and they offered it to me, not to the Sangha. I can do anything with this property. It is not dedicated to the Sangha. I can sell or do anything with it. It has been offered to me. My intention is to follow the same example as is followed in regard to the Vidyodaya Pirivena.

Q. Have you the right to sell a property that has been dedicated to you ?

A. Yes, I have the right to sell, but I will not sell it.

Q. If you sell that property can you do anything with that money ?

A. Yes, I can do anything with that money.

Q. You spoke about the Vihare at the Maligakande premises. Do you say that it is chiefly meant for the pupils of that Pirivena ?

A. Yes, that is the main object.

Q. Throughout the period you were there, did not people from all parts of the Island come there for worship ?

A. Now hundreds of thousands of people come, but during my 10 time very few came.

Q. On a Wesak Day, with the exception of the Kelaniya Temple, most people come to this temple ?

A. I have not ascertained that. Nor have I gone to Kelaniya Temple on a Wesak Day to see how many people come there.

Q. When you were getting into the witness box did you feel any excitement ?

A. Yes, very much because this is the first time I ever got into a witness box.

I know the Society which is known as the Bhikkhu Sammelanaya. 20 I know that Rev. Seelawansa was the Secretary of that Society, that Rev. Vajiragnana was connected with that Society doing the work of an Inspector of Pirivenas, including my own Pirivena, and that Ratnapala was the Treasurer of that Society. I also know that that Sammelanaya decided to collect money and buy a property, and that till the money was collected several people contributed shares for the purchase of that property, the shares to be paid back by the Sammelanaya when it had collected the money, I myself paid Rs. 1,000/- and took a share, as a trustee for the Sammelanaya. I know that that money was 30 collected for the Sammelanaya for the purpose of purchasing this property. The money was collected chiefly from the Pirivenas of which Rev. Vajiragnana was the Inspector.

Q. Then there came a time when he said that that money was collected not for the purpose of Sammelanaya, but for some other purpose ?

A. He did not tell me that.

Q. Was there any litigation between Rev. Seelawansa, the Secretary and certain others against Rev. Vajiragnana and Ratnapala ?

A. Yes.

Q. You knew at that time that it was for the Sammelanaya that 40 that money was collected ?

A. Yes.

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Q. And your own thousand rupees that you gave for the purchase of that property was paid back to you later ?

A. Yes.

Rev. Seelawanse did not summon me in that case to testify to that fact. He spoke to me about it. Vajiragnana was the Inspector of my Pirivena.

Q. And for that reason you were not prepared to testify in the Court to facts of which you were personally aware ?

A. (No answer.)

Q. You refused to testify to those facts merely because Vajira- 10
 gnana was the Inspector of Pirivenas including your own Pirivena ?

A. Not only because of that reason, but also because of the fact that as I had not given evidence in a Court of law before, I was reluctant to do so.

Q. Do you say that that was not the main reason, that is that Vajiragnana was the Inspector of Pirivenas ?

A. That might have been one of the reasons.

(To Court :

The only reason that I gave at that time was that as I had never given evidence in a Court before I was reluctant to do so.) 20

Q. Because of that you were not prepared to give evidence on a matter of which you were personally aware ?

A. My chief reason was the reluctance to give evidence in a Court.

Q. You had said that even if you received summons you would not go and give evidence ?

A. I cannot remember that.

Q. I am putting it to you, you did say that even if you receive summons you would not attend Court to give evidence ? Do you deny that ? 30

A. I did not say that.

Q. You knew at that time that Vajiragnana had committed some fraud ?

A. There was no necessity for me to know that as I had got out of that whole matter.

Q. You gave that thousand rupees to Vajiragnana ?

A. I have already answered that question.

Q. You gave that money for the purpose of Sammelanaya ?

A. Yes, I gave that thousand rupees because I was told that it intended to buy a suitable property for its purpose.

Q. You know that a number of the defendants in this case, other than the 1st defendant, are people of consequence in the Buddhist world ?

A. Yes, even the Prime Minister is one of the defendants.

Q. And at the instance of those gentlemen that you have come here to give evidence, merely to say anything that they desire you
10 to say ?

A. Who will give evidence like that ? Not even His Majesty can make me to do or say a thing against my conscience.

(At this stage Mr. Wikramanayake reads out a letter written in Sinhalese in which he says that the witness had stated the following words (translated) as being the reason for his refusal to give evidence in that other case :—“ My strong association with the other side. ”)

I cannot remember whether I said this to Seelawanse.

I have told the Court that I have won a Siam prize in 1925. In the Vidyodaya Pirivena that was a most coveted prize. That is the
20 highest honour that has been achieved by a person there. That prize is endowed by the Siamese king. To my knowledge that prize is continually awarded every year. I cannot remember who and who among the priests have received that prize. I have said that I go there frequently. It is from that place that I came to give evidence in this case. I have been there for the last few days. I can now remember that Rev. Soratha has won that prize ; but I cannot remember exactly when he won that prize. Rev. Soratha finished his education in this Pirivena.

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

30

Further hearing tomorrow and all witnesses to attend Court.

(Intld.) V. S. J.,
A.D.J.
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KESELWATUGODA SRI RATNAJOTI. Affirmed.

Cross-examination (Contd.).

A temple generally has attached to it an awasa, an image-house, a Bomaluwa, a bana preaching hall, and other similar buildings. All these various buildings, together with the land on which they stand, form a temple. Sometimes the word "Aramaya" is also used. 10

Q. The term "aramaya" includes all those various buildings and the land ?

A. In our books it is explained like this : Aramaya means a flower garden or a fruit garden.

Q. You have already told the Court that the word "aramaya" includes the buildings, the temple and the temple premises ?

A. The word as appearing in our deed is not that.

Q. But you have already said so ?

A. Yes, there are certain places where that term is used for that.

Q. And that includes the temple and the other buildings that 20 are in that temple premises and they, together with the land, form one aramaya ?

A. That is so in certain other places, not here.

Jetawanaramaya in Anuradhapura has taken the name from Prince Jetawana ; Mahamegawanaramaya applies to a garden. I do not know the aramaya which is at Armour Street. I know Asokamaharamaya in Colpetty. I have been to that place. When I first went there, that is somewhere in 1906, it was a flower garden. At that time there was a small awasa there. If I remember aright, there was no bo-tree nor an image-house there at that time. Jetawana- 30 ramaya includes the temple and all the buildings standing on that premises.

(To Court :

In Kandy there is the Pusparamaya. At present there are priests there ; formerly it was a flower garden. I have said that some temples are called aramayas. I have gone to Vajiraramaya in Bambalapitiya. There is a Viharage there. I do not know whether there is a dagoba there. There is an awasa there. Buddhists generally go there to worship. There is a dharma salawa there. The term "Vajiraramaya" is now used for that temple. 40

There are other similar temples, the name of which ends with "aramaya". There is a wall or fence running round the entire premises of those temples.

Q. All the buildings within that wall or fence are called aramaya ?

A. Yes, in those places that is so.

Q. When the term is so used it includes the land and all the buildings standing thereon ?

A. Yes.

Do you know that Hikkaduwe Sri Sumangala was Viharadhipathy
10 of Sri Padaasthanaya (Adam's Peak) ?

A. He was the Nayake Priest there.

I have been to the temple at Kuttapitiya. He was not the Viharadhipathy of that temple. To my knowledge he was never a Viharadhipathy of any temple. As far as I know he was the adhipathy of Vidyodaya Pirivena. He may have been the adhipathy of other temples also ; but I am not sure whether that is so. That is to say, he may have been the adhipathy of one temple and may have been at the same time the adhipathy of other temples, residing in one temple and performing the duties of the other temples through other persons.
20 In other words, he may have been the adhipathy of one temple and at the same time he may have been deputed by another person for each of those other temples, of which he was the chief incumbent. The person who looks after his duties in such a temple is known as Puddiyadikara.

I have said that Premanande functioned as Puddiyadikara up to the date of his death. When I went there Premanande was functioning in that capacity. I do not know how much money Sri Sumangala received as the Nayake Priest of the Sri Padaasthanaya. What I think is he must have got a portion of the offerings and other
30 things accumulated there. He himself did not go there and collect the money. The collections were sent to him.

I as a distinguished pupil of this Pirivena and being a Siamese prize-winner, was in touch with the affairs of that Pirivena, and was also in touch with the reports issued from time to time. Occasionally I used to go and have a chat there. I did not see its 50th Anniversary Report. I have a slight recollection of having seen the report published by Ratanasara at the prize-giving of 1928. I cannot remember now whether I attended that prize-giving. I think I was present at the prize-giving at which His Excellency Sir Andrew
40 Caldecot presided. I do not remember whether I attended the prize-giving at which Sir Herbert Stanley presided. I have said that I

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slightly remember reading the report of 1928, but there was no necessity for me to retain in memory what I read in that report. (Shown the 1928 Report of the prize-giving.) I have seen this report.

(Mr. Wikramanayake says that he will produce this document in due course and that for the time being he is marking it as 1D8 for the purpose of identification.)

(Witness reads the definition of the word " Pirivena " given by Rev. Ratanasara at page 1 of the Report 1D8.) I agree with this definition.

(Mr. Wikramanayake marks that portion as 1D8A.)

10

The witness was asked whether he agreed with the definition of " Pirivena " given by Ratanasara in the Report 1D8, which definition is given in Sinhalese. The witness read the definition and said that he agreed with it.

The question then will be the witness will not know the English translation of this definition.

Mr. Wikramanayake says that he will get a translation of this document. If the other side do not agree with that translation, they may say so, and I shall hear them.)

Q. At page 4 of that Report 1D8 Rev. Ratanasara has described 20 Rev. Jinaratana as being the chief pupil of Sri Sumangala. Is it not so ?

(Witness reads that portion.)

A. That is how it is written on this paper.

I do not know what Ratanasara did there.

Rev. Naneswara who was functioning as Principal after Sri Sumangala, gave up robes for a very short time ; for how many days I do not know ; but I know it was only for a few days. When he gave up robes he ceased to be a priest for that short period. He was re-robed and re-ordained at the Malwatte Temple. Naneswara had been 30 the Upa-parivenadhipathy at the Malwatte Temple prior to his giving up robes. At least for ten years he must have been there in that capacity. He had also been the Nayaka Priest of the Sabaragamuwa Province prior to giving up his robes.

Q. In that Act of Appointment appointing him over again as the Chief Priest of the Sabaragamuwa Province, an endorsement had been made to that effect ?

A. Yes.

Q. You have told us that you do not know whether Sri Suman-gala was ever referred to as Viharadhipathy of Maligakande Temple ? 40

A. He had not executed any writing as the Viharadhipathy of that Temple.

Q. Have you seen letters which had been written to him ?

A. I have seen several such letters.

Q. Have you not seen any letters addressed to him as Viharadhipathy of the Maligawatte Temple ?

A. I cannot remember having seen such a letter.

Q. Try to recall and say whether you have seen any such letters ?

10 A. Mostly he had been referred to as Parivenadhipathy ; but occasionally he had been addressed also as Viharadhipathy of the Temple.

Q. Have you not seen any letters addressed to him as Viharadhipathy of the temple ?

A. I cannot remember.

I have heard of a person who was called Talahena Amaramuni. I do not know his signature ; nor am I familiar with his writing. I do not know of any notarial document executed in regard to the Maligakande Temple, nor can I remember having seen such a document.
20

The *was* season covers three months, namely, July, August and September. December never comes into that season.

I have said that when a priest gives up robes he ceases to be a priest. He cannot function as a priest until he is re-robed.

Q. Does a priest wear a " Kaha noola " around his waist ?

A. He wears a " patiya " (belt) which keeps up his robe. That is a part and parcel of the " sivura ".

Q. In addition to the " patiya " is there no " noola " ?

A. I have not heard of such a thing.

30 (To Court :

That patiya is called " siuryu-patiya ". It is about 3 or 4 inches in width.)

When I take off my robe during a bath I do not cease to be a priest.

When the " sivura " is taken off that " patiya " is also taken off. That is one of the things that go to form " atapirikara ".

I know when the Sri Sumangala Dharma-salawa was put up. That was put up by public subscriptions. A statement of the moneys collected and the expenditure was published. During that time I also received a copy of that statement of accounts.

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Continued

(Shown a statement of accounts of 1927 published by Mr. Hewavitarne). Yes, this is that report. It contains also a reference to the establishment of that Pirivena. It is at pages 2 and 3. (Witness reads out that portion of the report.)

I have seen the Buddhist Temporalities Ordinance of 1931. I cannot remember the details of the 1889 Ordinance. They are published in Sinhalese.

(Shown 1D10—document dated 1st December, 1945.) This is my letter and the signature is mine.

Evidence of
Keselwatugoda
Sri Ratnajoti
Re-
examination

Re-examined by Mr. Pereira.

10

I was questioned by the other side whether a Bhikkhu, when he takes off his robe during a bath, ceases to be a Bhikkhu. That is not so. He never bathes naked. He wears a “yata-redda” known as “nanakade”.

(To Court :

I have said that the belt keeps the robe in position. That part of the “sivura” that is worn during a bath is not worn over the shoulder. That under robe is kept up by the belt. That part of the robe is called “Nanakade”. That is used only at the time of bathing. That is never put over the shoulder. A priest usually wears two robes. Both those robes go over the shoulder. They also wear an undergarment which is called “Andane”. It is the andane which the belt keeps in position. That andane does not go over the shoulder. The andane is different from the nanakade. Nanakade is also dyed in yellow.)

I have said that there are various methods of dedicating a land or a building to the Sangeeka. One is dedicating to the priests from all four corners of the globe. Such an offer is accepted.

(To Court :

An offer given to the whole priesthood is accepted by at least 4 or 5 priests on behalf of that whole priesthood.)

Then there is another way of dedicating. That is dedicating to a particular nikaya or sect of priests. Such an offer is accepted by the priests of that particular sect in the same manner as the other one. There is also another method of dedication, that is Jambudeepaya, that is in India. In that case, it will be a priest of that place who will accept the offer as in the other cases. Then there is another method of dedication; that is called “viharasramaya”; that is an offer made to a particular aramaya or a vihare. In that connection the word “aramaya” means a place where there are many Buddhist priests residing.

In this particular case of Vidyodaya Pirivena, the deed sets out the terms and conditions under which the dedication has been made.

Q. This property was made Sangeeka property subject to the restriction that the Principal for the time being is to officiate as the head of that institution ?

A. Yes.

Q. And Hikkaduwe Sri Sumangala accepted it subject to those conditions ?

A. Yes.

10 Q. Therefore that property is subject to those conditions ?

A. Yes.

As far as I know the first Pirivena that was started in Ceylon during the British times is the Vidyodaya Pirivena. Thereafter various other Pirivenas were formed in different parts of Ceylon.

(To Court :

There is a Pirivena at Ratmalana. That Pirivena was started by Sri Sumangala. That was started a short time after the establishment of the Vidyodaya Pirivena.)

20 I know the Vidyalankara Pirivena at Peliyagoda. Even now that Pirivena bears the same name. I have been to that Pirivena. There is an image-house there. There is also a bo-tree and a dagoba there. It is still known as Vidyalankara Pirivena.

I have stated earlier that I declined to give evidence in a certain case. That is in 1945. In that instance I have emphasized that I had never given evidence in a Court before, and that both sides of the case were my friends. That case was in connection with the Bhikkhu Sammelanaya. It was in connection with a "nivasa" to be put up at the instance of the Sammelanaya.

Q. Was that case comparable with this case in importance ?

30 A. No, it cannot be compared with this case at all.

Q. Why ?

A. This particular case pertains to the continuance of the Vidyodaya Pirivena. This Pirivena has now run for the last 80 years or so. It is a very popular and important college or University. It benefits not only the Buddhists in Ceylon but the world over ; and not only the Buddhists but members of all religions. If any calamity were to happen to a Pirivena of this sort as a result of anything done by the 1st defendant, it would be a great loss not only to this country but to the whole world. I as an old pupil of the Pirivena
40 thought it my duty to come here and state what I knew about it.

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Continued

Evidence of
Keselwatugoda
Sri Ratnajoti
Re-
examination—
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No. 21
Proceedings
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Continued

Q. The deed itself specifies that whoever comes to the Pirivena to learn, irrespective of the religion to which he belongs, should be admitted to the Pirivena ?

A. Yes.

Evidence of
Keselwatugoda
Sri Ratnajoti
Re-
examination—
Continued

Q. And in fact have there been people of different religions studying there ?

A. Yes.

Q. Even Muslims study there ?

A. Yes.

Q. Students of various nationalities study there ?

10

A. Yes. There is no objection to a member of any nationality studying there. There are Russians, Japanese, Siamese, Burmese, Indians, and people from several countries of Europe studying there.

(To Court :

Some of the old pupils of the Vidyodaya Pirivena, after finishing their studies there, have established Pirivenas in different parts of Ceylon and are teaching there.)

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

Evidence of
C. A. Jayatilaka
Cross-
examination—
Continued

C. A. JAYATILAKA. Re-affirmed.

20

Cross-examination (Contd.).

I have brought my Protocol and the Instructions Book. I have here my protocol copy of deed No. 31079 of 17.2.42 (1D7) about which I have already spoken. The instructions are still fresh in my memory. In this copy there is no mention of an earlier deed by Premanande in respect of these very premises. I never write a deed of that type. I was given instructions in the office. The waiver of search was given separately. Both Soratha and Premanande have signed that.

I was not a dayakaya of the Tilakaramaya Temple. I know the signature of Soratha. I have seen, and am accustomed with, his 30 signature in English. I have seen his writing in Sinhalese.

(Mr. Wikramanayake wants to show a document to witness and mark it as 1D11 for the purpose of identification, and he says that he will produce it later.

Mr. Pereira objects to this document being put in. I ask Mr. Pereira to make his objection when the document is formally produced.)

(Shown 1D11.) The writing and the signature on this document look like Soratha's.

(Shown an envelope which contained 1D11.) I cannot say whether the writing on this document is his writing.

(Mr. Wikramanayake marks that envelope as 1D11A for the purpose of identification, to be produced later.)

I have got my protocol of 1D7 here before me.

Q. You have got the prior registration number on that document? From where did you get that number?

A. There are many lands in that deed, and in order to avoid looking for the boundaries a deed was brought and on that deed there
10 was the number of the prior registration stamped.

Q. If you took the prior registration from an earlier deed, then you would get the registration number identical with the number that was in the earlier deed. To put it in another form: Yours was the third deed in respect of this land. If you took the prior registration from the original or a certified copy of the second deed before that particular deed had been registered, you would only get the registration number of the first deed?

A. When a deed is produced for the purpose of taking the boundaries I take the prior registration number from that deed and
20 then my deed also will enter into the same folio and will be under that same registration.

(Mr. Wikramanayake says that his question has not been correctly interpreted.)

(To Court :

All these 8 lands here were in the deed to which I referred for boundaries, and they had been registered under eight different folios. I took the prior registration of all those eight. These are the prior registration of all the 8 different lands.)

(Mr. Wikramanayake marks the deed as 1D12 for the purpose
30 of identification and for production in due course.)

(Shown 1D12.) There are eight different schedules in this document.

(To Court :

I have already stated that these eight folios refer to eight different lands.)

My deed is in respect of 8 lands belonging to the Tilakaramaya Temple. Here there are two deeds. One is a deed of appointment appointing Soratha to succeed as Chief Priest of the Tilakaramaya Temple. The other deed is a deed of gift in favour of Soratha.
40 These two deeds do not have the same registration.

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Evidence of
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Evidence of
 C. A. Jayatilaka
 Cross-
 examination—
Continued

(*To Court :*

This deed of gift had not been attested by me. For me to write the deed I was shown some document which contained a number of lands, but I cannot say whether it was a deed of gift or a copy of another deed that was shown to me. I cannot remember whether it was this deed of gift from Premananda to Soratha of this temple that was shown to me.)

(Witness reads out to Court the instructions written in Sinhalese.)

(The 1st defendant will pay this witness for the issue of a certified copy of these instructions. 10)

Mr. Wikramanayake marks that certified copy as 1D13.)

Q. The last portion of the instructions made it clear that Soratha was to succeed to the incumbency of a temple ?

A. Yes.

Q. And in regard to the incumbency of the temple the word you have used there is "adikara"; that is to be in charge of the temple ? Is that the same as Viharadhipathi ?

A. It is not the same as Viharadhipathi. It is different. It is definitely Adikara.

Q. Has the Buddhist Temporalities Ordinance been published 20 in Sinhalese ?

A. Yes.

Q. And as a Notary who has attended to matters connected with temples and so on have you read that Ordinance ?

A. Yes.

There is a reference to the Ordinance of 1931 here. The fourth definition of "Viharadhipathi" in Sinhalese is here.

(Witness reads out that portion to Court.)

Q. Whether resident or not he is the Adikara Bhikkhu of that temple ? 30

(Court points out to Mr. Wikramanayake that in translations there is always a difference one from the other.)

Q. You have told the Court earlier that the term "aramaya" can be used for a temple and all the various buildings standing on that temple premises ?

A. Yes, I can refer to it as aramaya. Aramaya is a place where priests live.

Q. In the case of Gangaramaya or Asokaramaya, there are various buildings there, such as dharma-salawa, bo-maluwe, image

house and so on, and all those buildings are generally referred to as aramaya ?

A. Whether there are such buildings or not it is called Aramaya. There need not be any building at all. If a priest lives in a hut, that place is generally called aramaya. In order to call it aramaya a priest must live in that place. At present the word " aramaya " is used for such a thing.

Q. It has been used for the last 60 or 70 years ?

A. Yes.

10 I have said that Nanessara was a pupil of Sri Sumangala. That is what I have heard. I have not seen or spoken to any of Sri Sumangala's pupils.

Q. Have you ever heard people referring to Sri Sumangala as Viharadhipathi ?

A. He was called Parivenadhipathi.

Q. Was he ever called Viharadhipathi also ?

A. No. I have never heard anybody referring to him as Vihara-dhipathy.

I have stated to Court that I as an old pupil was written to by
 20 the Vidyadhara Sabha and asked whether I would agree to assist by an annual alms-giving to the priests. I consented, and because I was living in Ambalangoda and could not send food all the way from Ambalangoda to Colombo, I sent cash to the Secretary to the Vidyadhara Upakara Sabha. I sent cash once a year. Because of this I was made a member of the Upakara Sabha. I do not know whether giving of alms to the priests was the only duty expected of a member of that Sabha, but as far as I am concerned I did only that. I did not attend meetings of that Sabha. I do not know what other
 30 work this Vidyadhara Upakara Sabha did. I was a dayakaya. I did not receive any notifications about the Vidyadhara Karaka Sabha. I have been contributing for functions, funerals, for putting up buildings, etc. But I have not been notified about the business of this Sabha. Before they passed a resolution I was not notified about it, nor did I receive a notification with regard to the election of a new member, and so on.

(Sgd.) V. S. JAYAWICKREMA,
 A.D.J.
 18.5.50.

Court adjourned for lunch.

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 Proceedings
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Evidence of
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D.C. 2882/Land.

18th May, 1950.

(After lunch).

C. A. JAYATILAKA. Affirmed. Recalled.

Evidence of
C. A. Jayatilaka
Cross-
examination—
Continued

Cross-examination (Contd.)

Q. Have you ever in deeds seen this establishmennt referred to as the Maligakande Temple ?

A. No.

Q. What is a Pirivena ? The meaning of the word Pirivena ?

A. A place where the Buddhist priests are taught their Bana and other religion. 10

Q. And wherever there is a Pirivena, so far as you are aware, it has always been in a temple premises ?

A. Yes.

Evidence of
C. A. Jayatilaka
Re-
examination—

Re-examination.

I was never a member of the Vidyadhara Sabha.

Q. So you would not normally expect to receive notices of their meetings ?

A. I cannot.

I was a member of the Vidyadhara Upakara Sabha.

Q. And as such you said, in answer to my learned friend, that 20 you used to send money for almsgiving and buildings and various other funds ?

A. Yes.

My present deed number is very close to 39,000, in a period of 36 years' practice. I was shown this deed 1D12. That is a deed attested by some other Notary.

Q. And on that deed Premananda transfers to Soratha the incumbency of some temple in the Hikkaduwa district ?

A. Yes.

This is a deed of gift to some lands. 30

Q. A deed of gift by ?

A. Premananda.

Q. To ?

A. Soratha.

Q. How does Premananda describe himself ?

A. As the Pirivenviharadipathi of Maligakande.

Q. Do you know of any such office as Pirivenviharadhipathi ?

A. Not to my knowledge. There is no office like that. Premananda was never the Viharadhipathi of the Maligakande Pirivena. He has given himself a title for the offering of this deed. The Notary attesting was K. D. P. Abeysiriwardene. Premananda was not even the Vice-Principal of the Vidyodaya Pirivena to my knowledge.

Q. Is it essential that a Pirivena should exist on temple grounds ?

A. No. Not necessary.

A "pirivena" is a house for Buddhist priests. When Buddhist
10 priests begin to reside there it is called a temple.

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

(Mr. Wikramanayake says that his proctor will send the fees and the Notary will post the certified copy.)

(Intld.) V. S. J.,
A.D.J.

W. H. W. PERERA. Affirmed.

I am a proctor of the Supreme Court. I have been practising
20 for 46 years. I have been interested in all Buddhist activities for the last 50 years or so in Colombo. My father, Willora Arachchige Cornelis Perera Appuhamy, was a foundation member of the Vidyadhara Sabha along with 12 others. My father died in 1896. I became a member of the Vidyadhara Sabha in 1904 or 1905, and have been a member ever since. I am today the senior member of the Sabha. The Vidyadhara Sabha was composed of 13 members.

Q. There was an Adhara Sabha composed of an unlimited number of members ?

A. Even ladies were in it.

The original Sabha was started in 1873. Deed No. 925 attested
30 by W. P. Ranasinghe was a deed by which the Sabha was inaugurated.

Q. That document you were shown—deed No. 925 dated 6.12.1873—is a certified copy of the original deed ?

(Mr. Wikramanayake objects. Mr. Wikramanayake withdraws his objection. Mr. Pereira says he is calling the plaintiff. Mr. Pereira produces a certified copy of deed No. 925 dated 6.12.1873 and marks it P1, by which this Sabha was created.) That deed sets out the objects for which the Vidyadhara Sabha was being formed. The names of the 13 original members are as set out there. The names

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Evidence of
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are in the deed. Cornelis Perera Appuhamy mentioned in this deed was my father. Hewavitaranage Don Carolis Appuhamy was the founder of the firm of H. Don Carolis. L. Andris Perera Appuhamy was the father and L. Simon Perera Appuhamy was the son. L. Andris Perera's daughter was married to H. Don Carolis Appuhamy. There are 16 clauses to that deed. Clause 5 provides that the Sabha should consist of a full complement of 13 members. Clause 6 provides for filling vacancies, 7 sets out that this place (Isthana) shall be considered common property belonging to the Sabha and that the descendants of members shall have no right or privilege in it. Clause 8 10 provides that the money collected is for the teaching and spread of Buddhism, 9 provides for removing unsuitable Sabhapathis (anyone of the Sabhapathis). 10 provides for tutors being provided by the Sabha, 12 provides that the quorum is to be 7, and for the confirmation of the minutes of any particular meeting at the next meeting. In 1876 L. Andris Perera, one of the foundation members, transferred this property for a payment of Rs. 2,200/-, and the cost of the property itself was valued at Rs. 6,000/-. He transferred it without receiving payment of the balance out of love and affection for the religion. (Mr. Pereira produces deed No. 1259 dated 9.3.1876.) The latter part 20 of the first paragraph provides that there are 3 parties to the deed, namely, the Vidyadhara Sabha appointed by deed 925, L. Andris Perera, and the Ven. Hikkaduwe Sri Sumangala as Principal of the Vidyodaya Pirivena. (Mr. Pereira reads from the deed.)

The next paragraph says that H. Sri Sumangala as Principal of the said Pirivena and on behalf of the said — Pirivena, who may be appointed by the said Sabha and on his death by those succeeding him, has agreed to accept this as a deed of trust. Then comes the operative clause: "In consideration of the sum of Rs. 2,070/- paid 30 for the second part by Andris Perera, the said party in the first part L. Andris Perera does hereby give and assign and has given and assigned to the Principal of the Vidyodaya Pirivena and on his demise to the Principal appointed to the said Pirivena and on his death . . . as and by way of dedication as Sanghika property." The property was made Sanghika property and the Principal was to conduct the Pirivena, Hikkaduwe Sri Sumangala, and those appointed Principal subsequent to him, in accordance with those demands. If you look at the acceptance clause you will find "the said party of the third part on behalf of himself and on behalf of his successors doth hereby accept . . . subject to the agreements, covenants and rules 40 aforesaid." In 1884 by deed P3 (4.4.1884) L. Simon Perera Dharmagunawardhana transferred for the consideration of Rs. 2,000/- to Mabotuvana Siddhartha of Maligakande a block of land to the South-west of the original block the Clifton School.

Q. Have you known this land long before you became a member of the Sabha ?

A. For about 60 years I have known the land.

I am now 69 years. I used to go with my father to the temple. No, no, no. I used to go to the premises. That was, I say, a slip of the tongue. I remember the time when a vihare was originally built on this land. The vihare came long after the library and Dharmasalawa. From my earliest recollection I say it is about 60 years old. The premises were surrounded by a wall right round. From the time of Andris Perera and Andris' son Simon Perera Dharmagunawardhana and Mabotuvana Siddhartha it was possessed as one. I knew Mabotuvana Siddhartha and Heiyantuduwa. During the time of Hikkaduwe Sri Sumangala to my knowledge the Vice-Principal was H. Devamitta. Sri Sumangala died in 1911. I said I was a member of the Sabha from 1905.

Q. Can you tell me who were the other members of the Sabha in 1905 when you joined ?

A. I can remember some of them. Edmund Hewavitarne, Simon Hewavitarne, David Abeyaratne Mohandiram, Simon Perera Dharmagunawardhana the vendor of the land to Siddhartha, Juanis Appuhamy, one Silva of Jampettah Street. There was the full complement of 13 members, but I cannot remember every one of their names. Meetings were held regularly by the Sabha.

Q. As members died were their vacancies filled up by election ?

A. According to the published rules. Dates were advertised and the Sabha duly held meetings. Dates of election to fill vacancies were advertised. That was done as a matter of course.

(To Court :

Q. What are these published rules ?

A. According to P1 before a successor was appointed to a deceased member.)

30 Q. You cannot say that in every case it was done within the period that was prescribed within the rules ?

A. I cannot say.

Q. Sometimes there was a little delay as is usual with human institutions ?

A. Meetings were duly held from time to time and vacancies filled.

In 1911 Hikkaduwe Sri Sumangala died. He was succeeded by Mahagoda Nanissara. I was present at the meeting held by the Vidyadhara Sabha in connection with the election of a new Principal.

40 Q. Was Mahagoda Nanissara unanimously selected as a worthy successor of Sri Sumangala ?

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Evidence of
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Examination—
Continued

A. Yes.

Out of the members who elected Nanissara I am the only person now surviving.

Q. Can you tell me who were the other members then ?

A. Some of them I can remember. Mr. D. D. Pedris, Dr. Hewavitarne, Edmund Hewavitarne, Simon Hewavitarne. They were 3 brothers—sons of the original Don Carolis Appuhamy. Then there was myself, Silva Appuhamy of Jampettah Street, Mr. Charles Dias, Proctor, who is now dead, Dr. W. A. de Silva, F. R. Senanayake the brother of D. S. Senanayake, Sedris Perera Dharmagunawardhana 10 Mohandiram. There was a full complement of 13.

James Ratnasara was at one time the Secretary.

Q. Did Mahagoda Nanissara function as Principal ?

A. Yes. From 1911.

Q. From 1911 till his death in 1922 ?

A. With the exception of a short interval he functioned till his death.

He was twice robbed. Except for a short period of some months, till he died he was the Principal.

Q. Can you tell me what that interval was due to ? 20

A. It was owing to troubles caused to him by some of his pupils.

He left the place and went away. Afterwards the Sabha went to him and begged of him to return and he consented, and functioned as principal thereafter till his death. On his death he was succeeded by Kahawe Ratanasara.

Q. Who elected Kahawe Ratanasara ?

A. The Vidyadhara Sabha. The Vidyadhara Sabha appointed him to be in charge of the premises.

Q. What were these priests known as ?

A. They were in fact pious, learned priests. 30

Q. Was there any title by which they were called ?

A. Yes. Once they were appointed Principal each of them was known as Parivenadhipathi.

Q. And you say Ratanasara duly officiated as Principal and the person in charge of the whole premises till his death in 1936 ?

A. Yes.

Q. Can you tell me how many were present at the election of Ratanasara ?

A. I remember some of them. James Ratnasara, T. G. M. Perera, Dr. Hewavitarne, Mr. Dias, D. D. Pedris, Mr. F. R. Senanayake, W. A. de Silva, Proctor J. Moonesinghe the brother-in-law of Edmund, Simon and Dr. Hewavitarne. There was one from Temple Road named Manage Piyadasa, and one Mr. Gonakumbura, Registrar, and Byron Seneviratne.

I say there was a full Sabha at that time.

Q. During the lifetime of Ratanasara was the present plaintiff holding any office ?

10 A. He was Vice-Principal of the Pirivena, appointed by the Sabha.

Q. On the death of Kahawe Ratanasara was Piyaratana Nayaka Thero appointed to act as Principal in the first instance ?

A. Yes.

I was present at a meeting on the 7th of March, 1936. At that meeting Mr. D. S. Senanayake presided. P11 is a certified copy of the minutes of the meeting of 7.3.1936. At the next meeting Mr. Jacob Munasinghe and Mr. W. A. de Silva officiated.

Q. How long are they both dead ?

20 A. Mr. Jacob Moonesinghe died about 2 years ago and Mr. W. A. de Silva about 8 years ago.

(Mr. Wikramanayake objects.)

(The minutes of this meeting were confirmed at the meeting held on 6th April when he was appointed Principal. Dr. W. A. de Silva presided and Mr. Moonesinghe was the Secretary. Both of them are dead. Mr. Wikramanayake objects to the minutes being produced without the present Secretary being called, in whose custody the document would be. He says that the production of the document must be by the present Secretary. Mr. Wikramanayake says he does not attack the genuineness of these particular minutes but he objects to the form in which they have been produced. This is not a book kept in the ordinary course of business by a witness who is not being called. Mr. Wikramanayake says he does not attack the admissibility but he now wants the genuineness of this document proved.)

(To Court :

Q. Are you familiar with the signature of Mr. W. A. de Silva ?

A. Yes.

Q. Are these minutes of 7.3.36 confirmed by W. A. de Silva on 6th April ?

40 A. Yes.

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At page 101 I can identify the signatures of the Secretary, Jacob Moonesinghe and Mr. W. A. de Silva, the Chairman of the meeting held on 6th April. The minutes show that after discussion as to a suitable Chairman to succeed the then Chairman the minutes were confirmed.

(I allow this document to be produced.)

Baddegama Piyaratana Nayaka Thero was acting as the Principal of the Pirivena. This was seconded by the Sabha. At the meeting it was agreed as to who was suitable to be appointed as the Principal of the Pirivena. D. P. A. Wijewardene who seconded the resolution 10 is also dead, but the Hon. D. S. Senanayake who presided at the meeting is alive. At page 104 W. A. de Silva has signed as the Chairman. The minutes of the meeting held on 6th April, 1936, were confirmed. At that meeting the Rev. Morontuduwe, the present 1st defendant, was an applicant for the post of Principal.

(Mr. W. H. W. Perera reads out from the minute book.)

At that meeting a letter by Morontuduwe on the subject of the vacant post of Principal was read.

(Mr. Pereira marks as P12 the minutes of page 105 of the minute book.) It was also proposed and seconded by the same two members 20 and accepted by the Sabha that it would be good if the man who had been a teacher at some time would be among the tutorial staff and that the same should be communicated to the Principal of the Pirivena.

Q. Did Baddegama Piyaratana function as Principal and Pirivenadhipathi from that day up to this?

A. Yes.

Q. Was Kahawe Ratanasara a pupil or having anything to do with Sri Sumangala ?

A. No.

30

Neither by ordination or anything else had he anything to do with Sri Sumangala. If the rule of Sisyanusisya Paramparawa prevailed at that institution, neither was Piyaratana. Piyaratana was an outsider from Baddegama.

Q. It was alleged by the other side that Devundera Jinaratana exercised some sort of functions as Viharadhipathi ?

A. I never knew in all my life that he ever claimed any interest in this institution until he gave a deed to Morontuduwe, which was for the first time produced at the Bhikku Sammelanaya meeting.

Q. In fact, did Morontuduwe the defendant acquiesce in the 40 appointment of the present plaintiff as Principal ?

A. Yes.

Q. After the appointment of the present plaintiff as Principal ?

A. Yes.

After the appointment of this plaintiff, the 1st defendant often requested the members to have his name inserted on the tutorial staff and at the request of the 1st defendant. I signed a letter asking that the appointment may be made. I produce a letter P13 written by 1st defendant to the Vidyadhara Sabha dated 28.3.1936. That letter is in the handwriting of the 1st defendant. It is signed by him
10 in English as well as in Sinhalese. (Mr. Pereira reads out that letter.)

That is the letter referred to in the minutes of the 7th of March P12. This meeting was on the 6th of April, 1936. On the 22nd of May, 1936, the Vidyadhara Sabha . . . This letter was received from Morontuduwe by the members of the Vidyadhara Sabha, this letter written by 1st defendant and signed by him P14 of 22.5.1936 to the Vidyadhara Sabha. (Mr. Pereira reads out that letter.) On the 29.4.1938, P15 was signed only in English—a letter written by 1st defendant to the Vidyadhara Sabha. I also produce a letter of 7.5.40 P16. (Mr. Pereira reads out that letter.)

20 The last letter is dated 13.5.1941, P17.

(Mr. Pereira reads out that letter.)

Q. Has this 1st defendant ever claimed to be the Viharadhipathi of this temple till 1941 ?

A. Never before.

Q. He is now in forcible possession of a room which you think Hikkaduwe Sri Sumangala lived in at one time ?

A. He was occupying rooms in the Sri Sumangala Memorial Hall when I last knew. This was a building erected in memory of Hikkaduwe Sri Sumangala.

30 Q. You do not know whether he has let it out to some other outsider ?

A. An English school is being conducted there.

Q. You know to whom the fees go ?

A. I cannot say.

Q. Has anybody ever disputed the rights of the Sabha till today ?

A. No one disputed except the 1st defendant.

Q. Has anybody on behalf of Siddhartha ever claimed any interest that was lying here in that South-western portion ?

A. For the last 50 years no one has claimed.

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before the
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18.5.50—
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Q. You think it is in the South-western block that this Sri Sumangala block stands ?

A. (No answer.)

In 1915 there were the famous riots in Ceylon, when every Buddhist of standing was arrested and locked up. I was also one of those locked up. All the Senanayakes, Dr. Hewavitarne, Edmund Hewavitarne and Baron Jayatilaka were locked up.

Q. Was the Vidyadhara Sabha locked upon as a body of revolutionaries ?

A. In fact all the prominent Buddhists of Ceylon were looked 10 upon as enemies of the King.

All Sinhalese documents found in the houses of Sinhalese members were removed by the Police in 1915. Gunny bags full of Sinhalese documents were removed by the Police under the orders of the Government. I think the then Secretary of the Vidyadhara Sabha was Dr. Hewavitarne. He was one of those locked up with me at Welikade.

Q. With whom were the Minutes usually kept ?

A. With the Secretary for the time being.

Q. When you were eventually released and the Sabha next met 20 were you able to lay your hands on the Minute Book and the other documents ?

A. We could not get a single document back from Government that had been removed from our houses.

Q. Did you tell the Sabha to write for them ?

A. We wrote several letters to the Inspector-General of Police and others asking for their return but never got them back.

They said they were destroyed. When people came for their deeds which were with me I told them they had been destroyed.

(Sgd.) V. S. JAYAWICKREMA, 30
A.D.J.

(Court adjourned till June 12. All witnesses to attend.)

(Intld.) V. S. J.,
A.D.J.

No. 22**Proceedings before the District Court**

No. 22
 Proceedings
 before the
 District Court
 12.6.50

D.C. 2882/Land.

12th June, 1950.

Trial continues.

Advocate Mr. W. H. Perera with Advocate Mr. A. W. W. Gunawardene instructed for plaintiff.

1st defendant's appearances as before.

Advocate Mr. Kottegoda with Advocate Mr. Samarawickreme for the other defendants except the 6th.

10 Mr. W. H. W. PERERA. Recalled. Affirmed.

Cross-examined by Mr. Kottegoda.

I told the Court on the last day that the 6th defendant wrote a large number of letters to the Sabha. I produce a letter marked 2D1 written by 1st defendant to the Sabha dated 4.11.29. (Mr. Kottegoda reads out that letter.)

(Shown the letter : I identify the signature of the 1st defendant.)

There he refers to the Pirivena Viharasthanaya and admits that the consent of the Sabha is necessary for anything done to the place. I also produce a letter from the 1st defendant marked 2D2 dated 20 9.12.29 to the Sabha.

(Shown the letter : This is the signature of the 1st defendant.)

That letter is addressed from the Vidyodaya Pirivena, Maligakande. (Mr. Kottegoda reads out that letter.) I remember a complaint made against the 1st defendant by P. Devananda. There was a complaint about an assault by the 1st on P. Devananda and there were letters written to the Sabha asking that an enquiry be held. This enquiry was held. I produce another letter written by 1st defendant to the Sabha on 20.12.39 marked 2D3. That is also addressed from the Vidyodaya Pirivena at Maligakanda.

30 (Shown letter 2D3 : That is the signature of 1st defendant.)

(Mr. Kottegoda reads certain portions from the letter.) The first deed is a reference to the deed No. 925 of 1873. He refers to "my observance of patient silence". There have been a large number of complaints by 1st defendant. All those were complaints against him by pupils and tutors. There he acknowledges that the Sabha has got the right of management to enquire into the complaint. I also produce a letter dated 11.5.1933 marked 2D4.

(Shown the signature on the letter : That is signed by 1st defendant. I identify his signature.)

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In that letter he gives a history of the Sabha.

(Mr. Kottegoda reads out from that letter.)

Q. Did the Sabha agree to collect certain sums of money from pupils, both lay and clerical, in the Sabha ?

A. There was a decision that certain sums of money should be collected from resident pupils, both lay and clerical, for the maintenance of the establishment because we had to pay electric bills and the priests used to read till daybreak in some cases. Sometimes we had to pay heavy electric bills and the resident preists' rooms were taxed by the Municipal Council. 10

The reference there is to the money collected with regard to lights and rates. The Sabha had accounts made from year to year. They were duly audited every year.

Q. Were those accounts available to the Buddhist public ?

A. They were available to the members of the Sabha and to the Adhara Sabha and the public were also entitled to see them. The pupils, both lay and clerical, paid these amounts asked for by the Sabha. These pupils were sent from various temples from out-stations. They used to pay money for remaining in the temple and for making use of the lights. The pupils pay money for various things. So many hundreds of pupils are there. 20

Q. With regard to this collection of money was there any trouble at the Pirivena ?

A. Soon after this 1st defendant entered upon a fast, protesting against the duties of the Sabha in levying these rates.

Q. At that time what was the 1st defendant in the Pirivena? What was he in 1933 ?

A. He was not a tutor at the time. He had informed the Society that he was unable to teach owing to illness, and kept away for about 7 or 8 years. 30

Q. Was he appointed a tutor thereafter at any time ?

A. He made many an appeal to the Sabha to be restored to his seat on the staff of teachers, but we had to refuse him. I also produce another letter written by 1st defendant to the Sabha on 4.7.33 marked 2D5. That " Upavasa " I spoke of was soon after that protest made by him in the last letter.

(Shown a letter : I identify the signature of the 1st defendant in this letter. I draw the Court's attention to the fact that it has been written from the Vidyodaya Pirivena on 4.7.1933.)

(Mr. Kottegoda reads out the letter.)

Q. Are there resident in this Pirivena other than the lay and clerical pupils any other Buddhist priests and tutors ?

A. Other than the pupils, lay and clerical, and the Principal and tutors there are servants.

Q. Are there any other Buddhist priests who neither learn or teach in this temple?

A. No one is allowed to be there who neither learns nor teaches. I mean resident in the Avasas.

10 The " Pinketaya " in the Viharasthana means the charity box in the shrine room. There is another in the Bomaluwa also. The money put into the charity box by people is taken by the Sabha. That letter refers to the Sabha taking the money put into the charity box. In that letter he gives a number of methods for getting more income for the Sabha.

Q. Did the public make any agitation against the Sabha collecting money from those priests who come to learn there ?

A. No one made any complaint or agitated against that. The income from the charity boxes is very, very little compared with the
20 expenses the Sabha had to meet in connection with lighting and rates. No such sums were given by the Public Trustee for the maintenance of this Pirivena. The 1st defendant did not at any time collect that money.

Q. What did he actually do with regard to the collection of this levy, as he says, from the pupils ? You told us he had a fast ?

A. Yes.

After that he did not do anything to help us.

Q. Did he do anything to hinder you from collecting the money ?

A. He started an agitation among the younger priests to resist
30 the order that the pupils should pay for their lights and taxes.

Q. In pursuance of that objection what further actions did the 1st defendant do ?

A. Some of the younger priests disobeyed the High Priest or Pirivenadhipathi.

Q. At whose instance ?

A. Set up by the 1st defendant.

The 1st defendant only wanted the Sabha to collect Rs. 3/- per month.

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Q. Did your Sabha at any time suspend any pupils with the advice of the Pirivenadhipathi ?

A. We had to do it in some cases.

Q. Can you give me one such instance ?

A. There was the case of D. Wimalaratana who disobeyed the High Priest Kahave Ratanasara. He was asked to get back to his temple in Kande Vihare. He agreed to leave, but on the instigation of the 1st defendant stuck to his room. He remained in his room after having taken his things out on one day.

Q. Ultimately what happened ?

10

A. A prosecution had to be entered in the Magistrate's Court of Colombo against Wimalaratana. After the prosecution the accused undertook before the Magistrate to leave the premises. Ultimately he did leave taking away his things.

I also produce a letter received by the Sabha from the 1st defendant marked 2D6 dated 8.7.33.

(Shown the letter 2D6 : I identify the signature of the 1st defendant there. The signature is Morontuduwe Nayaka Thero. I draw the Court's attention to the fact that it is headed Vidyodaya Pirivena.)

(Mr. Kottegoda reads out that letter.)

20

There he definitely takes up the attitude that the Sabha is not entitled to levy fees. He wanted to take action frequently without the consent of the Sabha.

Q. Did he form that Association that he wanted called the Sri Nanissara Commemoration Sabha ?

A. I cannot remember whether he did that.

Then he continued to write various other letters. I produce the letter dated 8.6.1936 marked 2D7.

(Shown the letter : That is the signature of the 1st defendant. It is addressed to the Vidyadhara Sabha from the Vidyodya Pirivena.) 30

(Mr. Kottegoda reads out that letter.)

At that time he had ceased to be a teacher owing to his illness. Those letters were all with reference to the levy, he says, made by the Sabha from the pupils for lights and taxes. I also produce a letter written by 1st defendant dated 19.1.1937, marked 2D8.

(Shown that letter : That is signed by 1st defendant. For the first time he has given the place at which he wrote the letter as the Vidyodaya Pirivenavihare.)

(Mr. Kottegoda reads out that letter.)

Then he mentions those various letters.

Q. Was there any duty cast by you gentlemen to consult the 1st defendant after he had ceased to be a tutor ?

A. Not at all.

For about 6 or 7 years he had ceased to be a teacher.

Q. Did you hold any secret meetings at the Maha Bodhi office ?

A. No. It was amongst the members.

We did not at any time ask the plaintiff not to appoint the 1st 10 defendant as a tutor. I also produce a letter dated 29.7.38 written by 1st defendant to the Sabha marked 2D9.

(Shown the letter : That is the signature of the 1st defendant. It is headed Vidyodaya Pirivenasthana, not Vidyodaya Pirivena.)

(Mr. Kottegoda reads out that letter.)

Q. What is the matter referred to there in 1938 ?

A. He wanted his name included among the staff at that time. I also produce another letter written by 1st defendant on 7.7.40 marked 2D10.

(Shown the letter : That is the signature of the 1st defendant. 20 It is headed Parivenasthana.)

(Mr. Kottegoda reads out that letter.)

The matter referred to there is in connection with the application to be made a tutor on the staff of the Pirivena.

(Shown the letter :

Q. Did you sign this document ?

A. Yes. The first signature is that of Rajah Hewavitarne, the second that of J. Munasinghe, third that of Dr. D. P. Perera, then myself, then Dr. W. A. de Silva, G. Malalasekera, V. R. Dias the Treasurer, E. A. Abayasekara, W. D. Hewavitarne and K. W. Gona- 30 kumbura. There were, I believe, about ten names there.

Out of the 13 members of the Sabha the three who have not signed this are Mr. D. S. Senanayake, Mr. C. W. W. Kannangara and Mr. H. W. Amarasuriya. That document is dated 16.12.40.)

(Mr. Kottegoda marks that document as 2D11.)

Q. How did you happen to sign this ?

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A. At the request of the 1st defendant, who asked us to intervene in the matter and try to get a place on the staff for him. He came and saw each of us and got our signatures. It is addressed to the Chief High Priest of the Pirivena—the plaintiff. We signed it at his request individually and it was forwarded to the Sabha.

Q. What did the Sabha do on receipt of a requisition signed by ten of its members ?

A. It came up before the Sabha and was sent to the High Priest again.

This letter contained a request that he should be again entrusted 10 with classes.

Q. Who would be the person in the Pirivena who would in the ordinary course of events appoint a teacher ?

A. The Sabha.

Q. On whose recommendation ?

A. Assistant teachers are appointed on the recommendation of the Parivenadhipathi. By assistant teachers I mean tutors.

Q. There are different kinds of tutors ?

A. There is the chief tutor and an assistant chosen from time 20 to time when there was need to do so.

I stated to Court that the 1st defendant ceased to be a teacher in 1933.

Q. Did the Sabha consult anybody in this matter ? Did you consult the Parivenadhipathi ?

A. Yes.

Q. Was he agreeable to the appointment of the 1st defendant as a tutor ?

A. No.

Q. Why ?

A. Because he had given the Sabha heaps of trouble before that. 30 He had also caused trouble to the Pirivenadhipathi during the time of Kahawe Ratanasara.

There was a request at that time in 1940, that 1st defendant be appointed a tutor, and in fact that he be put in charge of classes. No classes were entrusted to him owing to the reasons given by me. The other chief teachers also did not like it. The other chief teachers were Sorata Nayake priest and Kukulnape Dewaratana and several others who were chief teachers on the staff. All knew that they could not get on with him.

Q. Was the appointment of the 1st defendant as a tutor placed before the Sabha ?

A. Yes.

Q. With regard to this petition ?

A. Yes.

Though ten of us had signed, all ten could not agree owing to the reason that I stated earlier. Meetings of the Sabha were held from time to time and the records of those meetings were available.

(Shown a report of the Pirivena dated 1.1.26 to 30.6.28 :

10 *Q.* Who are the people who have signed this report ? At the right-hand bottom corner ?

A. Dr. C. A. Hewavitarne the Secretary and Kahawe Ratanasara.)

(Mr. Kottegoda moves to mark the whole minute book as 2D12

It is marked 2D12 and parts that are necessary will be translated.)

I mark page 7 to page 10 as 2D12A. That is a brief report of the work done by the Vidyadhara Sabha for the settlement of the Vidyodaya Pirivena for the period 1.1.26 to 30.6.28.

(Mr. Kottegoda reads out that report.)

20 It goes on to give certain contributions and certain donations by various gentlemen. I also produce 2D12B page 13 of the minute book 2D12—a report of the meeting held on 29.7.28. There I drew the Court's attention to the 5th paragraph. (Mr. Kottegoda reads out that paragraph.)

I also produce 2D12C minutes of the meeting of the Vidyadhara Sabha held on 1.11.28 at Maligakanda. There I draw the Court's attention to the paragraph about the appointment of Mr. R. Hewavitarne to the vacant seat of Mr. P. de S. Kularatne.

30 I also produce 2D12D, a report of work done by the Vidyadhara Sabha from 1.1.36 to 3.12.28 at pages 21 to 23 of 2D12. There it speaks of the receipts of income, and expenditure and bequests given to the Sabha. I also produce the minutes of a meeting held at the Pirivena on 6.1.29 marked 2D12E appearing at page 24 and I draw the Court's attention to the last but one paragraph where Mr. R. Hewavitarne was appointed in place of Mr. P. de S. Kularatne. I also draw the Court's attention to the minutes of 3.6.29 at page 30 of this Minute Book, minutes marked 2D12F.

(Mr. Kottegoda reads out those minutes.)

40 I also produce 2D12G, minutes of a meeting held at the Pirivena on 12.8.29 appearing at page 37. I draw the Court's attention to the second paragraph.

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(Mr. Kottegoda reads out those minutes.)

I also produce the minutes of a meeting held on 10.1.30 marked 2D12H at page 41. I draw the Court's attention to the paragraph with regard to this petition.

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Continued

(Mr. Kottegoda reads out the petition.)

There is reference to a writ that vested rights in the Municipality. I also draw the Court's attention to the minutes of a General Meeting of the Sabha held on 3.10.31 at page 50 marked 2D12I. There is a reference to an election there. I also produce the minutes of a meeting of the Sabha held at the Vidyodaya Pirivena on 14.6.33 marked 10 2D12J at page 71. There is a reference there with regard to the collection of money for electricity and the 1st defendant's attitude with regard to it. I also produce minutes of a meeting held on 20.6.33 marked 2D12K at page 75. There I draw reference to the dispute made by the 1st defendant and also to the increasing number of pupils in the Pirivena.

(Mr. Kottegoda reads out that document.)

I also produce minutes of a meeting held on 23.6.33 marked 2D12L appearing at page 76. The 1st defendant was present at that meeting. (The letter of 11th May is marked 2D4.) 20

(Mr. Kottegoda reads out that document.)

Nowadays all Buddhist priests handle money. Many of them do not keep to the old Vinaya rules. Three statements have been made to the Sabha by Seelaratana, Keselwatugoda Pannaratana and Wimalaratana. The last priest Wimalaratana is the priest I referred to as having been ejected from his rooms. I also produce minutes of the meeting held on 14.5.34 appearing at page 95 and marked 2D12M. I draw the Court's attention to a letter written to Mr. B. R. Dias and his appointment.

(Mr. Kottegoda reads out that document.) 30

I produce marked 2D12N minutes of a meeting held on 20.5.35, appearing at page 101. There I draw the Court's attention to the 4th paragraph. I produce minutes of the 21.6.38, marked 2D12O appearing on page 121. In these minutes there is a reference to the prize-giving to be held on that day and the various prizes to be given, and the appointment of Rev. P. Dhammananda in place of Pannasara. I draw the Court's attention to a statement made by the Secretary to obtain their views of consent. I also produce minutes of the Vidya-dhara Sabha held on 14.3.39, marked 2D12P appearing on page 125. I also produce marked 2D12Q minutes of a meeting held on 29.1.40 40 appearing at page 126. I draw the Court's attention to the motion proposed by me.

(Mr. Kottegoda reads out those minutes.)

I also produce the minutes of the meeting held on 30.10.40 marked 2D12R appearing on page 133. I draw the Court's attention to the election of Mr. H. W. Amarasuriya.

(Mr. Kottegoda reads out those minutes.)

I also produce marked 2D12S minutes of a meeting held on 30.5.41 appearing on page 135. I draw the Court's attention to the second paragraph and the election of Mr. D. L. F. Pedris. I also produce minutes of a meeting of the Sabha held on 20.1.42 marked 2D12T
10 at page 143. There I draw the Court's attention to the fact that the room occupied by 1st defendant was closed and the room locked.

(Mr. Kottegoda reads out those minutes.)

That is the attitude he took up. That indicates that whenever the High Priest made an appointment he had to come to the members of the Sabha for confirmation. He made the recommendations. That was after the deed obtained by 1st defendant from Devundera Jinaratana marked P7. I also produce minutes of a meeting of the Sabha held on 23.10.42 in the office of the Minister of Education, marked 2D12U and appearing at page 152. That meeting was held
20 at the office of Mr. C. W. W. Kannangara. Mr. P. D. Ratnatunga was appointed in place of Dr. W. A. de Silva. I also produce minutes of a meeting held on 5.8.48 marked 2D12V appearing on page 177. I draw the Court's attention to the second paragraph. Mr. N. Munasinghe, C.C.S., was appointed a member of the Sabha. I also produce minutes of the Special General Meeting held on 31.1.49 marked 2D12W and appearing at page 178. Mr. Jacob Munasinghe had been the Secretary of the Sabha for 30 years.

(Mr. Kottegoda reads out those minutes.)

Mr. Daya Hewavitarnne was appointed to fill the vacancy caused
30 by the death of Mr. J. Munasinghe. Mudaliyar E. A. Abayasekara was a long-standing member of the Sabha. He had been elected about 20 or 25 years ago. He was employed in the Education Department. Next to me he is the oldest member of our Association. The others like Mr. D. S. Senanayake, Mr. Kannangara, Mr. H. W. Amarasuriya and Mr. D. L. F. Pedris have all been elected after 1931. The 2nd to 18th defendants are those people, myself, Mudaliyar Abayasekara and those about whom I have produced the minutes of the meetings held at the relevant dates on which they were elected as members. Accounts of our Sabha have also been entered in this
40 Minute Book kept for that purpose.

(Mr. Kottegoda marks pages 11 and 12 of 2D12 as 2D13.)

I produce a certified translation of those pages marked 2D13A. They contain a statement of accounts from 1.1.28 to 30.6.28 of the Vidyadhara Sabha.

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(Shown the original: I see the first paragraph for membership fees amounting to Rs. 257/50.)

All those amounts totalling up to a sum of Rs. 691/50 are donations made to the Pirivena by five of those who are not among the 13 members of the Vidyadhara Sabha. Then you get collections for the Sinhalese New Year amounting to Rs. 15/-. The prize-giving referred to is the Pirivena prize-giving.

Then you have got donations made by a number of gentlemen. On the other side I see the expenditure. Even after all these donations have been made, the statement made by 1st defendant that the 10 income of the Pirivena is sufficient for its maintenance without a levy from the pupils is incorrect. I see next the item alms, etc., of the 12 Bhikkhus of the tutorial staff. By that I mean that the Vidyadhara Sabha supplied alms to those priests on the tutorial staff. Then I see arrears of salary to teachers teaching English. They are lay teachers.

Q. How did you happen to be in arrears? Did you start a school?

A. Yes.

There was that Sri Sumangala Dharmasalawa, a school conducted 20 by the Sabha for teaching English to the pupil priests.

Q. Who are burdened with the payment of the salaries of those priests?

A. The Sabha.

Next I see the various employees. That is, the servants, watcher and cleaner and coolies. Then the electricity, Municipal taxes for two months amounting to Rs. 157/-. There is then various other expenditure, including disbursements, amounting to a sum of Rs. 9,786/82. Also for repairs to the Dharmasalawa. In 1928 taxes and electricity bills were paid by the Sabha. At that stage 30 the Sabha were paying for the maintenance of the lights and rates and taxes due to the Municipality. I mark the account appearing on page 19 as 2D14—statement of income and expenditure for period 1.7.28 to 31.12.28. There also a similar account takes place and there is a deficit of Rs. 638/33. There also you have got that the Sabha has been taking the charity box collections into account. Those were the charity boxes in the image house and at the Bo Tree. I mark as 2D15A the translation of a statement of income and expenditure for the period of 6 months 6.1.29. to 30.6.29 appearing at page 35. There also the accounts are there and I find the item of collections 40 from the charity boxes amounting to Rs. 45/11. That year also has ended with a deficit of Rs. 6/25, including a sum of Rs. 250/- borrowed from Dr. C. A. Hewavitarne, who was the Secretary at that time. I produce the statement of accounts for the period 1.7.29

to 31.12.29 appearing on page 155 marked 2D16 and the translation marked 2D16A. There also you have got a similar description of the balance. That year has ended with the deficit of Rs. 439/02. I also produce marked 2D17 and 2D17A the original and a translation of the statement of expenditure of the Sabha from 1.1.30 to 30.6.30 signed by D. D. Pedris and J. Munasinghe the Secretaries. There also the year has ended with a deficit of Rs. 452/93. I also produce at page 59 the statement of income and expenditure from 1.7.30 to 31.12.30 marked 2D18 and the translation marked 2D18A also signed
 10 by the Secretary and Treasurer. There also there is a deficit of Rs. Rs. 481/04. There also the item for charity boxes appears as Rs. 254/59 and the item on the right hand side shows that the Sabha spent for almsgiving at the Pirivena a sum of Rs. 1,331/- and the salaries of English teachers was Rs. 731/-. That year ended with a deficit of Rs. 281/04. I also produce marked 2D19 and translation marked 2D19A accounts, that is, income and expenditure from 1.1.31 to 31.12.31 appearing at page 65. That is also signed by Messrs. Pedris and Munasinghe. At the right hand side you find membership fees, that is, membership fees paid by the 13 members of the
 20 Sabha and including the Upakara and Adhara Sabhas. Then there is Charity box collections, collections at Bana preaching amounting to Rs. 86/25 that is Bana preaching at the Dharmasalawa. People took round till boxes. That is also income accruing to the Sabha. Then there is an item of Government grant. Alms at the Sri Sumangala celebrations during the "Vas" season amount to Rs. 624/-. Then there is an item of donations Rs. 400/- bill for electricity is Rs. 792/25. From the income we get this year the payment made by the resident priest on account of the electricity bills. That shows that in the year 1931 the residents of this Pirivena were
 30 contributing for lights and such income came to our Sabha. We had to collect money. Even that year has ended with a deficit of Rs. 253/37. That was even with a grant of Rs. 2,000/- which we get for teaching at the Pirivena. On the other side you find that for the relevant period the alms and other expenses for priests have increased by Rs. 2,355/38 in 1930. During that period we had to pay taxes for Rs. 300/-, for salaries to teachers we had to pay Rs. 620/-. For the English School we get Rs. 230/90. I also produce a statement of income and expenditure for the period 1.1.32 to 20.6.32 marked 2D20 and translation 2D20A appearing on page 67. That year we
 40 have had a balance of Rs. 578/84 for the first time during this period.

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The item of alms for other and other collections has gone down from Rs. 2,200 odd to Rs. 900/-. It is due to most of the priests going away during the holidays. I also produce at page 69 marked 2D21 and translation 2D21A a statement of income and expenditure of the Sabha for the period from 1.7.32 to 31.12.32. That year you find that Dhammapala has given a contribution of Rs. 600/- and we have collected from electricity from the pupils Rs. 450/- and for taxes also. That year there is a balance of Rs. 500/04. I also produce a statement of income and expenditure from 1.7.33 to 31.12.33 appearing at page 95. It is a printed list. I have got a balance from last 10 year as membership fees etc. That year has left us a balance of Rs. 23/95. I also produce marked 2D23 and translation 2D23A a statement of income and expenditure for the period 1.1.35 to 30.6.35 showing a balance of Rs. 264/99. I also mark the income and expenditure from 1.7.35 to 31.12.35 as 2D24 appearing on page 100. In that year we have been getting contributions for electricity from the pupils. I have got as the first item a balance in the bank Rs. 328/-.

Q. You have got certain donations for electricity ?

A. That year our lights have brought in a contribution. Contribution for electricity from certain gentlemen have been made for 20 using our current. Then you get house rent from the Anuradhapura property. That is the property which the Sabha acquired at Anuradhapura.

Q. From whom did you get that property at Anuradhapura ?

A. It originally belonged to D. D. Pedris. He was indebted to the Sabha for about Rs. 8,000/-. I got a deed of mortgage from him for the Mihintale Road property at Anuradhapura. I went to Anuradhapura for two years as proctor for the Sabha. Thereafter I obtained a writ of possession for that property opposite the Bo Tree Temple. I could not get possession so I had to go to Anuradhapura 30 for two years. After proceedings had been taken against the man who was in wrongful possession we got the property back to the Vidyadhara Sabha.

On the debit side was an amount of Rs. 112/- put there with regard to the deed.

The fifth item is " deed for Anuradhapura land ".

(Court adjourned for lunch.)

(Sgd.) V. S. JAYAWICKREMA,

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After Lunch.

W. H. W. PERERA. Recalled. Affirmed.

The last document which I produced is 2D23, page 100. I also produce, marked 2D24, a statement of accounts of the Pirivena from 1st July to 31st December, 1935; and the translation marked 2D24A.

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Next, I produce, marked 2D25, at page 107 statement of accounts of the Vidyadhara Sabha of Vidyodaya Pirivena for the six months
10 from 1st January to 30th of June, 1936; and the translation marked 2D25A. In that year we have received a Government grant of Rs. 3,000/- which is an increase over the previous year. The second item is the charity box collection. (Witness reads out the other items.) There were no contributions from the pupils at that time. That is, with regard to electricity and taxes, the accounts do not show any contributions during that period. That is because some of the pupils protested against the recovery of this charge for electricity. Therefore no collections were made from them during that year. But on the expenditure side is shown an item for Rs. 3,332·35
20 with regard to electricity, telephone, Municipal taxes, etc. There is an item which shows that we have settled certain loans obtained from 2 members, amounting to Rs. 276/- and a loan of Rs. 250/- obtained from H. Don Carolis & Sons; against Sri Sumangala Memorial Society Rs. 112/- and another similar item. There is still a balance left on that account.

I also produce, marked 2D26, at page 108 of that book, a statement of accounts of the Vidyodaya Pirivena from 1st July to 31st December, 1936; and the translation marked 2D26A. We show on the left hand corner various collections including the charity box collection,
30 house rent from Anuradhapura, and various other donations and contributions. On the other side there are various expenses. The accounts have been signed by me and duly audited. At the bottom I say "loans to be settled amounting to Rs. 1,548·43". These accounts were adopted at the meeting of the Sabha held on the 20th May, 1937.

I also produce, marked 2D27, statement of accounts of the said Sabha of the said Pirivena from 1st January to 30th June, 1937, at page 123; the translation is marked 2D27A. That year we received a Government grant of Rs. 4,500/-; that is because Government
40 grants increased year by year. Then we had received a donation from Mr. Abeysinghe of Rs. 252·78; charity box collection, etc. "Contributions for electricity"—those were paid by the outside societies. They held "pinkamas" for several days, and the cost of lighting was paid by them to our Sabha. There is a further item

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below "contributions to arrange for a bana preaching". I draw the attention of the Court to an item of Rs. 427/90, for certain work done by the Sabha, viz., for wiring certain buildings and repairing the dagoba compound, etc. In those days there were no electric lights, especially in the dagoba compound, preaching-hall and the library. Rs. 310/- has been spent for electric lighting. There are certain contributions shown further down in that statement of accounts. During that period, for want of funds, the Sabha went round and collected contributions, and at the end of the year we paid back those sums. In that manner we received a contribution of Rs. 1,000/- 10 from the late Mrs. Mallika Hewavitarne during that period. It is only after the examination is held at the Pirivena that we receive the grant from the Government. In the middle of the page is shown the fact that we have, after the receipt of the Government grant, which we received after the examination at the Pirivena, settled loans to Don Carolis & Sons, and several others.

Then I produce, marked 2D28, statement of accounts, income and expenditure, of the said Sabha of the said Pirivena, from 1st July to 31st December, 1937; and the translation marked 2D28A. There is an item of Rs. 1,000/- as donations. Charity box collec- 20 tions during this period were less. That is because when there are no "pinkamas" collections become less. On the other side, there is an item of expenditure that year; that is, various repairs were done to the living quarters of the priests and the preaching-hall, which amounted to Rs. 200/- odd.

On the last date when I gave evidence I told the Court that our Society, after the death of Rev. Sri Sumangala, appointed Rev. Nanessara as Parivenadhipathi. Rev. Jinaratane had no hand at all in appointing Rev. Nanessara as Parivenadhipathi.

Q. Was the late Rev. Nanessara in charge of both the Piri- 30 vena and the aramaya, including all the buildings in those premises?

A. After the Sabha appointed him he was in charge of everything.

I told the Court that after the death of Rev. Nanessara, Rev. Ratanasara was appointed in his place. Ratanasara was not a pupil of Naneswara.

Q. Was he also in charge of all the buildings in the Maligakande premises?

A. He was in charge of everything connected with the Pirivena. He was in charge of the educations activities as well as the other 40 buildings on the Pirivena premises. By "other buildings" I mean the shrine-room, bo-maluwa, the library and the dharmasalawa. After the death of the late Rev. Ratanasara was appointed the plaintiff

as Acting Principal for some time, and later we confirmed his appointment. By "we" I mean the Sabha. That was in the year 1936. The plaintiff was not a pupil of Rev. Ratanasara. Rev. Jinaratana had no hand in the appointment of Rev. Ratanasara. He never came and interfered with the affairs of this institution.

Q. Did he ever claim to the office of Parivenadhipathi or Viharadhipathi at any time?

A. I never heard of such a thing until I came to know about the granting of that deed P7 of 22nd June, 1941.

10 Q. Did any of the members of the Sabha act as an agent of Jinaratana?

A. No.

Q. Until he got this deed P7 did he ever claim any rights other than the tutorship of the Pirivena?

A. After he fell ill in 1933 he wanted to be reappointed a tutor. He did not ask for anything else.

He was agitating about this from 1933 for about 8 or 10 years. He made no other claim.

The 1st defendant was in occupation of the Sri Sumangala Hall.
 20 He took over the keys of the dharmasalawa and kept it for himself, and in consequence the other priests could not have their alms in that hall. The number of residents is smaller than the number of those who attend from outside. About 60 of those priests could not take their alms in the alms-hall as a result of the defendant keeping the keys. He locked it up and prevented the rest of the priests from taking their alms. With regard to the charity box, he asserted some rights by keeping the keys. He even took the collections that were in the charity box. Previously it was the Secretary and the Treasurer of the Vidyadhara Sabha who usually took the collections.
 30 I do not know what he (defendant) did with the letters and other correspondence that came to the Pirivena. I have no idea as to who takes the collections now. To my knowledge the Sabha did not take the collections from the charity box after the defendant took charge of it.

The succession to this Pirivena is according to our deeds P1, P2 and P2A. The original acceptor of these gifts, *i.e.*, the late Rev. Sri Sumangala, accepted subject to the terms and conditions of those deeds. I deny that the succession to this Pirivena is governed by the "sisyanusisya paramparawa". The 1st defendant is not a
 40 pupil of Ratanasara.

The plaintiff, from his appointment in 1936, continued to be the head of this institution without any trouble until the 1st defendant made his claim. Before he obtained P7 of 1941 he never made any

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claim to any office in this institution. I have been a dayakaya of this institution for about 46 years, and I have never heard anybody referring to this institution as "Maligakande Vihare Pirivena". It was always referred to as "Maligakande Pirivena". The letters received by the 1st defendant also had that name therein.

It is in those letters that I said that the place is referred to as such. I have also heard the place referred to as Maligakande Temple.

Q. From the time you came in contact with this place have you not heard it referred to as "Maligakande Vihare" ?

A. Those who go to the temple to obtain their education call it 10 the "Pirivena" and nothing else, and those who go there to worship call it the "Maligakande Pansala". Some go there to obtain their education and some go there to worship.

Q. A much larger section of the public go there to worship than to learn ?

A. That is not so. It is only on "Poya" days that outside public go there to worship.

Q. To your knowledge how many people go there to study ?

A. About 700.

Q. Is not the number of people who go there on one "Poya" 20 day more than 700 ?

A. Now it is not so.

Q. Have not people gone there on a "Poya" day by thousands?

A. Not now.

Q. At any time have people gone there by tens of thousands ?

A. Yes, by thousands. It may be by several thousands.

It is on "Poya" days that people go there to worship. During the rest of the month hardly any Buddhists go there to worship. On the Poya days, prior to this dispute, the number of the people who go there to worship is far in excess of those who go there to learn. 30 People call it Maligakande Temple. It has not been referred to as the Maligakande Temple from the very earliest times. The shrine room was built about 35 years ago. Prior to that the shrine room was not in existence.

Q. And because the shrine room was not in existence prior to that this place was not referred to as Maligakande Temple ?

A. Why not ; because the priests were living there it was referred to as the Maligakande Temple.

Q. Have you not seen reference to this as Maligakande Temple in any of the documents prior to that ?

A. I had not been in charge of documents of this temple to answer that question.

Q. Have you not seen any correspondence addressed to this temple as Maligakande temple ?

A. People used to write to the inmates putting that name. That is according to my recollection.

Such a thing happened only after the shrine room came up.

Q. T. Don Cornelis de Silva was one of those who originally joined and signed the deed No. 925 ?

10 A. Yes.

Q. And he was a person who, having been associated with the others when that deed was executed, was aware of what was taking place in this Maligakande premises ?

A. I have no particular recollection of the person whom you refer to. I may have known him.

Q. He is one of the 13 persons mentioned in deed No. 925 ?

A. He may have been there, but I do not remember the gentleman by that name.

I do not know whether this Don Cornelis de Silva is dead or alive.
20 I say that because I do not know him. Those persons who are signatories to that deed might have known what was taking place in this premises.

Q. You have told the Court that you were made a member in 1904 or 1905 ?

A. It may be about that time. I speak from memory.

Q. Did you not say that you were made a member definitely in 1905 ?

A. Not definitely ; about that time.

It is in relation to an event that I fixed that date, and that is
30 the time that I was enrolled as a proctor. I became a proctor in September, 1904. My father was dead at that time. I cannot say in whose place I was elected a member. Soon after I became a proctor I was elected a member. I cannot say exactly which year I was elected a member. I am very sorry I am unable to say whether it was two years after I became a proctor that I was elected a member. It is not 10 years after I became a proctor. It is less than five years after that. It may be about 1904 or 1905 that I became a member.

Q. Could it not have been later than September, 1905 ?

A. It is about that time.

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In the absence of documents I am unable to say the exact date.

Q. But your recollection was very distinct when you said that it was within a year from the date on which you became a proctor.

A. It may be a year or two after I became a proctor.

Q. What exactly is this Vidyadhara Sabha of which you were made a member ?

A. That is the Sabha to which members were appointed from time to time under that deed.

The deed is the deed where the enrolment of new members is referred to ; that is deed No. 925. Vidyadhara Sabha was a society. 10 I understand what is meant by a society.

Q. Was it a society in itself, or was it a committee of a larger society ?

A. That was a society.

I understand what is meant by a committee. I am a member of other societies also.

Q. Are there no committees of those societies ?

A. There are sub-committees of those societies.

I am a member of the B.T.S. It has now been incorporated. Prior to its incorporation it was an association of hundreds of members. 20

Q. Had not that society a committee ?

A. It had an executive committee.

Q. What is a committee ?

A. I am not an authority on that subject.

According to what I understand a committee is formed at the instance of a large body. It is the larger body that governs.

Q. Was the Vidyadhara Sabha appointed as a committee by a larger society or not ?

A. This Sabha of 13 was never known to me as a committee for any reason. 30

This body of 13 was not a committee of any other society, but a Sabha in itself. Under the deed these 13 persons were duly constituted a Sabha or society, and they functioned as a society by themselves. All throughout the period I have known it as a constituted society by themselves, independent of any other society, and not a representative committee of any other society. Election to the Vidyadhara Sabha is not made by the Sabha itself; but on the representations made at an election.

I have given evidence before this in a Court of law. I gave evidence in this case previously before Mr. Sansoni, but it is not true to say that on one occasion Mr. Sansoni disbelieved my evidence, I have never been disbelieved in a Court.

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I remember the case which I instituted as proctor for the petitioner seeking to propound a Last Will attested by me; and where I had taken the thumb impression of a priest at the General Hospital, and I myself as proctor sought to propound that Will in Court. On that occasion I testified in Court that I had a long conversation
10 with the priest, that the priest was in sound mind, and that I had full instructions from him. I cannot remember whether the next witness called was the House Officer at the General Hospital. That witness may have said that the deceased had been unconscious for several days before that.

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Q. And do you remember that you immediately withdrew your application for probate?

A. I remember the case. I relied on the learned Counsel who advised that the application be withdrawn.

I cannot remember whether it was Mr. Advocate Thiagalingam
20 who appeared for the other side in that case. I may have given evidence for one whole day in that instance and also continued on the next date.

Q. And immediately thereafter Dr. R. A. Pieris was sworn, and he testified to the effect that the deceased had been unconscious for several days before that?

A. Yes.

Q. And while he was still in the box giving evidence-in-chief you withdrew your application?

A. We came to a settlement.

30 *Q.* You realised that Dr. Pieris's evidence gave the lie to your evidence?

A. No. That is not so. There was no judgment to that effect. I had no reason to realise that Dr. Pieris's evidence gave the lie to my evidence. When Dr. Pieris gave evidence I may not have been in Court listening to his evidence, because as a witness myself I had to stand out. I gave evidence first.

Q. Are you telling the Court that after you gave evidence you as proctor had to stand out?

A. I cannot remember whether I was in Court or not at that
40 moment.

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Q. Did you not tell the Court a little while ago that you were advised by the Counsel to withdraw the application ?

A. My client was advised by Mr. Thiagalingam to do so. My client was under the belief that Dr. Pieris would support him. In that case judgment was delivered by Mr. Swan in favour of the 1st defendant on a point of law. It is not correct to say that at that stage I was on the fence. The plaintiff appealed from that judgment. It was decided to waive the security of costs. The motion was drafted by Mr. Abhayanayake. It was then sent to me for signature. I made a statement in Court here. Later a question was raised as to whether the security of costs has been waived by me or not. There were affidavits filed, and I myself tendered my affidavit. 10

Q. And Mr. Corbert Jayewardene, proctor for the 1st defendant, got into the box and testified to the fact that you had not waived the security of costs ?

A. I do not know that.

Q. The Judge on that occasion came to the conclusion that your conduct had been one of “ double-dealing ” ?

A. I had just returned from Bombay, and I was having a swollen arm. The Court may hold anything in my absence. I explained to the Judge that I was unable to be present and asked for a date. I distinctly told him and it is on record. 20

I do not know whether the statement made by Mr. Corbert Jayewardene on that occasion is true or not. I was not present to contradict him. I may have made some statement confidentially to Mr. Jayewardene which he should never have disclosed in my absence. Among lawyer friends we make certain confidential utterances and we do not expect such statements to be disclosed. In fact, I asked the Judge after he delivered the judgment why he made such a statement about me in the judgment in my absence. I do not contradict the statement of Mr. Corbert Jayewardene. 30

In or about 1905 when I became a member of the Vidyadhara Sabha it was a society in itself and not a committee of any other society. Being a Buddhist and a proctor, and being a person interested in Buddhism and the work connected therewith, I took an active part in that society. I was very regular in attendance at meetings of the Society. As far as I was able to I attended the meetings of the Society. From the date I joined I was associated with whatever was done by the Society.

Q. In 1907, 13 members calling themselves Vidyadhara Sabha met together and appointed trustees ? 40

A. I cannot answer that question without documents.

Q. Have you no knowledge of the fact that in 1907, 13 members calling themselves Vidyadhara Sabha met together and appointed trustees to do the work such as keeping money of the Sabha, etc.?

A. There was the Treasurer to deal with the money. The money went to him.

Q. Have there been instances where these moneys were not properly accounted for?

A. There are some such instances.

Q. The trustees referred to are the trustees who took control of the money that came to the Sabha?

A. I cannot answer that question without knowing how many trustees and who those trustees are.

Q. There were three persons, namely, Jacob Moonesinghe, D. D. Pedris and David Abeyratne?

A. David Abeyratne was a member about 50 years ago. Therefore I cannot answer your question, as it refers to a time when I was not a member.

I have no recollection that during my time these three gentlemen were appointed as trustees. I have said that David Abeyratne was a member about 50 years ago. I do not know when these three people were appointed trustees. I became a member only during the last few years of David Abeyratne's lifetime. While I was a member Don Carolis was not a member; nor was Waniga Wijesekera. I have already said that I became a member about one or two years after I became a proctor.

(Shown 1D14—deed No. 5193 of 8.5.1907, a deed of trust signed by 13 persons.) My name is not there.

(Mr. Wikramanayake asks the witness to read the first line of the schedule of that document. Witness says he is unable to read the writing. Mr. Somawira Gunasekera reads it. There are the words MALIGAKANDE NUM ARAMAYA appearing in the document.)

Q. It is clear from this document that you were not a member of the Society in 1907?

A. I still maintain that I cannot give the exact year in which I joined. Unless I see the minutes I cannot say that.

As my name is not there in that document I may not have been a member in 1907. I may have joined just after that deed was signed. If my name is not there, then I take it that I was not a member at that time.

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(Shown P1—an indenture entered into between the 13 persons mentioned therein.) That is in order to establish a pirivena.

(To Court :

I know the contents of this document by now.) I have read it once or twice recently. Every time there was trouble between the defendant and the Sabha we felt that our rights would come to us from this deed. In order to ascertain our rights we did not go through the deed every time a complaint was made. We read it once or twice recently. We remember what we read in the deed. If the deed says that 13 persons on a particular date assembled at Maligakande 10 and decided to collect a sum of Rs. 6,000/- and so on, that might have been so, but I do not know about it because the deed is an old deed. I am not concerned with the wording of that deed. It was a time when the Society had not the money to buy a property.

I contend that this Sabha is existing in the way it existed originally, and that the rules governing the Sabha are the rules set out in this deed. I agree that this Sabha should consist of 13 members, not more nor less.

Q. The deed says “. . . it shall not be complete with a lesser number.” Do you agree that the Sabha up to date is governed by 20 that rule ?

A. Yes, as far as things are practicable for the working of the Sabha, we are governed by that rule.

Q. Who is going to decide whether things are practicable ?

A. Circumstances and the times.

Q. “ A proper notice should be published in the newspapers ” ?

A. Yes, that is one of the rules.

(Mr. Wikramanayake reads out the rules in that document.) This is an agreement which the parties entered into and my position is that the Sabha still exists under these documents. That is agree- 30 ment No. 925 and the subsequent deed.

(Shown P2—A deed of gift.) I am aware that there is a mention therein of 16 members. The persons who were omitted from deed No. 1259 were S. Don Harmanis and Simon Silva. Those two persons are not here. I do not know about the fact that by 1876 the Sabha which was created by deed No. 925 had ceased to exist.

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

Further hearing at 12.30 p.m. tomorrow, the 13th June.

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D.C. 2882/Land.

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I told the Court yesterday that I was unable to come here in the morning at 10.45 to continue my evidence as I was required in connection with another case in the Gampaha District Court. For that reason the Court decided to hear this case at 12.30 p.m. It is not a fact that in the D.C. Gampaha case, where I am a plaintiff, the Court has already decided in appeal. The petition of appeal has been filed in that case. I am represented in the Gampaha Court not by a Gampaha proctor, but by a Colombo proctor, he is Mr. Amaratunga of Colombo. The fact that my proctor was unable to go there today necessitated my going there this morning. The case was called today. There was the question of security of costs to be considered. The case was decided on a point of law raised by the defendant. I had to be present there today, and I did go there.

(To Court :

In that case, I was appealing as plaintiff. I am the appellant. I did go there today. The question of security was ordered today on my application.)

The other side asked for double security ; but only one set was ordered as a result of my presence there. The number of that case is D.C. 3843 (Gampaha D.C. No. 855).

I told the Court yesterday that from the time I joined the Sabha up to-date I have known this Sabha as an association by itself and not a committee of any other association.

Q. Do you assert that the Vidyadhara Sabha was never a committee of any other society ?

A. That is my impression.

(Mr. Wikramanayake draws the attention of the Court to deed No. 1259—3 paragraphs before the last. He next refers to the last page but one of this deed where reference is made to “ aramaya ”. There is also a reference made to “ Vidhayaka Sabhawa ” on that page.)

This Sabha of 16 people, whose names are mentioned in the deed, was vested with all the directive powers to do anything they liked. I maintain that that Sabha was not an executive committee. “ Vidhayaka Sabhawa ” means a Sabha which has the full power of control. It does not mean an executive committee.

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(To Court :

That term does not mean an "executive committee" with full powers of control.)

Those society members were given full executive powers to carry out their duties specified in the deeds. So far as I am aware, from the date of those two deeds I considered the Vidyadhara Sabha as a Sabha of 13 persons and not of 16 persons.

Q. So far as you are aware 16 persons never functioned as the Vidyadhara Sabha ?

A. After that deed, never. Only 13 persons functioned as the 10 Vidyadhara Sabha at all times after that deed.

There was a group of persons known as "Adhara Sabhawa" which was a part and parcel of the Vidyadhara Sabha. But it was these 13 persons who formed the Vidyadhara Sabha who were given the full controlling powers granted by the deeds. This Adhara Sabha excluded those 13 members, but it is a Sabha which was a part and parcel of the Vidyadhara Sabha and were not entitled to vote at meetings.

(To Court :

Those 13 people were called Vidyadhara Sabhawa. Supplementary to that people were elected from time to time to assist in the 20 working of the Vidyadhara Sabha. That body of persons was different to the 13 persons who formed the Vidyadhara Sabha. The 13 persons formed one body, and the others formed another larger body.)

The functions of that larger body were to help financially, and to be present at "pinkamas", to help by putting up buildings as residents for the Priests, by giving contributions, and so on. They did not have any control over the Vidyadhara Sabha. They subscribed by their presence when new members were elected, and helped the Sabha by making suggestions about the suitability of candidates.

(To Court :

30

They had no power to vote. They only made suggestions. They suggested the names of new members for election.)

Q. Were their suggestions accepted by the Sabha ?

A. Not always. The Sabha had the full powers of control and direction, and it was for the Sabha to accept or reject those suggestions.

Q. Other than the Sabha of 13 persons, no one else had the power to do anything or to vote ?

A. I cannot remember whether any others voted.

Q. For 50 years you have been a member of the Sabha and you cannot say during the course of that 50 years whether the members 40 of the Adhara Sabha voted ?

A. I was not a member for 50 years.

(To Court :

I was a member for 44 years.)

Q. You are not able to tell the Court whether during those 44 years members of the Adhara Sabha voted at meetings ?

A. I attended most of the meetings and I cannot remember a single instance where a member of the Adhara Sabha voted.

Those members of the Adhara Sabha expressed their willingness to suggest names of new members. When names were suggested by them the Vidyadhara Sabha exercised their power to vote for or
10 against those suggestions.

(Mr. Wikramanayake draws the attention of Court to paragraph six of the deed and reads out the rules therein.)

(An advertisement in the " Dinamina " marked 1D15 is attached to the minutes marked 2D12V.)

This action was filed in 1943. I have produced a number of minutes of meetings where elections of a number of members were made. It is not correct to say that the Sabha did not publish before 1943 in any of the newspapers any advertisement in regard to those elections.

20 Q. You have produced minutes regarding the elections of several persons ?

A. Yes.

Q. Those minutes contained no reference to any advertisement. Is that correct ?

A. I do not know the minutes to which you refer.

(Shown the Minutes Book.) I am not able to read this book. There have been many instances where advertisements were published in the newspapers.

(Court :

30 Q. In the earlier minutes was there any reference ?

A. We never needed any reference, Sir.

Q. In 1948, after this action was instituted, this notice was advertised in the " Dinamina ", and you have got a copy of the advertisement attached to the minutes ?

A. In many instances when new members were to be enrolled we published the notices in the " Sinhala Bauddhaya ". It may be that we did not attach so much importance of entering them in the minutes. There may be earlier instances recorded in the minutes that have not been produced in this case. I am positive about it, because
40 I have seen so many advertisements in that paper.)

No. 23

Proceedings
before the
District Court
13.6.50—
Continued

Evidence of
W. H. W.
Perera
Cross-
examination—
Continued

No. 23
Proceedings
before the
District Court
13.6.50—
Continued

Q. As a member of the Sabha you are one of the defendants ?

A. I have not filed an answer.

Q. What is your position ?

A. My position is I am made a defendant and I am paying for it.

Evidence of
W. H. W.
Perera
Cross-
examination—
Continued ;

Q. The 1st defendant did not want you here as a party to the action ?

A. I have received summons. I have to obey the Court, and therefore I am here.

(To Court :

As a defendant I am not producing any of those minutes. 10
But if the Court orders me, I will be able to find out those documents
and bring them here on another day. I will have to go through all
the advertisements.)

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.
13.6.50.

Adjourned for lunch.

D.C.2882/Land.

13th June, 1950.

(After lunch)

Evidence of
W.H.W.
Perera
Cross-
examination—
Continued

W. H. W. PERERA. Recalled. Affirmed. 20

I told the Court that the Sabha was always composed of 13
members.

*(Shown the original deed from the custody of the clerk of the
Land Registry.)*

At this stage Mr. Wikramanayake states that the Registrar-
General's clerk has been summoned to produce deed No. 2134 when
they wanted the deed No. 2431 of 12.12.1887. He says he has a
certified copy. He wants to put the contents of this deed to the
witness, and moves to mark it as 1D16. Mr. Perera has no objection
to this copy being marked provided the original is produced at a 30
subsequent date. Mr. Wikramanayake undertakes to produce the
duplicate of this deed on a subsequent date. Mr. Wikramanayake
says it is a mistake.

This clerk is ordered to produce deed No. 2431 dated 12.12.1887
attested by Notary W. P. Ranasinghe.

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

(Shown 1D16—deed No. 2431 dated 12.12.1887 : Mr. Wikramanayake reads the translation :

I have never heard of this deed No. 2431 of 1887.

I can say one thing about it. I personally did not hear of the existence of this deed, but from what has transpired now I know. There is an Upakaraka Sabha. “Upadara” means advisory body.)

Q. The deed No. 925 also provides that appointments of successors must be made within one month of the death or resignation of
10 the last man ?

A. The members of the Vidyadhara Sabha.

Q. Have the appointments been made within one month of the death or resignation ?

A. I cannot say that it was done every time.

Q. Has it ever been done ?

A. Almost in every case they follow the wording of the deed, but where the Secretary is not in the Island or is unfit to attend there may have been delays.

Q. It also provides that eight days' notice must be given in the
20 newspapers about the meetings ?

A. It is the custom to follow that as a rule, but I do not know whether it was done as I am not in charge of the Minute Book.

Mr. D. S. Senanayake is the 2nd defendant. Mr. D. S. Senanayake was appointed as appears in the minutes 2D12I. He was elected in place of Mr. F. R. Senanayake. I cannot remember when Mr. F. R. Senanayake died.

Q. Somewhere in 1926 ?

A. May be.

I cannot remember when Mr. D. S. Senanayake was elected.

30 Q. The minutes 2D12I show that he was elected on 3.10.1931 ?

A. Yes.

Q. Mr. F. R. Senanayake died on 1.1.1925 ?

A. I do not know the date.

Q. Will you admit that Mr. F. R. Senanayake died several years before 1931 ?

A. I cannot remember.

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Proceedings
before the
District Court
13.6.50—
Continued

Evidence of
W. H. W.
Perera
Cross-
examination—
Continued

No. 23
 Proceedings
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 District Court
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Continued

Evidence of
 W. H. W.
 Perera
 Cross-
 examination—
Continued

I cannot say whether it was 1, 2 or more years before 1931.

Q. Do you know whether it was before 1931 ?

A. He died in India.

Q. You were associated with him as a Buddhist worker ?

A. In the Buddhist Theosophical Society. Long afterwards he became a member of this Vidyadhara Sabha.

First he was a member of the Buddhist Theosophical Society. I was associated with him in the Temperance Movement in the Vidyadhara Sabha. I remember the fact of his death.

Q. But you cannot tell the Court whether it was 1, 2 or 3 years 10 before 1931 ?

A. I cannot say.

Q. If it is said that it was even 10 years before 1931, you cannot commit yourself ? You are not prepared to commit yourself whether it was even 10 years before 1931 ?

A. Not so many years.

Q. But you were certain that Mr. D. S. Senanayake was elected to succeed Mr. F. R. Senanayake ?

A. That requires a little explanation. I made that statement, but it was not to be taken literally. When a person of that standing 20 dies it may be that he was elected many years after, because we always wanted some member of his family to be brought in. It may be that some others were elected in the meantime, and Mr. D. S. Senanayake's appointment came in later when he consented to be a member.

Q. The minutes will show in whose place any one member was elected ?

A. If the minutes show that I am prepared to admit it. D. C. Senanayake died after F. R. Senanayake. I cannot say whether it was 1, 2 or more years after.

Q. D. C. Senanayake, I am putting it to you, died on 7.7.1931 ? 30
 Are you prepared to contradict that ? You will not contradict any witness who testifies to the fact that D. C. Senanayake died on 7.7.1931 ?

A. Yes.

Q. Will you be prepared to contradict any witness who says that he died on 7.7.1931 ?

A. I am not prepared to be bound by that date. I know he died many years ago.

(Mr. Wikramanayake says that in point of fact the minutes 2D12I show that Mr. D. S. Senanayake was appointed in place of Mr. D. C. Senanayake.)

The 3rd defendant is Mr. C. W. W. Kannangara. He was appointed on 29.1.1940. That is an ordinary meeting of the 13 members of the Vidyadhara Sabha. The minutes show that the persons present were Dr. D. P. Perera, Dr. G. P. Malalasekera, Mudaliyar E. A. Abayasekara, Messrs. B. R. Dias, and Gonakumbura and myself. The minutes are headed "Minutes of the Vidyadhara
10 Sabha".

(Mr. Wikramanayake reads from the minutes.)

I was present at the meeting.

Q. Tell us what happened. Dr. D. P. Perera has delegated the High Priest to appoint members ?

A. Dr. Perera may not have known the contents of our deeds. He may have thought it was correct for the Nayake Priest to make such appointments.

That took place on 29th January.

Q. In whose place did Mr. Kannangara come to be elected ?

20 A. Two people had died — Mr. Neil Hewavitarne and Muhandiram D. P. Wijewardene.

I cannot remember whether they had died within 1 month of each other.

Q. Neil Hewavitarne died on 29.10.1929 ?

A. May be.

Q. And Muhandiram Wijewardene died on 8.1.1940 ?

A. I do not know the dates exactly.

Q. Muhandiram Wijewardene himself was elected a member in place of Dr. C. A. Hewavitarne ?

30 A. If the minutes say so I am prepared to admit that.

(Mr. Wikramanayake refers to the 2nd page of 2D12F. He points out that in those minutes it is said that 26 members were present at the meeting and that the minutes show the meeting was a meeting of the Maha Sabha.)

(Shown 2D12F :

Q. Who has signed as the Secretary ?

A. No one has signed as the Secretary, due to an oversight. The Chairman has signed it.

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Proceedings
before the
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13.6.50—
Continued

Evidence of
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Perera
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Continued

No. 23
 Proceedings
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 District Court
 13.6.50—
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Evidence of
 W. H. W.
 Perera
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Continued

The Chairman is D. P. A. Wijewardene.)

Dr. C. A. Hewavitarne, in whose place Muhandiram Wijewardene was elected, is the father of Mr. Wimaladharma Hewavitarne who is a member of this Sabha and who purports now to be the Secretary of the Sabha. Mr. Daya Hewavitarne is at present the Secretary. He is one of the defendants. Dr. Hewavitarne is also the uncle of Mr. Rajah Hewavitarne, who is today present in Court.

Q. I am putting it to you that Dr. Hewavitarne died on 3.4.1929?

A. I know the death, but I cannot give the exact date.

Mr. Rajah Hewavitarne or Mr. Wimaladharma Hewavitarne 10 will be able to give us the exact date of Dr. Hewavitarne's death. It has been noted that the minutes of this meeting have not been signed by the Secretary, but the minutes of the meeting held in July, 1929, have been confirmed in June, 1931.

(Shown a signature on page 32 of the Minute Book :

Mr. Wikramanayake says it is quite obvious that the date in June, 1931, has been written by the writer of the minutes themselves.)

Mr. Jacob Munasinghe died on 4.1.1949. The person appointed in his place was Mr. Daya Hewavitarne. That was a General Meeting of the Vidyadhara Sabha and the Dayakayas held on 31.1.1949. At 20 the time that Mr. Jacob Munasinghe died this action was pending. He was originally one of the defendants in this action. (Mr. Wikramanayake says he finds in the minutes that it was a general meeting of the Vidyadhara Sabha and of the Dayakayas which was held on 31.1.1949 and that the date of the death was 4.1.1949, so as to make it clear that it is within one month.)

Q. Those minutes which you have produced were not signed by anybody as Secretary or as Chairman? It has not been confirmed by any Chairman?

A. No.

30

They are not signed and not confirmed. I cannot say in whose handwriting the minutes are. There have been several meetings held after that. There are some subsequent meetings the minutes of which have been confirmed. Generally, the minutes of the previous meeting are confirmed at the subsequent meeting. I cannot say whether the minutes of this meeting have been confirmed, without reading through the Minute Book. I know the general practice at meetings. At the subsequent meeting they confirm the minutes of the previous meeting, and the Chairman signs as having confirmed the minutes. Under the minutes of this meeting there are the names 40 of those present.

(Mr. Wikramanayake says that the minutes on page 153—2D12R dated 30.10.1940—are not those of a meeting of the Maha Sabha or even a general meeting of the Sabha and the Dayakayas, but a general meeting of the Vidyadhara Sabha, there being present 6 persons and 2 priests.)

Q. I am putting it to you that T. G. M. Perera died on 31.8.40 ?

A. I do not know anything about it.

Q. I am drawing your attention to the fact that there were 7 persons present at the meeting.

10 A. (No answer.)

T. G. C. Perera was elected in place of Meedeniya Adigar on 29.7.1928. That was not a general meeting—not a meeting of the Vidyadhara Sabha. 30 persons were present. The Adarakhara Sabha members were also there. That appointment was in June, 1928, in place of T. G. M. Perera. T. G. C. Perera was a son of T. G. M. Perera. I cannot remember Meedeniya Adigar being a member of the Sabha at one time. I myself am the next defendant. There is no minute of my appointment because during the riots of 1915 those documents were removed by the Police. I told the Court I was 20 appointed in place of my father. My father died in 1896.

Dr. Malalasekera is the next defendant. I was appointed not directly after my father's death, but some years after. I was only 15 at the time my father died.

Q. 2D12M is also the minutes of the general meeting at which members of both the existing Sabhas were present ?

A. (No answer.)

Q. On that date the letter of Mr. D. D. Pedris resigning from the Sabha was read ?

A. It must have been read.

30 It was proposed that his request to be allowed to resign be accepted. The rule provides that in the event of a member wanting to resign he could tender his resignation to the Vidyadhara Sabha. That is provided for in deed No. 925. In terms of that rule he tendered his resignation to the Sabha.

Q. And on the very date of his resignation, that is, within a few minutes of this vacancy being created Mr. B. R. Dias was proposed by Mr. Neil Hewavitarne and seconded by somebody else ?

A. That is the only minute of a meeting held in 1934. Mr. Malalasekera was elected at a meeting of the Vidyadhara Sabha. 40 Mr. Piyadasa had not attended meetings for several years and at the meeting held on 20.5.1935 the Society decided to strike

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Evidence of
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 Perera
 Cross-
 examination—
Continued

off the name of Mr. Piyadasa from the list of members. The striking off of members' names was also provided for in the rules. Dr. G. P. Malalasekera's name was proposed by the Secretary and seconded by me. Mr. Piyadasa himself came in place of Charles Dias. D. L. F. Pedris was elected at the meeting held on 30.5.1941, that is, at an ordinary meeting of the Vidyadhara Sabha, at which 7 persons were present. A vote of condolence was proposed on the death of Lekam Gonakumbura. D. L. F. Pedris was elected to the seat of Lekam Gonakumbura.

Q. Lekam Gonakumbura died on 27.4.1941, I am putting it to you ?

A. I do not know about the date.

Q. He was a person who was appointed in place of J. A. P. Nanayakkara ?

A. If the minutes say that I am prepared to admit it. J. A. P. Nanayakkara and D. P. Wijewardene were appointed on 8.6.1929 according to page 30 of the minutes.

Q. Nanayakkara resigned on 24.1.1929 ?

A. The minutes say that.

(Mr. Wikramanayake marks page 26 of the Minute Book as 20 1D17.)

Meetings were held about once a month or so. We could not hold meetings as often as we should have for want of a quorum. 5 or 6 of us used to come together and for want of a seventh man we could not hold many meetings. Rajah Hewavitarne was appointed according to 2D12E on 6.1.1939 at a general meeting held at the Vidyodaya Pirivena, Maligakanda, 24 persons being present. According to the agenda, the Honorary Secretary read the minutes of the last general meeting. The Secretary proposed the name of Mr. Rajah Hewavitarne to fill the vacancy in the Vidyadhara Sabha caused by the resignation of Mr. P. de S. Kularatne. I cannot remember when Mr. Kularatne resigned. 2D12C shows the date on which Mr. Kularatne resigned. It shows that Kularatne had resigned before 1.11.1928. 2D12C is a minute of the meeting of the Vidyadhara Sabha itself, there being 5 persons only present including Mr. Rajah Hewavitarne, who at that date was not a member of the Vidyadhara Sabha. That meeting decided to inform Mr. P. de S. Kularatne that his resignation was accepted and it agreed to appoint Mr. R. Hewavitarne to the post of Sabhapaty which had fallen vacant. Then a meeting was held on 31.12.1928.

40

Q. Would it not be the usual thing if one minute was put up at a meeting to have it confirmed at the next meeting ?

A. Usually it is done.

Then a meeting was held on 6.1.1929—2 months and more after the resignation—and that was a general meeting at which some members were present. Mr. R. Hewavitarne was then proposed and elected to fill the existing vacancy. The motion was carried unanimously. Then we come to Wimaladharmā Hewavitarne. He was appointed at the same meeting as C. W. W. Kannangara on 29th January in place of Neil Hewavitarne, whose death took place on 29.10.1929.

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Proceedings
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13.6.50—
Continued

Evidence of
W. H. W.
Perera
Cross-
examination—
Continued

Q. According to the deed those elections have taken place at
10 general meetings of the Vidyadhara Sabha and the Dayakayas ?

A. The Adharakara Sabha.

Q. This Adharakara Sabha consisted of how many members ?

A. Roughly I cannot say. It was not 100.

Those who came are only a few. I have not seen the list of members. I cannot say whether the number was 5 or 500. It is in the hands of the Secretary.

Q. Have you ever met these members at meetings ?

A. Yes.

Q. Have you as a member of the Vidyadhara Sabha found out
20 how much money was coming in ?

A. I have seen those lists.

I can only tell the Court that there were about 5 or 6 members.

Q. Is the office of the Minister of Education open to these 30
or 40 members ? I ask you that because I find that the meeting at
which Ratnatunga was appointed a member was held at the Minister's
office ?

A. Several members happened to be there and sometimes they
requested us to come there. So the meeting would be held at the
Minister's office.

30 Several members of the Education Department used to be mem-
bers of the Sabha. They used to ask the other members of the Sabha
to come there.

Q. Was the meeting advertised as taking place ?

A. No. It would not have been advertised.

In ordinary meetings where we members of the Vidyadhara
Sabha meet we do not advertise. By "ordinary" meetings I mean
meetings where 13 members are present. They send a notice round
that such a meeting is to be held, say, at "Temple Trees" or at the
Minister's office. There was no need for it to be advertised.

40 Q. In 1940 there was no meeting at "Temple Trees" ?

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 Proceedings
 before the
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 Continued

Evidence of
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 Perera
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 examination—
 Continued

A. I cannot remember.

Mr. D. S. Senanayake was not the Premier in 1940 under the new Constitution.

Q. You say that some of the 13 members, being Ministers of State at one time, used to telephone to you to come for the meetings ?

A. They telephoned to the Secretary.

A request is made by some of the members and the Secretary circulates a notice among the 13 members to meet at the Ministry. That notice was definitely not advertised.

Q. Will you agree with me that it was not politic to advertise 10 in the "Daily News" that a meeting was to be held in the Minister's office ?

A. I cannot say whether it was politic or not. I do not think it was ever advertised.

This meeting was a meeting of the Vidyadhara Sabha. There were several members present. Mudaliyar Abayasekara was in the Ministry of Education. 2D12U are the minutes of a meeting held on 23.10.1942. Francis Gunaratne was at no time a member of the Vidyadhara Sabha.

Q. So that this was a meeting of persons besides the members 20 of the Vidyadhara Sabha ?

A. He used to go there sometimes. When Mr. R. Hewavitarne was absent he used to take the Minute Book.

Francis Gunaratne was present to assist the Secretary, but did not take part in the meeting. I cannot remember whether Mr. A. W. Kaluaratchi was a member of the Vidyadhara Sabha.

Q. You know A. W. Kaluaratchi, who is an Inspector of Schools ?

A. I do not know.

Q. You do not know any Kaluaratchi who was a member of the 30 Vidyadhara Sabha ?

A. I do not remember him as a member.

Q. Nor can you explain how he came to be present at the meeting held at the Minister's office ?

A. No.

P. D. Ratnatunga was to be appointed in place of the Health Minister, Mr. W. A. de Silva. W. A. de Silva died on 30.3.1942 and this meeting was held on 23.10.1942, that is, about seven months afterwards.

(Mr. Wikramanayake says that there had been a minute in the Minute Book between March, 1942 and October, 1942—a meeting held on 17.7.1942—those minutes being at page 150.)

(Shown 2D12 at page 150 : That purports to be the minutes of a meeting held on 17.7.1942.)

Nalin Munasinghe was appointed as shown in the Minutes 2D12V on 5.8.48 in place of Dr. Amerasinghe who died on 12.7.48, in one month's time, that is, in 1948 after this action had been filed. Dr. Amerasinghe himself was appointed on 6.12.47.

10 (Mr. Wikramanayake marks as 1D18 minutes of 6.12.47 at page 175.)

Dr. Amerasinghe took the place of Dr. B. E. Fernando. Dr. Amerasinghe was appointed on 6.12.47 and Dr. B. E. Fernando had died on 7.11.47, shortly after the action was filed and within 1 month. Dr. B. E. Fernando had taken the place of Dr. D. P. Perera. Dr. D. P. Perera was the 14th defendant.

Q. You are not in a position to produce any advertisement of these meetings ?

A. I had not notice of it.

20 Q. I did not ask you about a notice. I am asking you whether you are in a position to produce any advertisement ?

A. I had no notice.

Q. From whom would you expect a notice ?

A. From anybody who summoned me to produce it.

I was summoned by the plaintiff in this case, and the plaintiff has not noticed me to produce an advertisement. The plaintiff himself has been interested in this institution for 14 or 16 years.

Q. And as a person who has been interested in this institution for 14 or 16 years he would know whether these meetings were advertised in the Press ?

30 A. He was not present at every meeting, but he attended meetings fairly regularly.

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Proceedings
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Continued

Evidence of
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 Proceedings
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Continued

Q. He would know whether these meetings were advertised or not ?

A. If he cared to know he would know.

Evidence of
 W. H. W.
 Perera
 Cross-
 examination—
Continued

Q. He would also know what views the other members who came to the meetings had ?

A. It would be proper to know.

How far he knows this I do not know.

Q. You do not know what the plaintiff knows about the Sabha or about the holding of meetings ?

A. He is there to administer Pansil. 10

Whenever he is in Colombo he attends a meeting to administer Pansil.

Q. In order to attend a meeting he has to be notified about it ?

A. When we are holding a meeting at the Pirivena premises he comes there. When we meet at the Minister's office we send for him.

Q. Is the plaintiff aware of the deed No. 925 ?

A. I do not know whether he has read it.

Q. Has deed 925 been read at meetings at which you and the plaintiff were present.

A. Yes. 20

Q. If the plaintiff was present when the deed was read, would you not know whether plaintiff is aware of the deed 925 ?

A. He must be knowing some parts of it.

(Further hearing 15th June.)

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.
 13.6.50.

No. 24

Proceedings before the District Court

No. 24

Proceedings
before the
District Court
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D.C. No. 2882/L.

15.6.50.

W. H. W. PERERA. Recalled. Affirmed.

Evidence of
W. H. W.
Perera
Cross-
examination—
Continued

I have told the Court on the last date that I actually went to Gampaha District Court on the previous day in connection with another case there. (Mr. Wikramanayake reads out the relevant paragraph from the record of the evidence given by this witness on the last date—paragraph 1.) The record is correct. I told the Court on that
10 day that my proctor was unable to go to Gampaha District Court and therefore I had to go there, being the plaintiff.

Q. Do you still say that your proctor Mr. Amaratunga was unable to go there and therefore he did not go ?

A. He said he had work in Colombo and that he cannot go there.

(Mr. Wikramanayake reads out a certified copy of a list from the Gampaha District Court giving the names of proctors who appeared in the cases listed on the 13th of June.)

Q. Proctor Amaratunga's name is in this list as having been present in that Court on that day. Do you deny that he was there on
20 that day ?

A. He was not present in Court on that day. The practice in that Court is whether the proctor in a case actually appears or not the proctor's name is put down in that list as "Mr. So and So present". It is the clerk who does that.

(I have observed that very often the names of proctors are entered in the record previously by the minuting clerk although they are not present.)

(Intld.) V. S. J.,
A.D.J.

30 There were three separate meetings at which Rev. Naneswara, Rev. Ratanasara, and Rev. Piyaratana were appointed members. The plaintiff was appointed in 1936.

(Mr. Wikramanayake reads out from the record of the evidence given by the witness in the examination-in-chief—page 131.)

Q. What do you mean by the statement "there were a full complement of 13" ?

A. Only 13 members of the Vidyadhara Sabha were living then.

No. 24
 Proceedings
 before the
 District Court
 15.6.50—
Continued

Evidence of
 W. H. W.
 Perera
 Cross-
 examination—
Continued

All the 13 members of the Vidyadhara Sabha were functioning at that time. I cannot say whether all of them were present at the meetings.

Mr. Wikramanayaka next refers to page 132 of the record.)

Q. Can you tell me how many members were present at the meeting at which Ratanasara was elected ?

A. I remember the names of some.

Q. Was the full Sabha present at that meeting ?

A. Yes.

That means that all the members of the Sabha were living then. I cannot say whether all the members of the Sabha were present at the election of Rev. Piyaratna. I cannot say from memory all the names of the members who were present at elections.

Q. You have given the names of 14 persons as having been present at the election of Ratanasara—(page 132).

A. I was giving the names from my memory. I did not look at the minutes. I have not produced those minutes.

Q. Mr. T. D. M. Perera was never at any time a member of the Vidyadhara Sabha ?

A. According to my recollection he was a member, and after his death his son became a member.

Q. He died after 1923 ?

A. He died many years ago.

I cannot remember whether it was before or after 1923 that he died. Whether he was alive during the time of the riots I cannot remember.

Q. You told the Court on the last occasion that he was present at the election of Ratnasara. That is Ratnasara was elected in 1922. Is that correct ?

A. Yes, it is in 1922 that Ratnasara was elected.

30

On the last occasion, if I had told the Court that my recollection was that T. D. M. Perera was alive in 1922 and that he was present at that election, then that may be correct. Without going through the minutes I am unable to say exactly whether T. D. M. Perera had functioned as a member at that meeting. It was from my recollection that I said that he was functioning as a member of the Sabha at that meeting. I cannot say up to what date he was functioning as a member. I have said that Manage Piyadasa was present at the election of Ratanasara.

Q. You have said that he was elected a member of the Sabha on the 4th of March, 1924 ?

A. I do not know the exact date.

(Mr. Wikarmanayake reads out the minutes 2D12F and says that according to these minutes Gonakumbura was elected in 1929.)

On the last date I did make reference to what is known as the Adhara Sabha. There was a Secretary to that Adhara Sabha. But I do not remember having read any rules pertaining to that Adhara Sabha. To my knowledge there were no meetings of that Adhara Sabha, nor do I know whether there were any books of minutes kept by that Sabha.

Q. Were books of accounts kept by that Sabha showing the subscription and other moneys received ?

A. Our accounts show what moneys we have received from those members.

(To Court :

Important payments made by those members appear in our half-yearly accounts ; but in the case of small amounts only the total of those amounts is shown, *i.e.*, " so much received from Adhara Sabha for such and such a month ".)

The Secretary of the Sabha had the list of the regular subscriptions and that list continued after 1915. That Sabha was in existence after 1915. I did not see any such lists personally, because I had nothing to do with these lists. I was merely a member of the Sabha. There was a list signed by the Secretary and handed to a man called " Upasaka " who goes round and collects money. In that way moneys must have been collected even after 1915.

(Shown Minutes Book 2D12.) Page 81 is blank. Pages 89, 90, 155 to 162, 164 and 172 are also blank. I do not know why those pages are blank, I must ask the Secretary.

(Shown minutes on page 27.) These minutes have not been confirmed. With regard to the minutes on pages 74, 75 and 77 the Secretary has signed, but the minutes are not confirmed. On page 27 Mr. W. A. de Silva had signed at the place where the Secretary sought to have signed. W. A. de Silva was never a Secretary of the Sabha. He had signed in the wrong place. The Secretary had not signed. I am aware of the procedure that the minutes of a meeting are confirmed at the subsequent meeting.

(Shown page 73.) I have signed in 2 places as President. My signatures are there. At page 74, the Secretary had signed. I can see the name Mudaliyar Abayasekara on this page, but not his signature. Mudaliyar Abayasekara's name is written in pencil here.

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(Shown page 75.) The minutes are signed by Moonesinghe, and there is also the name of Muhandiram Wijewardene written in pencil. That is the president's name which is written by somebody in pencil. But the minutes are not signed by the President.

Q. What is this Maha Sabha in relation to Vidyadhara Sabha ?

A. That is when we meet with the Adhara Sabha members together at one time it is known as Maha Sabha. Committee meetings are restricted to the 13 members only, and 7 forming the quorum.

Q. Then you admit that Vidyadhara Sabha was a committee of the Maha Sabha ?

10

A. No. Vidyadhara Sabha is a Sabha which is duly constituted according to my knowledge, under those deeds.

Q. Did you not just now say that Vidyadhara Sabha is a committee ?

A. I did not say so.

Q. A meeting of the 13 members is also called a committee meeting although it is not a committee ?

A. That is legal proposition. I cannot answer that.

(Shown page 77 of the minutes book.) There is no signature of the Secretary, nor the signature of the President. There is something 20 written in pencil under the "Sabhapathy's" name. Same applies to minutes on page 85. Page 86 is the continuation of page 85. The minutes book reveals all those things, and there is no necessity for me to answer those questions. With regard to minutes on page 88, no signature either of the Secretary or of the Chairman. Same applies to pages 92, 93 and 94. With regard to minutes on page 138, my signature is there, but I do not know under what office I have signed. W. D. Hewavitarne's name is also here. There is a cage on the next page, and there is the word "Piligath Bawata". There are two signatures there. The first signature is mine, and I was present. 30 I cannot say definitely who presided at that meeting. On the next page there is the signature of W. D. Hewavitarne. Along with my signature is the signature of Moonesinghe. I cannot say whether I signed as President. Minutes on page 178 are signed by Mr. C. W. W. Kannangara. There is no signature of anybody anywhere on page 179.

(Mr. Wikramanayake says that even after the institution of this case certain pages have not been signed in this minutes book.)

In the minutes book in some places there are cuttings of published accounts pasted, and the last cutting of such accounts bears the 40 date 1936.

Q. You have told the Court that until this action was filed in July, 1943, the Sabha had never doubted its powers of control of these premises under the two deeds referred to?

A. The first time our rights were challenged by the 1st defendant was after that deed. That is what I meant.

Q. And did you then consider what your position or your rights were?

A. They discussed the matter, I think, after that.

Q. Did they consult Counsel on the matter?

10 A. I do not know. I did not go to any Counsel.

Q. Are you not aware of that fact that they consulted Counsel?

A. I know they consulted Counsel. They mentioned that in the minutes.

Q. Why did you then say just now that you do not know whether they consulted Counsel?

A. You asked me whether I consulted Counsel.

The Counsel's opinions were discussed at the meeting.

(Mr. Wikramanayake reads out the minutes at page 143—2D12T.)

20 (Mr. Wikramanayake then refers to the resolution in the minutes at page 145, which reads: "In order to get the Pirivena exempted from the regulations of the temple and dewala lands ordinance a special committee consisting of the Hon'ble Mr. . . . was appointed . . .")

Q. The Society at that stage realised that this was a land that did really come under the appropriation of the Buddhist Temporalities Ordinance?

A. I am unable to say that, my personal view does not count.

Q. So far as the minutes go they appointed a special committee consisting of Ministers of State and other high personages to get the Pirivena exempted from the Buddhist Temporalities Ordinance?

30 A. Yes, the minutes show that.

Q. Were you present at that meeting?

A. I cannot answer that question without referring to the minutes.

I am a dayakaya of one other temple, and that is the Asokaramaya Temple. I have been the dayakaya there for about 10 years. That temple is in Thimbirigasyaya. Every person who supports the Temple is a dayakaya, and in many temples the dayakayas get together and form a sabha; so that they support collectively rather than individually, because collective support is easier than individual support.

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Q. As persons who support the priests of the temples they also often offer advice to the priests with regard to improvements to the temple, and so on ?

A. They make suggestions to the priests.

That is to say, on various matters pertaining to the temple they make suggestions and discuss with the priest as to how the temple is to be carried on. The priest is at liberty either to regard or disregard those suggestions.

Q. But being the supporters he consults them on such matters ?

A. Yes. He consults the prominent men of the place. 10

Those are some of the functions of the dayaka sabha.

Q. Quite apart from being a dayakaya, as a proctor you have had a good experience of the temple litigations ?

A. Well, I did not have so much of temple litigations. I did not have a big case like this.

Q. You have had a number of small temple cases ?

A. About 20 or 30 years ago I had a temple case.

Q. Generally, a dayaka sabha has not the right to control over matters pertaining to temples ?

A. It all depends on the way in which the Sabha is constituted. 20

As far as I know there are the rules of Sisyadi Paramparawa, Gnathi Sissya Paramparawa, and Sisyanu Sisy Paramparawa in the Ordinance.

Q. With regard to those dayaka sabhas, the dayaka sabha of the Asokaramaya Temple for instance, there is nothing to prevent the sabha taking charge of and looking after the moneys themselves ?

A. Generally, these sabhas take charge of the moneys. Some good priests do not want to handle money.

I have heard the term "Kurthiadhikara", but I am unable to mention a temple where there is a Kurthiadhikara. Kurthiadhikaras is an executive function. He is a person who manages a temple. In the case of Rev. Pemanande, I remember him taking an active part in this temple. He was sending priests to various ceremonies. He was looking after the ceremonies on the days when there were pinkamas in the premises. He was managing more or less. He was also known as the librarian. 30

(*To Court :*

He was managing the affairs of the temple. I cannot remember who appointed him. I personally do not know whether he was known as Kurthiadhikara. He functioned in that capacity 40 after Sri Sumangala's death.)

I cannot say whether he continued to function as such up to the time of his death. I cannot remember whether he went away during the time of the raid. I know he ceased to function for some time. During 1942, some of the valuable books were removed to Wimaladharmas Hewavitarne's estate.

I am a member of the B.T.S. There are many B.T.S. schools, some of which are built on temple lands, and in these instances the temple is under the control of the Viharadhipathy.

(To Court :

10 The Viharadhipathy of those temples reserves to himself various rights as far as the schools are concerned. One of them is that they always want the appointment of a teacher to the school to be done with his sanction.)

In such cases we get a deed from the priest and the management of the school then goes to the hands of the B.T.S. There are instances where the priests have told the B.T.S. "take the school and go away." With regard to the school at Kotahena, it was originally on the temple land ; but I do not know whether it is still on temple land.

Q. Does the Government give grants to those schools ?

20 A. Government gives grants to any recognised school.

Such schools come under the code of the Education Department, and matters relating to appointments, dismissals, etc., are subject to the rules of the Department. They have nothing to do with the temples.

I was not a member of the dayaka sabha of the Vidyodaya Pirivena. A relation of mine was a lay supporter of that Pirivena.

Q. A certain body was organised which sought to control the appointments of that Pirivena ?

A. I have heard about it. Dr. Attygala was its Chairman.

30 There was a Pirivena as well as an English school there. I do not know whether the English school had been taken away. I had not been there for about 8 years.

(Shown 1D19.) I see the signature of Rev. Pemanande on the first page, and Hewavitarne's signature on the next page. H. Pemanande has not signed as Kurthiadikara here. There are the words " Vidyodaya Pirivena Viharasthanaya".

Q. Can you define " Viharasthanaya " ?

A. I cannot. Each man may have his own definition.

(To Court :

40 "Vihare" means a resident of priests ; " sthanaya " means place.)

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(Shown 1D20.) This is a similar document dated December, 1941.

(Witness reads the document.)

Q. The Pirivena gets the Government grant ?

A. The Principal gets it from the Department.

Q. He takes it for his own use or for the use of the Pirivena ?

A. The Principal hands it over to the Sabha for the maintenance of everything.

Q. What does the Government give that grant for ?

A. Most probably it is for the educational purposes ; to meet the 10 expenses of the institution.

There are lay teachers and they are paid. There are other expenses like stationery, lights, etc.

Q. And also to provide for the food of the teachers of the Pirivena.

A. I do not know that.

That includes the equipment of the school also. I do not know what grant is paid at present. I do not know whether it is Rs. 9,000/-. The item for midday meal does not come in.

(To Court :

I did not see the last cheque and therefore do not know 20 what the amount of the present grant is. We do not get separately for feeding the pupils. It is in the case of ordinary schools that that grant is given.)

I do not know personally whether a grant is given for feeding the tutor priests.

Q. There were certain properties dedicated to the Maligakande Viharasthanaya by various persons ?

A. I cannot remember seeing any deeds. They are generally given to the Pirivena for the good work done by them.

(Mr. Wikramanayake refers to deed No. 25102 of 25th May, 1895, 30 marked 1D21, and says that the words " Vihare and Pirivena " are in the deed.)

Mr. Somawira Gunasekera reads out the deed in Sinhalese and Mr. Wikramanayake reads out its translation.

Q. The income from this property has been regularly taken and shown in the accounts of the Vidyadhara Sabha ?

A. The accounts show what the Sabha had received from time to time, but about the regularity I do not know.

The accounts include the income from this property.

Q. You told the Court a little while ago that " Viharastha- 40 naya " means a place where priests live ?

A. That is my idea.

Q. Viharasthanaya, according to you, is a property controlled by a laity ?

A. That depends on the place.

When I spoke about Viharasthanaya I was having in mind this Viharasthanaya.

Q. Any Viharasthanaya could be controlled by a laity ?

A. It all depends on the way the place is established. Each place is governed by a deed.

Q. Do you know of any place governed by the laity ?

10 *A.* There are some places where rich people have put up temples and they even control the priests. This is one instance.

I cannot give any other instances.

I have told the Court about a certain trouble that took place in 1933 ; that is with regard to charging for electricity.

Q. You also went on telling the Court that the 1st defendant even started a fast as a result of that trouble ?

A. Yes. That is about that time.

Q. And you told the Court that at that time he was not a tutor in the Pirivena ?

20 *A.* It is from my recollection that I said that.

Q. Up to the time at which that dispute about this charge for electricity came along there was no trouble between the Vidyadhara Sabha, and this defendant ?

A. At first lights were supplied by the priest.

Q. Answer my question. Prior to this trouble about the lights there had been no trouble between the 1st defendant and the Sabha ? That was the first trouble ?

A. That was about the first trouble.

(Mr. Wikramanayake says that the 1st defendant wrote letters 30 to the Sabha.) I cannot remember whether I got a letter from the Chief Priest of the Sabaragamuwa Province on the 18th of June, 1932.

(Mr. Wikramanayake reads out that document.)

Mr. Kottegoda, who appears for all the defendants except the 1st defendant, says that he has already produced all the letters that the Sabha had received and that he has no other letters than the 2 letters of 1941.

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(Shown a document dated 18th June, 1932, which Mr. Wikramanayake produces and marks as 1D22.) This is the handwriting of Mr. J. Moonesinghe and he has signed this document. He may have been the Secretary of the Vidyadhara Sabha, as he had signed this. Mr. Moonesinghe was the Secretary of the Sabha for about 20 or 25 years. He may have been the Secretary of the Sabha in the year 1932.

(Mr. Wikramanayake reads out a document and says that it was a letter written to the Secretary of the Sabha by the High Priest of the Sabaragamuwa Province, dated 27th July, 1932.)

I have produced letter dated 11th May, 1933, 2D4 addressed to 10 the Sabha by the 1st defendant. (Mr. Wikramanayake produces, marked 1D23, the reply sent to 2D4 by Mr. W. A. de Silva. He also produces, marked 1D24, another reply sent by the Secretary.)

(Mr. W. H. Perera says that the minutes 2D12L shows that document. Mr. Wikramanayake produces and marks, as 1D25 reply to the letter received on 16th June; and letter by the Secretary to the 1st defendant is marked 1D26; letter dated 4.7.33 which is marked as 2D5 is in reply to 2D4 from the 1st defendant.

A.D.J.,
 15.6.50. 20

D.C. 2882/Land.

15th June, 1950.

(After lunch)

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W. H. W. PERERA. Recalled. Affirmed.

Cross-examination (continued).

Q. In 2D5 the 1st defendant says that it is not in conformity with the laws of our religion to collect even a cent as taxes from resident priests as all Pirivena property is dedicated to the Sangha? So that as early as 1923 he took up the position that this was dedicated to the Sangha and that priests residing there should not have to make payment of taxes?

30

A. According to that letter it is so.

Q. He also says that out of moneys received by the Vidyadhara Sabha from this Pirivena and the moneys in the charity boxes can be utilised for those expenses? The money in the charity boxes belong to the temple?

A. There are charity boxes in the image house, the Bomaluwa and in the Dagobas.

The members of the Vidyadhara Sabha used to take away that money and utilise that also in the premises.

Q. 1st defendant says that that money also belongs to the temple ?

A. It is what he says there. It is not the fact.

Q. Then it is justifiable to take away from this temple money to be paid to the Municipality ?

A. Yes.

(Mr. Wikramanayake reads from the document 2D5.)

10 *Q.* “ If on any day I fail to fulfil this promise I will leave this place as a punishment.”

Q. You told the Court on the last date that no one is allowed to be there who neither learns nor teaches—no one is entitled to be there resident in the Avasas except tutors and pupils ?

A. I have said so.

No one is allowed there by the Vidyadhara Sabha. According to my own statement the 1st defendant was not a teacher for 8 years.

Q. During those 8 years he lived in the Avasa ?

A. He continued to remain where he was.

20 *Q.* No one ever asked him to go ?

A. It was pointed out to him that all the teachers on the staff had to remain and not to pay.

Q. Did you make any request to him by a letter that he had no right to remain there ?

A. No.

Q. You do not know whether he was a pupil of Sri Nanissara ?

A. He learned there at the time.

Q. Was he not a pupil who was taught by a pupil in the line of succession to Sri Nanissara and Rev. Jinaratana ?

30 *A.* We never recognised him as a pupil of Sri Nanissara or Jinaratana.

Q. Supposing Nanissara had a temple, as an Incumbent would he be entitled to succeed him ?

A. Only by robing and ordination of Sri Nanissara and Sri Jinaratana.

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I do not know whether he was robed and ordained by Nanissara and Jinaratana. I have not seen this document.

Q. Was the fact ever brought before the Sabha that he was a pupil of Jinaratana and Sri Nanissara by robing and ordination?

A. After this deed P7, it was brought before the Sabha. I say he was staying there on sufferance, because he had been a teacher. I have heard of Rev. Lelvala Sri Nissanka but I do not know him.

Q. He was residing at the Avasa here until the date of his death?

A. I cannot remember when he lived there.

Q. Are you not aware that he resided here till the date of his 10 death?

A. At present I cannot take my thoughts back to the time. I do not know whether he was a pupil of Sri Sumangala in the pupillary succession. I do not know Mabotuvana Upatissa.

Q. The Revata priest who died as a result of being stabbed by a vindicant?

A. I know a priest was stabbed in the temple.

Q. Not a priest who was resident in the temple, whose funeral took place from the temple, who was neither a pupil nor a teacher at the temple? 20

A. I personally do not remember whether he was a pupil or teacher.

Q. You, as a member of the Sabha, cannot tell us whether he was a pupil or a teacher in the Pirivena?

A. I know he lived and died there.

I do not know whether he was a pupil of Mabotuvana Siddharta in the line of Mabotuwana Siddharta's succession. According to me he would have had no right to reside there if he was not a pupil.

Q. Can you tell me how long ago he died there?

A. About 25 years ago, in 1921 to be exact. 30

I was a member of the Sabha at the time.

Q. Then who went for the funeral of the priest who died at this temple?

A. I cannot say whether his relations went. I do not know.

I cannot say whether the Sabha spent money for the funeral.

(To Court :

Q. Does the Sabha spend for funerals of these priests ?

A. When a priest dies he has his own relations and Dayakayas who meet their own expenses. If they do not do it the Sabha spends.)

Q. Even though there was a certain amount of publicity as to the manner of his death you did not ascertain whether he was a pupil or a teacher ?

A. It was not part of my business to know that.

The Sabha did not then try to find out by what right he had
10 lived in the temple.

Q. Will you admit that where the rule of Sisiyanu Sisya Paramparawa prevails, every pupil by robing or ordination in that Pirivena has the right of residence in the temple ?

A. In their own temples it is so. In the temple that is governed by that Paramparawa it is so.

Q. What do you mean by ' in their own temples ' ?

A. You are now talking of a high priest.

Q. I am asking you about any temple which is governed by Sisiyanu Sisya Paramparawa, do you say that all priests who come
20 in under that Paramparawa have a right of residence which belongs to that temple ?

A. Ordinarily it is so.

Q. Tell me any circumstance when it is not so ?

A. There are so many priests coming in and saying " I am the pupil " and " I am not the pupil " and the Court decides that. There are questions of ordination and robing and Upasampada.

Q. Assuming that the priest is there according to that Paramparawa, I want to know whether there are any circumstances under which he has no right to reside there ?

30 A. I cannot say anything. The general rule is that the pupil succeeds the teacher.

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Q. I am asking about the right of living there. We know that the pupil succeeds the teacher ?

A. Sometimes the chief priest sends them to various temples of his own.

(To Court :

1st defendant I said was there for eight years. He was not a teacher nor a pupil.

Q. How was he maintained ? Who gave him alms during those eight years ?

A. He has his own separate Dayakayas.) 10

Q. Did the Sabha not give him alms ?

A. I do not personally know.

Q. I am putting it to you expressly that alms for this priest for the whole of that period has been given by the Vidyadhara Sabha ?

A. It may be so.

Q. I am putting it to you further that when the vihare was coming down he wrote to the Sabha and the Sabha sent him the money to rebuild it ?

A. If the Sabha sent the money and you say so I will admit it.

(To Court :

20

Q. Has this pirivena been endowed with any property from which there is any income ?

A. Yes. Apart from that, I bought a very valuable property from Mr. Pedris's estate for about Rs. 60,000. The income we get from it is about Rs. 80 or Rs. 100 a month. That is the property bought by the Sabha against the sale by Mr. Pedris.)

There was a property that came to Mabotuwana Siddarta himself by a deed P3. That was for "Palm House". Rev. Hikkaduwe Sri Sumangala was the High priest of Adam's peak.

Q. And he as high priest of Adam's Peak got a very large income ?

A. I remember him once telling me he got Rs. 1,000 in one year. The half-century report of the Vidyodaya Pirivena 1D6 was published by Dr. Hewavitarne. The things put up were a library from the Rs. 1,000 that the Nayaka priest got from Adam's Peak, the Image House was put up at a cost of Rs. 30,000 by the Nayaka priest also from the money got from Adam's Peak. He also got paid by the Government for translating the Mahavansa into Sinhalese. 2D6 draws attention to 2D5 and says that the Sabha has no authority to
10 charge money from anybody.

“ The Sabha decides that it has no authority to charge money from the resident Bhikkhus only. (Mr. Wikramanayake reads from the Minutes.)

During the “ Vas ” period the Sabha has to ask them to make provision for this period.

Q. In that petition here the Sabha stopped doing that ? What was the cause at that time for the violation of the annual request ?

A. I have no recollection in particular.

(Mr. Wikramanayake reads the reply given by the Sabha.) It is
20 marked 1D27 and dated 14.7.33.

(Mr. Wikramanayake produces the next letter 1D28 written within a week. He reads that letter.)

Q. Thereafter, the 1st defendant published in the Sinhala Bauddhaya a statement of the facts, as he considered then, of this dispute about the charging of fees and a statement of his intention to enter upon a fast in protest against his irreligious action ?

A. I did not see any such thing. I do not read the Sinhala Bauddhaya. Neither do I read the Dinamina.

Q. Members of the Vidyadhara Sabha did not become aware
30 of the fact that this was published in the Dinamina ?

A. It was published.

Q. And that some of the members of the Vidyadhara Sabha asked him to refrain from fasting because they were going to meet and discuss this matter ?

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A. Unless I see it I cannot say so.

(Shown the letter 1D29 : dated 25.7.33 : My signature is there.)

Q. Can you now cast your mind back and recall whether you wrote that letter because of the publication in the Sinhala Bauddhaya and the Dinamina of the statement by 1st defendant and of his intention to enter upon a fast ?

A. We have requested him kindly not to enter upon this fast in the Vidyodaya Pirivena premises.

(Witness reads out that letter in Sinhalese.)

When this priest made this matter public there was a big stir in 10 the community.

Q. Were there not a crowd of thousands outside these particular premises congregated there ?

A. They all came into the temple.

Q. Had there not to be special police placed there in order to prevent disturbance as a result of this announcement ?

Do you know the fact that there at the spot there were special Police ?

A. I do not remember having gone there on those days when the police came. 20

Q. You were not sufficiently interested to go there to the temple premises and see whether there was any trouble there ?

A. If I had heard that there was any trouble I would not go.

Q. Though it was property in the charge of Vidyadhara Sabha you would not have gone ?

A. Unruly conduct I would not have endorsed.

Q. Your letter which you signed says that they informed you that the Sabha which assembled today decided to make this request ?

A. Yes.

Q. Will you show me in this Minute Book any minute of a 30 meeting referred to there which has assembled on the date 25.7.33 ?

A. Personally I cannot find out. I cannot see well.

As it was a very important matter (the fast), those who assembled there had decided to write at once. All of us signed a number of minutes coming to be held later than that.

(Mr. Wikramanayake marks as 1D30 a copy of the letter that has been sent. He says they have been inserting where there has been sufficient space between 25.7.33 and a date in May, 1934, the holding of other meetings of 1933, earlier than that coming, some of them, later.)

(Mr. Wikramanayake calls for the letter of 26th July, sent by
10 Morontuduwe Dhammananda in reply to 1D29. He marks the copy as 1D31 and reads that letter of 26th July.)

Q. Can you remember that at this stage Mahamune Sri Suman-gala and Sri Gunaratana, the chief priests of Malwatte and Asgiriya, came down from Kandy and intervened in the matter? They wrote to 1st defendant?

A. I do not know whether they wrote.

I was there, and they asked him not to go through the so-called fast.

Q. Did they ask the Vidyadhara Sabha to appear before them
20 at Kandy?

A. They may have written so.

Q. Did they give an assurance that before 1st defendant ceased his fast they would see that the matter would be adjusted according to the principles of religion?

A. They advised him that they would see that the matter was settled. Whether the principles of religion were mentioned I cannot say.

Q. You cannot say whether this Sabha was asked to attend the high priest at Kandy? Did the members of the Sabha go to Kandy?

30 *A.* Generally, if there is such a request the Secretary and one or two members go. All do not go. I do not remember having gone.

Q. You have stated in your examination-in-chief all that happened in the Sabha from 1911. Now you say you cannot remember matters of 1933?

A. It is not fair to me to say that.

(To Court :

This seems to have been an important event in the history of this Pirivena. Up to a point we were charging from the resident
40 priests some fees. 1st defendant said we should not do that and started to fast. The Malwatta Chapter came down and we were asked to go there.

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That was an important event. The high priest came to the Pirivena and I was there. I cannot remember whether I went to Kandy. Generally the Secretary and one or two members go. Before that, I have been requested to attend the High priest at Malwatta once or twice.

Q. My question is whether this Sabha has been requested to attend them before this incident ?

A. We used to go when these priests got their Nayakaship. We go as a rule.

Q. But, in fact, have you gone ?

10

A. Yes.

Q. For that purpose some members have gone ?

A. Must have gone.

Q. I want to know whether the Secretary went in this connection?

A. I cannot say so. I cannot remember whether I went.)

Q. Never before this did the chief priests of Malwatta and Asgiriya ever send a request for the Sabha to meet them at Kandy ?

A. Not so far as I know.

Q. Never have you to this date received a request from them ?

A. At the time of appointing these priests as the Nayaka priest 20 they made a request and Mr. Senanayake also went there five or six years ago. I went with him.

Q. That was in connection with the Independence celebrations ? The other questions were not brought up at that time ?

A. I went there and spoke to our priests about our temple.

(Mr. Wikramanayake produces the letter from 1st defendant dated 26th July.)

Q. The high priests of Malwatta and Asgiriya came down because there was a commotion outside or inside the Vidyodaya Pirivena which almost ended in a riot ?

30

A. 1st defendant has his own following. Those gentlemen had gone and represented matters to Malwatta and Asgiriya. I was there. They came down.

Q. Was there a congregation creating a disturbance which almost amounted to a riot ?

A. As soon as the fast was proclaimed large numbers gathered there.

Q. Was the conduct of the people such that the police had to be present ?

A. For the good government of this country they feared and came there.

Q. The high priests who came from Malwatta and Asgiriya feared a riot ?

A. It must have been so.

(Mr. Wikramanayake marks the letter from Māhamuni Sri Suman-gala and Lekama Sri Gunaratana to 1st defendant dated 3.8.33 as 10 1D33. Mr. Wikramanayake reads that letter sent to 1st defendant.)

Q. I am putting it to you that the members of the Vidyadhara Sabha received an invitation identical to the last to be present on that day—on the 8th instant ?

A. They must have received.

(Mr. Wikramanayake calls for the letter written to the Principal of the Vidyodaya Pirivena by Pahamune Sri Sumangala and Mulle-gama Sri Gunaratana on 9.8.33. Mr. Wikramanayake produces a certified copy issued in the ordinary course of business by him as the Chief Priest of Malwatta Chapter.)

20 Mr. Wikramanayake calls for the original letter which, he says, was sent by M. Sri Sumangala to the Sabha to attend the Dalada Maligawa, Kandy, in connection with this fast.

Mr. W. H. Perera for plaintiff and Mr. Kottegoda for 2nd to the other defendants state that they do not have this. Mr. Wikra-manayake moves to produce a certified copy of this letter issued by M. Sri Sumangala, the chief priest of the Malwatta Chapter.

The original is dated 9.3.33 from the Dalada Maligawa, Kandy. It is marked 1D34, copy of letter to the Principal of this Pirivena by M. Sri Sumangala, said to have been certified as a true copy by 30 the said M. Sri Sumangala. Mr. Wikramanayake says he will prove this later on. Mr. W. H. Perera says there is no date to the certificate and reserves his right to object to this later.)

(Sgd.) V. S. JAYAWICKREMA,
A. D. J.

(Mr. Wikramanayake reads from that letter dated 9.8.33, Mr. Wikramanayake calls for the letter written to the Pirivena dated 5th September. It is not with the defendant or the plaintiff. Mr. Wikramanayake marks it as 1D35 subject to proof in the same way as the last document. It is by Kahawe Sri Sumangala. Mr. Wikra- 40 manayake reads 1D35.)

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Q. Will you question that statement by the Nayaka priest Sri Sumangala that when he came on July 26th, he realised the gravity of the large crowd being there which had to be dispersed with police aid ?

A. That may have been correct.

Q. And that when the two Nayaka priests asked Rev. Morontuduwe Dhammananda to refrain from his fast, he agreed to it on condition that fees should not be levied from the priests ?

A. It may have been agreed between the high priests and the 1st defendant. 10

Q. Did the two Nayaka priests cause to be published a letter to that effect in the Dinamina ?

A. It may have been published. I do not know.

Q. Was the charging of those fees stopped ? Electricity fees from the resident priests ?

A. I cannot remember.

The Sabha had written to those gentlemen who wanted to be priests for learning at this temple.

Q. Those gentlemen are the Kapakaruwa Dayakayas ?

A. Sometimes the Dayakayas and sometimes the priests of the 20 temple.

Q. That was a suggestion that had been made by Morontuduwe Dhammananda ?

A. He had suggested it.

Q. That suggestion was adopted after the intervention of the Maha Nayakas ?

A. It may be correct.

Q. Did you not tell me a little while ago that after this date the Sabha stopped taking fees from the resident pupils ?

A. The Sabha decided to write to them. 30

Q. Did the Sabha cease collecting from the pupil priests at once ?

A. Where those Dayakayas paid, the Sabha did not collect.

Q. Was there any single instance thereafter of collecting from the resident pupil priests ?

A. I personally do not know. The Secretary will be able to tell you.

Q. This priest said “ Now it is informed by Ratanasara that the irregularities have been settled—the right to levy an annual fee of Rs. 20 ?

A. The high priest brought about such an arrangement whereby such fees would not be levied directly from the pupil priests but that Dayakayas were enrolled who would guarantee the payment of Rs. 20 a year.

As far as I know such an arrangement was made but only a few carried out their promises.

10 *Q.* But in spite of that no fees were charged from the pupils ?

A. I do not know that.

Q. Was that letter in point of fact published in the newspapers about this matter ?

A. I do not know.

(Mr. Wikramanayake calls for the letter of 12.9.33 to the same priests Ratanasara from the same defendant priest. He marks the letter as 1D36 subject to proof in the same manner.)

Q. Was there any objection by the Secretary of the Vidyadhara Sabha in the press as a result of certain alterations to the rule ?

20 *A.* I cannot say.

Q. You, I suppose, do not agree with that statement of the rule of religion set out in that letter—for the Vidyadhara Sabha to deny the privilege of residence to pupils who do not possess a relation as a Dayakaya ? What is said here is this : “ For the Vidyadhara Sabha to refuse residence as a pupil to any priest who is not able to provide a Dayakaya who will pay Rs. 20 a year”.

A. I do not know of any such hard and fast rule. I do not know of any such rule of religion.

Q. Would you agree that this is a correct statement of any such 30 rule ?

A. I do not know where it is laid down in the rules of the religion.

Q. You do not know and you do not agree that it is a correct rule ?

A. I do not think there is such a rule.

Q. Although it is stated by the two priests jointly ? Are you as a member of the Sabha prepared to take the rules of the religion from the Maha Nayakas of Malwatta and Asgiriya ?

A. On Buddhist religion I will take their ruling.

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Q. Where they say "this is an infringement of the rules of religion" do you agree or not?

A. I do not think there is such a rule of religion.

Q. In spite of the fact that the two high priests say that this is a rule of religion you said that the high priests are correct?

A. Yes. In fact, when we go and make representations to the high priest and show the facts they agree with us.

Q. It is good that the rules of religion can be observed from the financial point of view of the management of the Sabha? Do you accept the ruling of the high priest that this is a rule of religion or are you not? 10

A. Generally speaking it is not right to disregard this as it is laid down by the high priest. As it comes from the Kandy high priest I say it is correct.

Q. And the Sabha had disregarded it?

A. My personal view is that this was wrong, but the Sabha decided otherwise.

Q. After that date the members of the Sabha accepted this position taken up by the Maha Nayakas and did not charge any sums of this nature levied on the Bhikkhus? 20

A. May have.

The last letter on this to the Sabha is in 1933. I told the Court last time that when 1st defendant entered on a fast he was not a teacher in the Pirivena. First defendant continued without a single break until the time of his illness and operation. His illness and operation were in 1934. He entered the general hospital in April, 1934. He had fallen ill slightly earlier in that same year 1934.

Q. Then your earlier statement that at the time he entered on his fast he was not a teacher was not correct?

A. If it is so, it is not correct. 30

Q. Many of the things you have said in examination-in-chief were as a matter of recollection? You are not prepared to say you are definite?

A. As regards the year I am not definite. As regards the persons who attended particular functions I am not definite. I speak from memory.

Q. And you are beginning to realise that your memory is not as clear as you thought it to be? Do you admit that the statements you make from memory might possibly not be correct due to faulty memory? 40

A. When I am asked about things that happened about 20, 30 and 40 years ago it is not humanly possible to remember these dates.

Q. And that it is possible that by reason of your not being able to remember you may have made statements which are incorrect with regard to dates, times and persons who were present ?

A. If they were many years ago I cannot remember the names of persons.

Q. Incidents, details also might not be correct ?

10 A. May not be correct.

Q. You told us that you had not been aware of the fact that Sri Jinaratana as a pupil of Hikkaduwe Sri Sumangala ?

A. No. I heard about it nine or ten years ago, that is, after this dispute.

20 That would be about 1942. Prior to the execution of the deed by Jinaratana in favour of 1st defendant. I had not heard of it. I never came across any such document in which that deed was mentioned. As a member of the Vidyadhara Sabha I used to show an active interest in the activities of the Pirivena, and in the annual prize-giving. As a member of the Vidyadhara Sabha the reports of those prize-givings were not always sent to me.

Q. Have you not seen in the prize report a person who had been better known than yourself referring to Jinaratana as a pupil of Hikkaduwe Sri Sumangala ?

A. I have not seen those reports.

I know Baddegama Piyaratana.

Q. He published some verses in Sanskrit about Jinaratana on his 80th birthday ?

A. I do not know about that.

30 Q. Did he not send you a copy of his verse ?

A. He would not have sent it to me because I do not know Sanskrit.

(Shown a report of 1928: I was at that time a member of the Vidyadhara Sabha.

Q. There is a reference that Rs. 175/- worth of books had been donated by Jinaratana Nayaka in the portion sidelined red ?

A. He is called Maha Niyawansa. He refers there to Sri Suman-gala and calls Jinaratana his chief pupil. That is in the annual report of the Pirivena.)

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Kahawe Ratanasara is the Principal in 1928.

(Shown the report : It is by the present plaintiff before the present trouble arose. Baddegama Piyaratana has signed it in 1940. I see the side-lined part in red. That refers to Devundera Sri Jinaratana as the chief pupil of Sri Sumangala. They used to publish the report on their own and send us a copy.)

(Shown another document : I see that set of verses printed under the name. There were celebrations at the Hunupitiya Gangaramaya temple on the occasion of the 80th birthday of Sri Jinaratana.)

(Sgd.) V. S. JAYAWICKREMA, 10
A.D.J.

I inform Counsel at this stage that I am going to fix dates for this case. If they cannot come they will have to make other arrangements.

Further hearing tomorrow, and after that on 4th, 5th, 7th, 10th 11th, 12th, 13th and 14th July. The case will be heard on these dates if it lasts long.

(Witnesses warned to attend.)

(Sgd.) V. S. JAYAWICKREMA,
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D. C. 2882/Land.

16th June, 1950.

W. H. W. PERERA. Recalled. Affirmed.

Cross-examination (Contd.)

Q. You admitted yesterday that Pemananda functioned as Adhikari ?

A. He has signed as that.

Q. You know this : that the chief members of the Vidyadhara Sabha were the members of the Hewavitarne family ?

A. Some of them.

One of the original 13 was a member of the Hewavitarne family and today there are Mr. Daya Hewavitarne, Mr. Rajah Hewavitarne and Mr. Wimaladharma Hewavitarne.

Q. There was also Mr. Neil Hewavitarne at one time. Dr. C. A. Hewavitarne, Mr. Munasinghe ?

A. They were members from time to time.

Q. Those persons were the directors of H. Don Carolis & Sons ?

A. Some of them are grandsons and some are sons of the founder.

Various bills were sent by the firm of H. Don Carolis & Sons to Pemananda.

(Shown some bills : *Q.* These are bills sent from the firm of H. Don Carolis & Sons to Rev. Pemananda for streamers, repairs, furniture hired, etc. ?

A. These bills seem to have been sent to Rev. Pemananda on printed forms of Don Carolis & Sons. They have been sent to Rev. H. Pemananda of the Maligakande temple. There are altogether five unsigned and one signed bill by one of the clerks there.)

Q. Also on the same day you told us that Pemananda was very old in his last days ?

A. He was in hospital for several months, and was unable to function at the time he was ill in hospital.

20 *Q.* During that time the priest who was functioning as Buddhi Adhipathi was Rev. Pachissara ?

A. I do not know personally. He was in that room.

Rev. Pemananda as Kurthi Adhipathi had the various keys of the temple.

Q. And when Pemananda went to Hospital it was Rev. Pachissara who was handed the keys ?

A. I do not know. I did not see.

He remained there and till the time of his death the keys were with Pachissara.

30 *Q.* And you among others wrote to Pachissara asking him to hand over the keys ?

A. I cannot remember whether I wrote a letter to Pachissara asking him to hand over the keys.

There was some discussion in the Sabha about asking him to hand over the keys. I cannot remember whether after discussion the letter was sent. Unless the minute is shown I cannot say.

Q. This was in 1943. You cannot remember whether after the discussion the letter was sent by the Sabha ?

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A. Letters are signed by the Secretary. I cannot remember whether the letter was sent by the Sabha.

I do not know whether by robing, Rev. Pemananda was a pupil of Sri Nanissara and Sri Jinaratana.

Q. So that Pemananda was a pupil of M. Ananda ?

A. I do not know whose pupil he was.

Q. Do you know whether Mahajuwana Ananda was a co-pupil of Jinaratana ? Pachissara was a pupil of Sri Nanissara and Sri Jinaratana ?

A. I do not know whose pupil he was. 10

Q. By ordination he was a pupil of Sri Jinaratana, Sri Nanissara, Sri Ratnasara and Pemananda ?

A. Personally I do not know those facts.

(Shown 1D37 :—letter dated 11.12.42 : This is a letter signed by Mr. D. S. Senanayake, myself, Pedris, Kannangara, Mudaliyar Abayasekara, R. Hewavitarne and B. R. Dias.)

I do not know whether at the time that letter was sent, Pachissara was functioning as Buddhi Adikari.

Q. He was also a teacher at the Pirivena ?

A. He was a member of the tutorial staff. 20

(Mr. S. Gunasekera reads out the letter in Sinhalese sent to Pachissara.)

This letter was sent requesting him to hand over the keys.

Q. He did not hand over ? Rev. Pachissara said he was not going to hand over to you ?

A. He refused.

He said he was the person who was entitled to keep the keys as the Buddhi Adikari.

Q. Was a reply sent to the Sabha ?

A. If the reply is in writing I can admit it, otherwise I do not know. 30

(To Court :

One day I remember that he returned the keys to the Sabha.)

Q. When was that ?

A. That is my impression.

(To Court :

Q. Was there a letter sent by him about this matter ?

A. (No answer.)

Q. I am putting it to you expressly that he refused point-blank to hand over the keys ?

A. I have no independent recollection that he refused to hand over the keys.

Later on there was a meeting at which Mr. Senanayake presided. Pachissara was sent for and the keys were taken over by Mr. R. Hewavitarne. That was at a meeting of the Sabha.

Q. And there will be minutes of that meeting ? There should be ? And in view of the fact that by that time disputes had arisen,
10 a matter like that should therefore have been recorded in the minutes ?

A. That ought to have been recorded.

Q. You were present at the meetings ?

A. Not at all the meetings, but at most of the meetings.

Q. I am putting it to you that there are no minutes whatsoever from December, 1942 to December, 1944 ?

A. I am unable to say that, because I am unable to read it.

Q. Did your Sabha stop Pachissara from teaching ? That was because he refused to hand over the keys ?

A. Owing to these disputes.

20 Q. These disputes are disputes between the 1st defendant priest claiming to be the Adhikari and the Sabha on the other hand ?

A. The disputes were with the 1st defendant who was joined by Pachissara.

I cannot remember whether this handing over of the keys was before or after he was stopped from teaching.

Q. And from that date he has ceased to be a teacher ?

A. They are teaching in their own way in other places.

Q. Instead of that he is teaching in his own way in a separate building ?

30 A. He is teaching at Gangaramaya.

Q. He has a temple at Maligakanda ?

A. Pachissara is teaching at R. Jinaratana's place.

Q. He has got a room at Maligakanda ?

A. He was living in one of the rooms.

I have not seen him, in order to say whether he still has a room.

Q. A room attached to the library adjoining ?

A. He may have been there.

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Q. And he is teaching from the date on which his teaching at the Vidyodaya Pirivena stopped ?

A. That was what I learned.

I say that he voluntarily handed over those keys to the Sabha.

Q. Where are the keys of the shrine room which he handed back ?

A. Now I know the keys are with the 1st defendant.

These keys were given over about 1942 or so to Mr. R. Hewavitarne for the purpose of taking all the library books to Bandara-wela for safe-keeping. Then they assisted us in making those complete lists of all the valuable articles in the library belonging to the Sabha and also all the books that were there in the library. Mr. Rajah Hewavitarne and his cousin, W. D. Hewavitarne, were allowed to take them and lists were made. Soon after the lists were made and the books were packed in packing-cases for removal one of these priests got back the keys from Mr. W. D. Hewavitarne.

Q. So that the handing over of the keys were at the time the lists were taken ?

A. It is my mistake.

Q. The books were handed over and the lists were made at the time of Pemananda ?

A. After that.

(Lists 1D20 and 1D21 are shown—2 lists signed by W. D. Pemananda and R. Hewavitarne.

I saw them yesterday.)

Q. So that only the lists were handed over by Pemananda and Pachissara ? Other than that there was no handing over of the keys ?

A. As I was not present at any one of the occasions, that is what I can recall.

The keys were returned and after that they have been getting back the keys. I do not think those keys were ever returned to the Sabha.

Q. The letter to Rev. Pachissara, signed by you among others, is subsequent in date by one whole year almost to the handing over of the keys which you referred to for the purpose of taking an inventory ?

A. This is dated 11.12.42 and the other December, 1941. This is subsequent to that by one whole year.

Q. You will now admit that when you spoke of Pachissara handing over the keys you made a mistake with the handing over of the keys by Pemananda for the specific purpose of taking an inventory ?

A. This is correct.

Q. Do you now admit that when you stated that Pachissara was handing over the keys to Mr. R. Hewavitarne you were making a mistake, confusing it with the handing over of the keys by Pemananda ?

10 A. It is a mistake.

Pemananda's handing over was for the specific purpose of taking an inventory.

Q. I will show you another document showing that the repairs to these buildings were effected through moneys spent by Sabha.

(Shown a document 1D38 : This is the signature of Mr. J. Munasinghe. It is dated 16.6.36. He signed as Secretary of the Sabha. It is a letter to Rev. Morontuduwe, Nayaka priest, the 1st defendant. It says that the Sabha has not got sufficient money to attend to repairs to the room in which he lived, and asks him to spend by getting
20 the money from somebody else. When the Sabha has the money it will spend.)

The principal of the institution was somebody else. The 1st defendant was at no time the Principal.

Q. Yet, here was the Vidyadhara Sabha writing to 1st defendant to find some money from elsewhere for the repairs, and when the Sabha has the money it will reimburse.

A. (No answer.)

(Shown 1D39, also a letter written from the Vidyadhara Sabha, Maligakanda, signed by J. Munasinghe the Secretary, dated 17.3.37.

30 It is to the same 1st defendant priest. A sum of Rs. 15/- is being sent to the Maha Nayaka priest for the purpose of getting some repairs attended to.)

Q. So, when repairs are effected to the buildings on these premises the expenditure of moneys has been by the Sabha, but the work has been entrusted to 1st defendant ?

A. Payments are not made through the priest.

(To Court :

Q. Why did you ask 1st defendant to do these repairs ?

A. When he complains that there are repairs to be effected
40 to buildings on the premises, particularly those in his occupation. Those buildings not in his occupation he asks us to repair.

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Q. You have never in a similar manner asked the plaintiff priest to repair anything ?

A. He never complained about repairs to us.

I do not know where plaintiff priest's temple is.

Q. You do not know whether he is from the Sudharsanaramaya temple, Bope ?

A. I know he is from the Southern Province.

Q. When these priests are in the temple—the Principals—they receive from time to time from grateful pupils presents of tables, couches, elephant tusks, etc. ? 10

A. Some are fortunate in getting.

All that was in such a way presented to Hikkaduwe Sri Suman-gala was there after his death. Similarly, all that was presented to Sri Nanissara remained in this temple after his death, including the books.

Q. You know, of course, that the property that is presented to a priest, nay the property that is presented to a Principal, becomes Sanghika property ?

A. I do not know the ruling then.

Immediately after Sri Sumangala and Nanissara came Ratanasara. 20

Q. On his death all his pupils by robing and ordination removed in a lorry every single bit of furniture that had been presented to him ?

A. They removed against the wishes of the Sabha.

Q. They removed to the other temple from which he came ?

The temple in which he was Adhipathi ?

A. They removed to a temple in the Southern Province. They removed to Gangaramaya at Themalankande.

Some priests came there and against the wishes of the Sabha forcibly removed some of them.

Q. They removed on the footing that it was property belonging to Ratanasara ? Ratanasara Pannasekera ? 30

A. I do not know what Pannasekera.

Q. You had a meeting of the Sabha to decide on the prosecution ?

A. I do not remember those things. If it is in the minutes I will admit it.

Q. Only the things that had been presented to Ratanasara personally in his lifetime ?

A. They were in a room which was Rev. Ratanasara's.

(To Court :

I said that grateful pupils of this Pirivena gave some presents of tusks, furniture, etc., to Sumangala.

Q. And they also gave to Mahagoda Nanissara ?

A. Nanissara was occupying that room and he had those things. Books, furniture, etc., were given to Nanissara.

10 *The next Principal was Kahawe Ratanasara. Separate people gave to Ratanasara.*

Q. What were the things that were taken away ?

A. From Ratanasara's time all the things were taken away.)

Rev. Sumangala occupied a particular room, and the things that were given to him were in that particular room. Nanissara occupied the same room for some time, but then left. The things given to Nanissara were also in the room occupied by Nanissara. Ratanasara occupied a different room in the other corner of the premises. That was near the Bo-tree.

20 *Q.* About 25 yards away from the rooms occupied by Nanissara ?

A. About 60 yards away.

The things given to him were in that room.

It was those things, and those things alone, which some people claiming to be pupils took away.

Q. What happened to the other things ?

A. They were left in the temple premises.

Q. The Sabha met and discussed the matter ?

A. May have discussed.

30 *Q.* They took legal opinion and were going to have a prosecution ?

A. I was not a member who went and saw any lawyers. They may have done.

I was a member of the Sabha at the time.

Q. As a member do you know whether they consulted lawyers ?

A. I do not remember.

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Q. Surely, the Sabha must have been upset by somebody coming and taking things belonging to the Sabha away ?

A. (No answer.)

P12 shows that Mr. E. B. Weerakoon was the lawyer consulted by the Sabha in this connection.

Q. You told the Court that prior to this date nobody questioned the rights of the Sabha—prior to this action ?

A. Prior to the deed P7.

I remember the time of Rev. Nanissara's death. Nanissara lay in state for a period of over a week. 10

Q. And while he lay in state collections were made of moneys purporting to be for his funeral ? The public offerings, and there were people collecting money said to be spent for his funeral ?

A. The treasurer may have been there and his deputy may have been there.

Q. After the ceremony was over was there a stir by the public that there were no accounts submitted of the moneys collected ? There were no letters to the Press ?

A. There may have been.

I did not see editorials in the Press. 20

Q. So much so that there were three meetings at the Pirivena premises, at which Mr. O. A. Jayasekera presided ?

A. I remember one meeting.

There was a meeting at the Tower Hall. It was called for the purpose of reorganising the Vidyadhara Sabha.

Q. There was a committee appointed at that meeting including Mr. Abhayanayake ?

A. I do not remember Mr. Abhayanayake.

Q. The committee was for the purpose of reorganising the Vidyadhara Sabha ? 30

A. The members of the public were not satisfied with 13, but wanted 50 members appointed.

Q. Dr. Hawavitarne was the person who moved a resolution that the Sabha should be reorganised ?

A. Dr. Hewavitarne said that he and other members of the Sabha were prepared to meet the wishes of the public in reorganising the Sabha and if it was possible they were willing to admit as many outside gentlemen to be members as far as was possible under the constitution.

Q. At the meeting at the Tower Hall, the right of the Sabha to control the Pirivena was questioned?

A. I do not remember that.

Outside gentlemen wanted to become members and Dr. Hewavitarne consulted eminent lawyers. As a result of that public meeting we consulted lawyers. I myself was one of those who consulted. As a result we felt we could do nothing more but to allow the Court to alter the constitution and then take any additional members.

Q. Did you make any application to Court?

10 A. We felt it was not necessary.

Q. On that occasion you remember that you were one of the persons who went to consult lawyers?

A. I was the only lawyer in the Sabha.

Q. I have reminded you on two other occasions?

A. On those occasions I was not taken. As the only lawyer in the Sabha I was taken.

Q. Were there any other instances where lawyers were consulted?

A. Mr. Weerakoon was consulted but I did not go.

20 Mr. H. V. Perera, K.C., was consulted with regard to the rights of the Sabha to do anything at all under the deed, but I did not go. I and Mr. Jacob Munasinghe were the only lawyers on the Sabha. Mr. Jacob Munasinghe died last year. All that happened as a result of Nanissara. Nanissara died in 1922. At that time Jacob Munasinghe was a member of the Sabha. At that time I was not the only lawyer.

Q. There was Mr. F. R. Senanayake who was a lawyer?

A. He was an Advocate practising in Colombo.

30 Q. When this happened there were these public meetings and there was a lot of commotion on the part of the public and the stir was calmed by Rev. Jinaratana coming and residing at the Maligakande premises for a number of months? After the Tower Hall meeting Jinaratana came and took residence at the Maligakande temple for a number of months?

A. I have no recollection of that? I do not think he ever lived there.

Q. My question is "took up residence for a number of months".

A. Until this date I never knew that he came there and resided there.

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Q. I am putting it to you expressly that the stir on the part of the public was calmed only by Jinaratana coming and taking up residence there ?

A. I deny that.

Jinaratana was residing in the Gangaramaya temple at Hunupitiya near the Empire Theatre.

Q. I am putting it to you further that Jinaratana went back to his temple after things became quiet ?

A. He had never allayed any trouble. He may have added 10
 to the trouble.

The trouble was with regard to the stir on the part of the public with regard to the non-accounting of the funds with regard to the cremation of this priest. The 1st defendant was even then giving us trouble through various sources.

Q. What was the trouble he was giving you before that date ?

A. Complaining against the Principals.

Q. Are you suggesting that he ever at any time made any complaint against Sri Sumangala ?

A. He did not dare to do it.

Q. Or against Sri Nanissara ? 20

A. There was trouble between Nanissara and himself.

Q. Did you tell me yesterday that there was no trouble between 1st defendant ? Did you not tell the Court yesterday that 1st defendant gave no trouble to the Sabha until the matter of the charging of fees from priests ?

A. When you were discussing that question I said he gave us trouble on that score.

Q. Did you say he gave you no trouble prior to the matter of fees ?

A. If I have stated that in the record I am prepared to say so.

Q. If you stated yesterday that he gave no trouble prior to 30
 1933, is not that contradictory to the statement that he gave trouble earlier ?

A. I know there was trouble between him and Nanissara.

Q. You say that Jinaratana at that time in 1922 joined with the 1st defendant in giving trouble ?

A. Always the 1st defendant goes and joins other people in thwarting our good endeavours and gave trouble to the Sabha.

Q. What for was Jinaratana giving trouble ?

A. He goes and complains to the Kandy High Priest against our work.

Q. Jinaratana would not give trouble if not for others. Will you tell me that 1st defendant did not give trouble, and that he joined others who gave trouble ?

A. He gave trouble himself and joined others who were prepared to give trouble to the Sabha.

Q. In 1922 the 1st defendant did not give trouble. I am talking now about the trouble after the death of Nanissara—the trouble about the collecting of moneys and the failure to account. With regard to that matter, was it Jinaratana who gave trouble ?

A. First defendant joined some of his Dayakayas and brought about a lot of trouble about that time.

Q. You spoke of Jinaratana having added to the trouble ?

A. You asked me whether he gave trouble. I said he never allayed any trouble.

Q. I am talking of trouble created by the public with regard to the collection of money, in respect of which they said there were no accounts ? The moneys collected for the cremation of Sri Nanissara ? In that connection you told the Court that Jinaratana added to the trouble ?

A. I said he never allayed the trouble. I said he may have added to the trouble.

(To Court :

Q. What happened at that meeting and what accounts were given ?

A. It was a question of accounting. They made that a pretext of calling a big meeting.

30 Then at the meeting they did not discuss the accounts received, because there was an account given to the meeting by Dr. Hewavitarne of all moneys received and all expenses. The public were satisfied. But their real grievance was that they did not want only 13 to remain on the committee. Then we submitted to Dr. Hewavitarne that if it was possible for us to alter that constitution we would take more than 13 members.)

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Q. Those proceedings were published in the Sinhalese newspapers at that time ?

A. I have no time to read the Sinhalese newspapers.

(To Court :

Q. How did that meeting end ?

A. A vote of thanks to the chair was proposed.

Q. After that meeting was there any further trouble about these premises ?

A. No trouble on that score.)

Q. Prior to that date people had surged round that place 10 creating trouble ?

A. They wanted the public to join them.

Q. Behaving in an unruly manner that the Police had to be there to preserve order ?

A. The police may have come. I may not have been there when the Police came.

Q. The people were crowding the Maligakande temple premises and were rather boisterous and their attitude was not peaceful ? In a manner that was not peaceful or calm ? For a number of days after the funeral were people there at the Maligakande premises ? 20

A. (No answer.)

(To Court :

I said that after that meeting there was no trouble. After the meeting there were no people. Before the meeting there were. Till about the cremation there were people coming in every time. There were crowds near about the meeting held at the Tower Hall. I went to the Pirivena during that period.

Q. Did you see any crowds at that time ?

A. Sometimes there were no crowds.

I cannot remember whether I saw any crowds when I went. 30 I do not know whether the Police were called for or not.)

Our Secretary used to telephone. I cannot remember a verse which was published about that time.

Q. A verse published in the newspapers ?

A. I do not read Sinhalese newspapers.

There was trouble between 1st defendant and the Vidyadhara Sabha in 1933 over the question of the charging of fees from priests. After that 1st defendant fell ill in 1934 and went to the Hospital. He was visited in hospital by the members of the Vidyadhara Sabha at that time.

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Q. And by the time he came out of hospital his differences at that time with the Vidyadhara Sabha had been completely settled. The feelings between the Vidyadhara Sabha and himself were no longer strained ?

Evidence of
W. H. W.
Perera
Cross-
examination—
Continued

10 *A.* He was better advised later.

And the feelings between him and the Vidyadhara Sabha were cordial for several years, and they continued to be cordial till about 1940.

Q. In the year 1940 you personally, among the Dayakayas got to know of the deed No. 1299 of 24.10.40 that was executed by Pemananda in favour of Rev. Sorata ?

A. I may have become aware but I did not see the deed.

In the year 1940 was the case about the trade mark on those candles. I appeared for Sundaram & Co. for using a vihare as the
20 trade mark for candles, and some persons were restrained on an injunction on the ground that this was hurtful to Buddhist sentiment. I was the proctor for Sundaram & Co. The plaintiff priest gave evidence that this was objectionable among others. I went to the Malwatta Chapter to get a letter that there was nothing objectionable in this.

Q. You went there along with 1st defendant, to Malwatta ?

A. May have gone.

Q. You went asking the 1st defendant to persuade the Maha Nayaka priest to give you that letter ?

30 *A.* If he says that he has gone with me I will admit it.

Q. On three occasions you went with 1st defendant to see Mahamuni Sri Sumangala, and I am putting it to you that on one of those occasions 1st defendant and you discussed that deed by Pemananda in favour of Sorata ?

A. I do not remember having discussed it.

Q. I am putting it to you expressly that you suggested to 1st defendant " as he has written such a deed you better get a deed from Jinaratana, who is the rightful incumbent ? "

A. I deny that.

40 *Q.* I am putting it to you that at that time you recognised Sri Jinaratana as the rightful Viharadhipathi ?

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A. I never recognised him at that time, nor do I recognise him now.

I did not file answer in this case. I was trying to settle the dispute between plaintiff and 1st defendant because it is disgraceful for the religion to quarrel. I am no partisan to this long litigation. I told the Court that from 1934 the 1st defendant had ceased to be a teacher for about eight years. I cannot remember whether he sent in his resignation at that time.

Q. I am putting it to you that there are no minutes of a meeting at which he tendered his resignation? 10

A. He never wanted to resign.

There was no dismissal of him by the Sabha at any time. Owing to illness he stopped teaching for a certain period of time.

Q. He was ill, then he was very busy in Sabaragamuwa. There was at no time either a dismissal or a discontinuance or a resignation?

A. Out of respect for the robes . . .

I have told the Court that he asked over and over again to be appointed a teacher.

Q. Will you show me one single document where he asked to be appointed a teacher? 20

A. I signed one letter with Six or Seven others.

In 2D11 I say that the Vidyadhara Sabha asked that pupils be entrusted to Morontuduwe, who is a tutor, because he requests a transfer.

Q. The position taken up by 1st defendant all along is that he is a tutor on the staff but is obstructed by the Principal, who is not giving him classes to teach?

A. He complained that he was not given classes to teach. Because he kept away for a number of years he was not given classes to teach. 30

Q. It was not that he asked to be appointed a teacher?

A. I cannot answer such subtle differences.

Q. You yourself in this statement say that he is a tutor, "please give him classes."

A. It is dated 16.12.40 and signed by R. Hewavitarne, J. Munasinghe, W. H. W. Perera, E. A. Abayasekara, Waidyaratne and Gona-kumbura.

Q. I am putting it to you that when you came to know of the deed by Pemananda to Sorata the Sabha was not satisfied with that state of affairs? The Sabha was also not satisfied because they felt that trouble was brewing against them on the part of Sorata?

A. After that deed we had reason to think that was an uncalled-for act from Pemananda to Sorata.

That Pemananda recognises Sorata as his chief pupil and describes himself as the Adhipathi of this Isthana seemed to indicate that Sorata was trying to prefer some claim.

10 *Q.* And when the Sabha found that out they felt it was time to put a stop to such activities?

A. They did not like it.

Q. I am putting it to you that the first thing they did was to try and insist on the plaintiff priest giving classes to 1st defendant?

A. Whether this was a counter move I cannot say.

Q. I am putting it to you that the prime movers in this counter-move were yourself and Mr. Rajah Hewavitarne?

A. We wanted to help this priest by his being appointed to that Pirivena as a teacher.

20 *Q.* This was written at the instance of Mr. R. Hewavitarne who sent it to you himself by Francis Gunaratne?

A. I do not know who brought it. I know it was not a counter-move.

Q. You know Mr. Francis Gunaratne who was attending to the affairs of Mr. R. Hewavitarne?

A. He was the paid Secretary of the Mahabodhi Society.

Q. Did he go in connection with the affairs of Rajah Hewavitarne? Did you not say that if Mr. Rajah Hewavitarne got late to a meeting Francis Gunaratne took the papers, etc.?

30 *A.* (No answer.)

Q. I am putting it to you that this letter was sent to you by Francis Gunaratne from Rajah Hewavitarne?

A. I cannot remember who brought it.

Mr. R. Hewavitarne is present in Court.

(Shown the original of deed 2431, certified copy, 1D16 from the custody of the Land Registry dated 12.12.1887:

There are 30 signatures which I cannot read. My father died when I was about 15 years. I cannot identify my father's signature.)

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 examination—
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(Shown the minutes of 17.7.42 marked 1D40 :

I told the Court yesterday that we used to hold meetings once a month, but very often we could not for want of a quorum. The quorum was 7.

Mr. R. Hewavitarne functioned as the Secretary of this Sabha recently. He was proposed to be appointed in 1942. At a meeting held on 17.7.42 at which there were only Six persons present including Mr. R. Hewavitarne, he was elected. Six was less than the quorum. It appears on page 150.)

I already said I was not aware of the existence of deed 2431, 10 1D16. So far as I know, the Sabha was not aware. I am not familiar with the signature of Sorata.

(Shown a signature : I do not remember having seen that signature.)

Q. There was a magazine published called the Vidyodaya Magazine published at this Pirivena under the control and supervision of the authorities of the Pirivena ?

A. I have never seen that.

Q. It is by Dr. C. A. Hewavitarne. You will admit that Dr. C. A. Hewavitarne knew a little more about the early history of this Sabha than you did ? 20

A. No. He was away in England for 20 years.

Q. Incidentally he was away in England at the time you said he attended a meeting for the election of Nanissara. You told the Court that Nanissara was appointed in 1911 and you were present ? You gave Dr. Hewavitarne's name as one of the persons who was there at that time ?

A. From my memory.

Q. I am putting it to you that at that time Dr. Hewavitarne was away in England ? 30

A. I could not say that.

Q. He was away in England in 1911 ?

A. I cannot say that from memory.

Q. A statement of accounts of the Sri Sumangala Dharmasalawa was published in the year 1927 by Dr. Hewavitarne ? Have you seen that publication ?

A. I cannot remember.

(1D9 is shown to witness. This is a document purported to have been issued by Dr. C. A. Hewavitarne. I did not see that.)

Q. You never got any of the accounts published ?

A. I got some.

Q. Did you not get this published or can you not remember ?

A. I cannot remember.

Q. In the normal course would this account be sent to you ?

A. In the form of folios they would not always be sent to the members of the Vidyadhara Sabha.

Re-examination :

(1D38 is read by Counsel. 1D39, Counsel says is similar. It is
10 also read.)

Q. What is the Maha Sabha ?

(Shown the minutes mentioned on 3.6.39, page 13 :

Q. I want to know what is the Sinhalese for the minutes of a general meeting. What is the Maha Sabha ?

A. This is a meeting confined to the 13 members. Of the Sabha.

There were outside gentlemen who came. The outside gentlemen are supporters of the Pirivena and the temple who pay some money in aid of the cause. That is why it is called Maha Sabha.)

20 Q. Can you say from what date you were a member of the Sabha ?

A. About 40 odd years ago.

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

(Court adjourned for lunch.)

(Intld.) V. S. J.,

A.D.J.

16.6.50.

D.C. No. 1882/L.

16.6.50.

30 After lunch.

BADDEGAMA PIYARATANA NAYAKA THERO. Affirmed.

I am 67 years old. I was robed on 14th May, 1898.

I was born on Wednesday, 17th October, 1883, at Godama in the Galle District.

I produce, marked P18, my declaration under the Buddhist Temporalities Ordinance.

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Q. According to the declaration made by you, the date on which you were robed is given as 14th May, 1899? Was it not in 1899 that you were robed?

A. I remember it was in 1898.

My robing tutor was Sumanadasa Maha Thero of Bope and I was robed at Malwatta Vihare. Later I was ordained on 28th May, 1904, in the same Temple by Seelawanse Maha Thero of Kandy. All other particulars given on the declaration (P18) are correct. At the time I made that declaration I was resident at the Vidyodaya Pirivena, Maligakanda. This declaration was made on 6th January, 1936, and 10 on that date I was Vice-Principal of the Vidyodaya Pirivena.

I studied under Rev. Weliwitiye Dhammaratana at Hiturampitiya Ananda Pirivena. Weliwitiye Dhammaratana's tutor was the late Rev. Hikkaduwe Sri Sumangala. I was taught by Dhammaratana from 1902 till about 1907 or 1908. Thereafter I was teaching at the Ananda Pirivena. I was also appointed Vice-Principal there. I was Vice-Principal there from 1909 to 1919. In 1919 or thereabout I became the Principal of the Ananda Pirivena. From 1919 up to February, 1925, I held the Principalship of the Ananda Pirivena. I ceased to be the Principal of the Ananda Pirivena in February, 1925. 20 Why I ceased to be the Principal of the Ananda Pirivena was because during that time there was no Vice-Principal for the Vidyodaya Pirivena at Maligakanda, and the Vidyadhara Sabha, consisting of Dr. C. A. Hewavitarne, Rev. P. Vajiragnana, who subsequently became the Inspector of Pirivenas, and Weliwitiye Soratha Nayaka Thero, and others appointed me to be the Vice-Principal of this Pirivena. At that time, that is in 1925, Dr. Hewavitarne was the Secretary of the Vidyadhara Sabha. I was invited by the Sabha to be the Vice-Principal here, and I accepted the post. I then took up residence at the Maligakanda Pirivena. At that time Rev. Kahawe 30 Ratanasara was the Principal of the Maligakanda Pirivena. At the time I came here as Vice-Principal there was a Kruthyadhikara, and he was Rev. Hikkaduwe Pemanande.

Q. What were the duties of Pemananda as Kruthyadhikara?

A. He was looking after the rooms occupied by the students. He was attending to the providing of alms of priests. He was doing the clerical work of the Principal. He was attending to pirith and

bana ceremonies. He was attending to invitations in connection with "aradhana", which means dana (alms).

It was Pemananda who replied to those invitations on behalf of the Principal. The correspondence that were addressed personally to the Parivenadhipathi were opened and replied to by the Parivenadhipathi himself, and the records were kept by him. So at that time Ratanasara was the Principal, I was the Vice-Principal, and Pemananda was the Kruthyadhikara. It was Weliwitiye Dewananda whom I succeeded here as Vice-Principal. When I came here as Vice-Principal
 10 Dewananda was dead. Subsequently, I was appointed the Principal of this Pirivena. On the death of Kahawe Ratanasara I was appointed by the Vidyadhara Sabha temporarily as Parivenadhipathi on 6th March, 1936. I was confirmed later in that office.

I produce, marked P19, a letter dated 7th March, 1936, which was received from the Sabha, signed by Mr. D. S. Senanayake as President and Mr. Moonesinghe as Secretary, notifying me of the acting appointment. I also produce another letter of the same date, marked P20, also signed by Mr. D. S. Senanayake as President and Mr. Moonesinghe as Secretary, addressed to the Vidyodaya Pirivena,
 20 regarding my permanent appointment to the post of Principal. In this connection, I draw the attention of the Court to the minutes, marked P11, regarding the acting appointment and to the minutes, marked P12, regarding the confirmation of that post. I was confirmed to the post of Principal on 6th April, 1936, and from that date I functioned as the Principal of the Vidyodaya Pirivena. At that time Pemananda was still functioning as Kruthyadhikara. According to my recollection Pemananda died in 1942. After Pemananda's death I appointed Weliwitiye Thapasse to function as Kruthyadhikara, and up to date he has continued to function as such.

30 I produce (P1) deed No. 925 of 6th December, 1876, by which an agreement had been drawn up by several gentlemen. I also produce (P2) deed No. 759 of 9th March, 1876, by which one Lansage Andiris Perera conveyed certain land and buildings to the late Sri Sumangala Nayaka Thero. I produce (P21) deed No. 3030 of 15th August, 1871, by which one K. Don Singho Naide transferred this property to Andiris Perera. I produce (P22) deed No. 1733 of 1st September, 1868, by which K. Don Singho Naide bought that land. I produce (P3) deed No. 2134 of 4th April, 1884, by which Rev.

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Mabotuwana Siddhartha purchased certain properties. The vendor under P3 had obtained the title under deed No. 751 of 7th June, 1880, which I produce marked P23—I produce deed 2831 marked P24 already marked as 1D16.

Evidence of
 Baddegama
 Piyaratana
 Nayaka Thero
 Examination—
Continued

As far as I can remember, at the time I came to these premises in 1925 as Vice-Principal, the buildings on this premises were as follows:—The Sri Sumangala Dharmasalawa was in the course of construction; “Sisya Nivasa”, that was a small room for the students; “Japan Kambare pela” which was a room that was occupied by Japanese priests. During Ratanasara’s time Seven more rooms were 10 added to those three rooms.

Q. All for the occupation of the priests?

A. For the occupation of the pupil priests.

There were also the following buildings at that time:—“Dan-salawa” “dange” which means the kitchen, and “gabada kambare” which means the store room. At that time there was also a row of rooms near the well. On the other side also there was a row of rooms which is now known as “Thambiligas Kambare”.

The room that was occupied by the Principal at that time is still in existence. I am occupying that room now. There was a building 20 consisting of two rooms, and as Vice-Principal I was occupying one of those rooms.

There was also a row of rooms for teachers. There was a library then, and that is the same as the present one. It was not changed. There was a salawa adjoining the Sri Sumangala Hall, and that was used for the purpose of teaching the students. That room is now in existence.

Q. You said that there was a small room before that where the students were taught?

A. That was pulled down and a new one erected in its place. 30 It was erected at the time when Ratnasara was the Principal. There is a vihare now. That vihare was in existence on the day I came to reside in those premises, in 1925. There was a “Buduge” at that time, and it was meant for the teachers. The present bo-tree was in existence at the time. There was a dagoba; the same as the

present one. There was also a "guru nivasa". There was a room for the visitors. There were two rooms for the teachers on the rear also.

All these buildings were there at the time I came to these premises in 1925 and, as I have already said, Rev. Ratnasara was the Parivenadhpathi then.

I know the land where all these buildings, that is the Pirivena etc., are. Around the premises where those buildings are there was a boundary wall at the time I came there in 1925. It was in the same condition as today.

10 I know Rev. Devundara Jinaratana, who was resident at Gangaramaya at Hunupitiya. At the time I came here in 1925 as Vice-Principal he was living in that same Gangaramaya. Before I came to this Pirivena I knew Jinaratana. I knew him from 1904.

Q. How did you come to know him ?

A. Whenever we come to Colombo we used to go and see him at Hunupitiya.

Q. And even after you took up residence at the Maligakanda Pirivena, did you visit Jinaratana at Hunupitiya ?

A. Yes.

20 Q. And did Jinaratana come to the Maligakanda Pirivena on visits ?

A. Once in a way he comes and talks to Pemananda, and he talks to us also.

He spoke to Kahawe Ratnasara also.

Q. Ratnasara was there as Principal, you were there as Vice-Principal, and Pemananda was there as Kruthyadhikara. With whom was Jinaratana most acquainted ?

A. He comes very often to the library and go away. I cannot say with whom he was most acquainted.

30 There are two rooms in the down-floor of the library --one for the visitors and the other for the resident pupils. Whenever he comes he used to sit in the verandah of the room of the resident pupils. Rev. Devundara Jinaratana was in the General Hospital a few months ago and I visited him there. I hear he has now come back from the hospital.

Q. Before you went and saw him at the General Hospital, when did you see him at Hunupitiya ?

A. I cannot remember when I went to see him last at Hunupitiya. I cannot remember whether Jinaratana came to the Vidyodaya
40 Pirivena after July, 1943.

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Proceedings
before the
District Court
16.6.50—
Continued

Evidence of
Baddegama
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Examination—
Continued

No. 25
 Proceedings
 before the
 District Court
 16.6.50—
Continued

Evidence of
 Baddegama
 Piyaratana
 Nayaka Thero
 Examination—
Continued

Q. Prior to July, 1943, when was his last visit to the Vidyodaya Pirivena ?

A. To my knowledge after 22nd June, 1941, he did not come to the Pirivena.

Prior to the 22nd of June, 1941, I can remember going to see him at Hunupitiya, but I cannot give the exact date.

Q. From 1925 you have been at Maligakanda Pirivena ; and from that time till 1941 has Rev. Devundara Jinaratana claimed the control of the Maligakanda premises as Adhipathi of the Temple ?

A. Never, as far as I know. 10

This premises at Maligakanda was called Vidyodaya Pirivena premises ; and in relation to this premises the late Rev. Kahawe Ratnasara was called Parivenadhpathi, and we used to call him Nayaka Hamuduruwo.

Kahawe Ratanasara died and I succeeded him as the Principal. Vidyadhara Sabha can appoint anyone as the Principal but the practice has been for the Vice-Principal to be appointed as the Principal.

Q. Who appoints the Vice-Principal ?

A. With the sanction of the Principal, the Vidyadhara Sabha ²⁰ appoints the Vice-Principal, by a majority vote.

Q. When you became the Principal, who appointed the Vice-Principal of this Pirivena ?

A. With my approval, the Sabha appointed the Vice-Principal.

Q. Who was the person who was appointed as Vice-Principal ?

A. Rev. Kukulnape Devarakkhitha and Rev. Panditha Soratha were both appointed at the same time as Vice-Principals.

Subsequently, Kukulnape Devarakkhitha died on 22nd November, 1946, and in his place Rev. Kalukondayawe Pannasekera was appointed. With my sanction, the Sabha appointed him. Soratha ³⁰ is still living. Soratha and Kalukondayawe Pannasekera have been functioning as Vice-Principals jointly at the same time. Rev. Thapasse mentioned earlier, who was functioning as Kruthyadhikara, is I think in Hikkaduwe at present. Keeping someone else in his place, Thapasse left this Pirivena about a year or two ago. Kahawe Dewarakkhitha is doing that work now, and is occupying Thapasse's room. He is doing all the work that Thapasse did. He is a pupil there—a pupil by robing.

Q. Who appointed Kahawe Dewarakkhitha to function as Kruthyadhikara ? 40

A. It is I who directed him to do that work.

(Court :

Q. Is Dewarakhitha the permanent Kruthydhikara ?

A. He is acting.

Q. Who appointed him to act in that post ?

A. He was not appointed in writing. The priest whom I appointed in writing viz. Thapasse, said that he had to attend to some work in Hikkaduwa, and he went there. He has not yet returned.)

I think he will come back. Now and then he comes to the
10 Pirivena and goes away. I am going to ask him whether he is going to continue to be the Kruthyadhikara here, and if he answers in the negative, I am going to appoint someone else in his place permanently.

I produce (P10) a certified copy issued by the Registrar of Lands of deed No. 1676 dated 31st May, 1879. I also produce P25A an extract from the Bhikku Register under the Buddhist Temporalities Ordinance, showing a declaration by Rev. Devundara Jinaratana. The date given therein is 23rd of January, 1922.

To Court :

I do not know how the High Priest of Adam's Peak is appointed.

20

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

Adjourned for the 4th of July.

(Intld.) V. S. J.,

A.D.J.

16.6.50.

No. 26

Proceedings before the District Court

D.C. 2882/Land.

4th July, 1950

Mr. D. R. de S. Abhayanayake, Proctor for plaintiff is dead.
30 Mr. Senanayake has filed proxy and he is instructing the plaintiff's Counsel. The other appearances are the same as before.

Mr. Wikramanayake says he has made arrangements for all the days fixed for trial except the 12th July, on which day he has to go to Balapitiya where a partly-heard case has been specially fixed. He states that on the last date he did not know about it.

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Proceedings
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District Court
16.6.50—
Continued

Evidence of
Baddegama
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No. 26

Proceedings
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No. 26
 Proceedings
 before the
 District Court
 4.7.50—
Continued

The case will be heard on the 11th and 14th, but not on the 12th.

(Intld.)

A.D.J.

Evidence of
 Baddegama
 Piyaratana
 Nayaka Thero
 Examination—
Continued

B. PIYARATANA NAYAKA THERO. Recalled. Affirmed.

It is not likely that a priest would forget the date or year of his obtaining Upasampada.

Q. Why ?

A. Daily an ordained priest will remember the date of ordination.

Q. Why ?

A. Because he has to worship priests senior to him and because 10 he is worshipped by priests junior to him.

So when the priests meet in an assembly a priest senior by Upasampada is entitled to obeisance from his juniors. I produce the original of 1D14 - deed No. 5193.

(Mr. Perera marks the original of deed 1D14 as P25. Mr. Wikramanayake says that 1D14 is the original of this deed, and that Mr. Perera is producing a certified copy.)

I produce a letter dated 7.4.1936 marked P26 from the Secretary of the Vidyadhara Sabha to me apprising me of my appointment as Principal. (Mr. Perera reads out that letter.) I produce letter 20 dated 28.6.1940 marked P27 written by 1st defendant to me. (Mr. Perera reads the translation.)

I received this letter from the 1st defendant. That was 4 years after Kahawe Ratanasara's death. I take it that I did not reply to that letter P27. I produce letter dated 7.7.1940, also by 1st defendant to me, marked P28. (Mr. Perera reads out that letter.)

This letter refers to a letter dated 3.7.40 and forwarded to 1st defendant. I have not got a copy of that letter.

Q. By whom was 1st defendant stopped from teaching ?

A. By Kahawe Ratnasara.

30

I was Vice-Principal at the time.

Q. Can you give the reason why Kahawe Ratanasara ceased to employ the 1st defendant as a tutor ?

A. 1st defendant had a fast at that time.

Q. What was the reason for that fast ?

A. He was stopped from teaching as a result of the fast over a recovery of the sum of Rs. 20/- from the temples from which the pupils had come, in order to pay for electric lights and Municipal taxes.

I also produce letter dated 20.7.40 by 1st defendant to me marked P29. (Mr. Perera reads out that letter.)

I have read it in Sinhalese.

(Mr. Kottegoda reads out the letter in Sinhalese.)

10 Q. What does this gentleman mean by this phrase "Kapakeru . . . labayata" ?

A. A gain according to the Dharma which a Bhikkhu is entitled to receive in his capacity as Bhikkhu.

I also produce a letter dated 24.7.40, P3 also sent by 1st defendant to me. (Mr. Perera reads out the letter in English.) I have read the original but I have not got a copy. That letter states that I sent a letter on the 22nd instant, which has reached the 1st defendant. I have not got a copy of that letter of the 22nd instant. He says that if there are complaints against him they should be substantiated. (Witness reads out the letter in Sinhalese.)

20 Q. Can you recall whether in that letter dated the 22nd you mentioned any complaints that had reached you against the 1st defendant ?

A. I cannot remember.

He says that "if there are complaints against me such complaints should be duly made and after enquiry, if such complaints are substantiated by anyone, then I should be removed". At the date this letter was written I had not received any complaints against the 1st defendant.

Q. Can you say what these complaints are that he refers to ?

30 A. I do not know what they are.

He further says that if there are complaints they should form the subject of an enquiry.

Q. Can you recall whether you sent a reply to this letter ?

A. I did not reply to that letter.

(Shown a document already marked 2D11 dated 16.12.40 :

I remember this document.)

Q. There was a certain request to appoint 1st defendant as a tutor ?

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No. 26
 Proceedings
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 Baddegama
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 Examination—
Continued

A. It was to give him classes in charge as a tutor.

Q. Was he appointed in consequence of that request? Were classes given in response to this request?

A. No.

Q. Why not?

A. I did not question that letter at all because the letter was from the Vidyadhara Sabha.

So I could not give effect to the desires exactly expressed in the letter. I spoke of a fast. I already said that it was for a levying of Rs. 20/- for lights and also for taxes. 1st defendant threatened to carry out a fast, but it did not materialize. 10

Q. What happened when he threatened to fast?

A. I was Vice-Principal then in 1933.

Q. Can you recall in what month it was?

A. It was in the month of July.

Q. What happened when he threatened to fast?

A. There was a big commotion.

Q. What eventually happened?

A. The Vidyadhara Sabha went up to the 1st defendant and requested him not to fast, stating that they would enquire into the matter. 20

The 1st defendant did not accede to the desires of the Sabha. Thereupon the Vidyadhara Sabha at a meeting decided that the 1st defendant could not be allowed to fast within the premises of the Pirivena. Then he insisted on carrying out his fast. Then K. D. David and others went to Kandy and brought down the two Nayaka Theros and also the Nayaka Thero of the Vidyalankara Pirivena, Peliyagoda. They came and told 1st defendant not to fast and that they would consider the matter and do something about it. As a result of that assurance of the High Priests 1st defendant desisted from his fast. The 1st defendant's next fast was at 6.30 a.m. on 23.11.1942. 30

Q. In which part of the Pirivena building did he fast?

A. In the Sri Sumangala Memorial Hall there is a room, which 1st defendant is in forcible possession of.

Q. Can you say what was 1st defendant's reason for fasting in November 1942?

A. The reason is :—Somewhere in December, 1941, during the vacation at the Pirivena I went to Galle. During my absence 1st defendant had complained to the Krathi Adhikari, Rev. Pemananda, that the room in which he was living was in a bad state of repair and as a result of the guns firing during the war the walls might come down. He asked for the key of the Sri Sumangala Memorial Hall, which key was during the holidays with the Krathi Adhikari. He obtained that key and removed his bed to this hall. I heard of this when I was at Galle. I returned to Colombo and told the Krathi Adhikari that the
 10 Pirivena was to re-open on 4th January, 1943. At that time Six tutors had classes in that hall. Therefore I told the Krathi Adhikari to get the key from the 1st defendant before the 4th—somewhere by the 1st, 2nd or 3rd—so that the classes may be arranged for those tutors. I told that to the Krathi Adhikari priest. I did not get the key. I informed the Vidyadhara Sabha of his refusal to give up the key. A new order had been in force at the Pirivena. There are upper classes and lower classes at the Pirivena. The Education Department knows of this Sri Sumangala Memorial Hall. A part of the Sri Sumangala Dhammasalawa was used for the annual examination. I informed the
 20 Vidyadhara Sabha about this. The Vidyadhara Sabha ordered Mr. Rajah Hewavitarne to get the two halls ready for the examination.

Q. How did that lead to the fast ?

A. Because he had left his bed in that hall. That bed had to be removed outside and the hall had to be repaired. 1st defendant's bed was removed from the Salawa and kept in the verandah at that time. I brought this fact to the notice of the Chief Inspector of Schools when he came for the inspection. Then the key was handed over to the Inspector. He went round and examined the place and
 30 took charge of the key. I do not know where the 1st defendant was at that time.

(To Court :

Q. Why did he fast ?

A. The reason was :—Because his bed was kept outside.

Q. Did he fast or did he threaten to fast ?

A. The annual inspection started about 8 or 8.30 a.m. Before that on the same day at about 6 a.m. he started fasting.

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 Proceedings
 before the
 District Court
 4.7.50—
Continued

Evidence of
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 Examination—
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 Proceedings
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 District Court
 4.7.50—
Continued

Evidence of
 Baddegama
 Piyaratana
 Nayaka Thero
 Examination—
Continued

Q. How long did he fast ?

A. I think the annual inspection continued for about 4 days. Till the evening of the 4th day he fasted.

Q. In what month was the fast ?

A. The examination started on 23.11.42 and it went on for about 4 days.)

Q. Did the 1st defendant sleep at any time in the Sri Sumangala Memorial Hall ?

A. His bed was there but I do not know whether he slept there or not. 10

Q. At the time this fast was going on where was his usual quarters ?

A. At the place where he now is.

That was about 2 fathoms away from the Sri Sumangala Memorial Hall. 1st defendant was not pleased with the fact that the examination was held for four days in the Sri Sumangala Memorial Hall.

Q. Where did he fast ?

A. In a small room at the Sri Sumangala Memorial Hall.

In 1933 he threatened to fast, and in 1942 there was an actual fast. 20

Q. Between those two dates, 1933 and 1942, what was he doing ?

A. From what I remember he was busily engaged in his candidature for the post of High Priest of Sri Pada.

Q. What was he doing at the Pirivena from 1933 to 1942 ?

A. He was there till 1936.

Q. From 1936 to 1942 was he staying there ?

A. He was not teaching there.

(To Court :

Q. How did he get his meals etc.

A. For some time I think the Vidyadhara Sabha supplied his meals. 30

Q. Apart from the Vidyadhara Sabha did anyone supply 1st defendant's meals ?

A. I do not know.

Q. Do the principal teachers—not the lay pupils—sit together for these Dhanas ? Do the Principal, the Bhikkus and the lay pupils all sit together ?

A. There was a Dansala for about 100 priests.

Q. Did they all sit there at the same time for meals ?

A. Some pupils did not come.

Q. Did you sit ?

A. At that time I used to go there.

Q. The other teachers also ?

A. Yes.

Q. And some priests who were pupils ?

A. Yes.

10 I do not know whether 1st defendant also sat with the others.

Q. For how long did you all sit like this and take your Danas ?

A. At the time I was Vice Principal—from the end of February, 1925, up to the time I became Principal these priests sat for their Danas in the way I said just now.

Q. After you became Principal was there a change so far as you were concerned ? What happened after you became Principal ?

A. The Krathi Adhikari arranged the meals and sent them down to the place where I reside. That is, I had the Dana by myself. The other priests have their Danas together.

20 Q. What about this defendant ?

A. I did not go to the Danasalawa. I do not know definitely.

Sometimes meals are sent to him from this Danasalawa. He is still in this Pirivena.

Q. From 1925 till this trouble started about 1942 when he began to fast, did he go at any time for his meals to this Danasalawa ?

A. I did not see him.)

Q. Who is today in possession of the Danasalawa referred to ?

A. It has been closed down by 1st defendant.

Q. From what date has 1st defendant forcibly closed the
30 Danasalawa ?

A. From what I remember it was after 1943.

Q. Where do the priests take their meals now ?

A. There is no place now. They take their meals in different places.

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Proceedings
before the
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4.7.50—
Continued

Evidence of
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Piyaratana
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No. 26
 Proceedings
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 District Court
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Evidence of
 Baddegama
 Piyaratana
 Nayaka Thero
 Examination—
Continued

Prior to the 1st defendant taking possession of the Danasalawa between 80 and 100 priests were fed there.

(To Court :

About 90 or 100 priests were resident at the time.

Q. All the priests who were resident had their meals in the Danasalawa at the same time ?

A. Some pupils get down their meals from outside and take them in their rooms.

Q. Why is that ?

A. For their convenience. 10

Q. They get from outside ? Not from this Krathi Adhikari ?

A. From the Dayakayas.)

Q. Who supplies the meals to the priests who feed in the Danasalawa ?

A. The Vidyadhara Sabha through the Krathi Adhikari.

Q. From 1936 where was the charity box ?

A. There were two charity boxes in the Vihare premises. One was near the Bo tree. There was another in the Dagoba. In all there were four boxes.

Q. Who opens the charity boxes and takes the money from the 20 time you became priest ?

A. On behalf of the Vidyadhara Sabha there was one E. J. Perera, an Upasagama. In the presence of the Krathi Adhikari he counts the money and notes down the amount and hands over to the Vidyadhara Sabha. The Krathi Adhikari also sometimes notes down the amount of the collection. The moneys are taken by the Vidyadhara Sabha.

Q. At the time you were Vice Principal who takes the moneys ?

A. Always it has been like that.

Pemananda is now dead. He died in 1942. 30

Q. After that what happened to the contents ? After his death how were the contents of these charity boxes taken ?

A. A member of the Vidyadhara Sabha comes on behalf of the Society.

Q. Was no one present from the Sabha ?

A. No.

I also have been present when the counting takes place. Ultimately the money is deposited in the Bank. I do not know the name of the bank.

Q. After 1942 did 1st defendant do anything to interfere with the contents of the charity boxes ?

A. He had taken them forcibly.

He did not take the money. He took the boxes.

Q. What did he do with the boxes ?

A. He has hidden them somewhere, but I do not know what he
10 has done with them.

I cannot remember when he last did that.

Q. In which year did he remove these boxes ?

A. Several years ago.

Q. How many years ago, roughly ?

A. In or between 1946 and 1949.

From 1946 he is in possession of these charity boxes forcibly. I do not know where they are. There are two rooms on both sides of the Vihare. The boxes may be in one of those rooms.

Q. But the Vidyadhara Sabha has no control over those boxes ?
20

A. There are no charity boxes now.

Q. Is there no collection now ?

A. On some days there is no cash for collecting.

(*To Court :*

Q. What happened last Wesak day ?

A. There were no collections in the charity boxes.

Q. No collections for the Vidyadhara Sabha ?

A. There are no charity boxes now.)

Letters are received from the Education Department.

Q. To whom are they addressed?

A. They were addressed to the Principal of the Vidyodaya
30 Pirivena formerly.

Q. Now ?

A. The letter that had been addressed to me as Principal containing 92 certificates had been sent under registered cover. The 1st defendant has taken that. I heard of that.

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Evidence of
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No. 26
 Proceedings
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Continued

Evidence of
 Baddegama
 Piyaratana
 Nayaka Thero
 Examination
Continued

(To Court :

Even now I get letters about this Pirivena from the Education Department.

Q. How are they now addressed ?

A. After that incident I wrote to the Education Department to address them to me personally and to put down my name as Principal. Now I get the letters.)

Q. What happened to those 92 certificates ?

A. I complained to the Education Department that I did not receive them. 10

Q. As a result of your complaint to the Education Department what happened ?

A. The Director of Education wrote that a Bhikkhu by the name of R. V. Pamaratana had signed and taken delivery from the tappal peon and had handed them over to the 1st defendant.

(To Court :

Q. How do you know that some person called Pamaratana had signed this receipt ?

A. The Director of Education sent me a letter.)

Then I received certain information from the Director of 20 Education.

Q. Did you get those 92 certificates ?

A. I got duplicates from the Education Department.

Q. Was there another fast, and, if so, how many years after ?

A. In 1945 again 1st defendant fasted. That was after this case was instituted.

That fast was in a room of the library downstairs.

Q. What was that room used for ?

A. It was a visitor's room.

Q. Can you tell me the reason why 1st defendant entered upon 30 that fast ?

A. The reason was : —I was ill at the time.

Q. Were you ill in the Pirivena or were you ill out of the Pirivena ?

A. At the time of the fast I was in the Pirivena.

Q. Can you tell the Court what was the reason for the fast initiated by the 1st defendant in May, 1945 ?

A. I cannot remember the exact reason.

That fast lasted about two or three days.

Q. Was there another fast after that ?

A. Recently.

That was somewhere in 1949. I cannot exactly recall the month.

Q. Can you say why 1st defendant entered on that fast ?

A. I heard that he was fasting in the room of the Manager of
10 the Maha Bodhi Society.

Q. Where was that ?

A. Across the road opposite the Pirivena.

Q. You know the reason for that fast ?

A. The reason was :—I did not see the reason for the fast.

Q. How long did that fast last ?

A. About two days.

Q. How did 1st defendant break his fast ?

A. Mr. A. E. Goonesinghe had come there and promised to enquire into the matter. He gave him a cup of Malted Milk at about
20 4.30 a.m.

Q. Did you see any pamphlet issued by 1st Defendant in connection with that last fast ?

A. I know about it, but there is no pamphlet with me.

Q. Is the 1st defendant running a school in the Sri Sumangala Memorial Hall ?

A. I see that classes are held there, but I do not know whether it is a school or not.

Q. Is it an English School or a school teaching the Buddhist doctrine ?

30 *A.* They are English classes.

Q. Under whose management is that school run ?

A. I did not enquire into that.

That school is not run under my direction. After this case was instituted I could not make use of that Hall.

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Proceedings
before the
District Court
4.7.50—
Continued

Evidence of
Baddegama
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Examination—
Continued

No. 26
 Proceedings
 before the
 District Court
 4.7.50—
Continued

Q. For how many years have those classes been held for teaching English in that hall ?

A. After this case was filed.

That is about three or four years.

Evidence of
 Baddegama
 Piyaratana
 Nayaka Thero
 Examination—
Continued

Q. When was this Sri Sumangala Memorial Hall put up ?

A. It was opened on 29.4.1936.

It was started during Kahawe Ratnasara's time. It was in the Pirivena premises. I wrote a preface to the pamphlet called —(Shown the preface to the book P31:

I wrote this preface. It is dated 1.1.37.) (Witness reads out 10 that preface in Sinhalese.)

The Sri Sumangala Dharmasalawa was put up by the Vidyadhara Sabha and Dr. C. A. Hewavitarne.

(Mr. Perera moves to produce a report of Dr. Hewavitarne dated 5.12.1937 marked P32, with regard to that.

Mr. Perera wants to put in the entirety of this letter P33. He says that Dr. Sandeman has written that letter and it contains statements of certain matters made by the writer, which the writer has obtained from the report also made by somebody else. I do not think that all the statements contained in this letter can be put in terms of 20 section 32. All the statements are not statements of relevant facts. Only the fact that he posted the certificates can go in.)

Mr. Perera marks the document as P33.

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

(Court adjourned for lunch.)

(Intld.) V. S. J.,

A.D.J.

4.7.50.

D.C. No. 2882/L.

4.7.50.

30

After lunch.

BADDEGAMA PIYARATANA NAYAKA THERO. Recalled.
 Affirmed.

Examination (Contd.).

I know that the 1st defendant in his answer claims to be the Viharadhipathi of what he calls the Maligakanda Temple. To my

Evidence of
 Baddegama
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 Examination—
Continued

knowledge he claimed to be the Viharadhipathi of what is called the Maligakanda Temple since the end of 1941. I know that in 1941 he received a document from Rev. Jinaratana, Viharadhipathi of Gangaramaya Temple at Hunupitiya.

No. 26
Proceedings
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4.7.50—
Continued

As far as I know Rev. Jinaratana of Gangaramaya Temple never claimed to be the Viharadhipathi of Maligakanda Temple. Since 1925 I was the Vice Principal of this Pirivena, and I have already told the Court that during that period I had met Jinaratana both at the Pirivena and at the Gangaramaya Temple at Hunupitiya. During
10 the period I had known him he never claimed any rights as Viharadhipathi of Maligakande Temple.

Evidence of
Baddegama
Piyaratana
Nayaka Thero
Examination—
Continued

Q. Has there ever been a Viharadhipathi of this premises ?

A. There was never a Viharadhipathi, but there was a Parivenadhipathi who had the control of everything connected with this premises and all other activities.

During the time that I was connected with this institution, that is from 1925 up to date, Jinaratana never controlled the buildings on this premises.

During the time of the late Rev. Kahawe Ratnasara he was in
20 control of the buildings on this premises ; and after I became the Principal in 1936 it was I who was in complete control of the buildings on this premises as Parivenadhipathi. I was also in control of the discipline of the priests.

There are a few coconut trees in this premises.

Q. From 1925 up to date who took the produce of those trees ?

A. The Kruthyadhikara on behalf of the Vidyadhara Sabha.

I have not won the Siam prize ; that is because I did not study in this Pirivena. It is open only to those who study in this Pirivena.

I am a D.Lit. and I am one of those who belong to the earliest
30 batch who obtained this title. Malwatta Chapter also conferred on me a title recently, and that is the Chief High Priest for South Ceylon.

(Shown document P2.)

Q. How do you interpret paragraph 3 of P2 with regard to the nature of the dedication ?

A. To Hikkaduwe Sri Sumangala, the Parivenadhipathi at that time, and after his death to his successor in office as Parivenadhipathi.

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 Proceedings
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(Witness continues to read out the next paragraph of P2.) It says that the Vidyodaya Pirivena is for the purpose of imparting education to the clergy as well as to the laity.

(Witness reads out the next paragraph.)

There is the word “ Sanghika ” in this paragraph. That means generally it belongs to the Sangha, but in this instance it belongs to Sumangala’s successor as Parivenadhipathi so long as the successors are in good conduct.

(Witness reads out the next paragraph of P2.)

This paragraph is to the effect that “ with the consent of the 10 Parivenadhipathi an executive society is appointed to whom the control of the Vidyodaya Pirivena is given.” It does not come under the Sisyanusisya Paramparawa.

Q. Generally, a land can be given to a priest as pudgaleeka property ?

A. There is no such rule under which a land is given to a priest as pudgaleeka property, but the proceeds of a land can be enjoyed by him.

Q. Can you not buy a property ?

A. According to Vinaya (rules) a priest cannot buy a property, 20 but in this country that is being done.

Q. Can’t a father gift a property to his son who is a priest ?

A. Generally, that is being done in this country. But according to Vinaya, even a son cannot accept a property from his father.

Q. Do you know that priests deposit money in banks in their names ?

A. That is being done by certain priests, but it is against the Vinaya.

Q. According to you, can you tell me how many forms of Sanghika property there are ? 30

A. There are several ; for instance, there is what is called “ seema-thethy ” —that is with limitations ; that belongs only to the priests who come within that “ seema ” — a boundary. There are several nikayas (sects) and if a property is dedicated to a particular nikaya, then it belongs to the priests of that nikaya only. If a property is given to the priests of Ceylon, then it does not belong to priests who are from outside Ceylon. If a property is dedicated to the whole Sangha, then it belongs to the priests from all four corners of the world.

These refer to dedications by dayakayas. A dayakaya can dedicate a property to the Sangha under certain conditions.

Q. Can a dayakaya say " I am dedicating this to the Sangha on condition that such and such a priest should be in charge and after his death it should go to his Sisyanusisya Paramparawa " ?

A. Yes, there are such types of offerings also.

(Witness reads out the next para of P2.)

This paragraph is in regard to appointments and dismissals. That power is given to the Vidyadhara Sabha.

10 (Witness reads out the last para but one.)

It says " accepted by the Principal of the Pirivena as a Sanghika gift " .

(Mr. Perera wants to put in a translation of P2. He states that the translation that is marked P2A and filed when the document was produced is not a complete one, and that one paragraph has been omitted. He now wants to put in another translation made by Mr. Jayakody, the Interpreter of the District Court.

Mr. Wikramanayake does not object to this provided he is given an opportunity of cross-examining on that translation.

20 This translation is marked P2B, and it is handed to Mr. Wikramanayake for his persual.)

According to the Vinaya, an " aramaya " is a land that is cultivated.

Q. Do you know that there are certain temples, for instance the Asokaramaya, the names of which end with " aramaya " ?

A. There are some such temples now.

They give some name and add the word " aramaya " at the end of that name.

Q. From when did that practice start ?

30 *A.* A long time ago.

I know the Jetawanaramaya. That goes by the name of Prince Jeta.

(Court :

Q. Is that a temple ?

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A. A prince by name Jeta bought a land and spent a large sum of money for planting on that land. Later a vihare was put up there by Anatha Pindika. Originally it was a cultivated field. All this is in the Vinaya Book.

Q. The term "aramaya" is used for a temple or a garden?

A. Now certain temples have the word "aramaya" added with another name.

With regard to this Jetawanaramaya, this Pindika whom I now referred to, and who was a very rich man, bought that cultivated land from Prince Jeta and then put up a temple. The priest who resided there call it Vihara. The term "pansala" comes from the word "pannasala" which means the quarters where Bhikkhus reside.)

(Shown para 2 of P1.) This paragraph says "when all the moneys are collected to buy a land; or if any land is granted, to utilise the moneys so collected for putting up a Pirivena for the purpose of imparting Buddhist education."

(Shown 1D4.) A report issued by me as Parivenadhipathi dated 27th July, 1940.

(Witness reads out para 3 of 1D4.) This paragraph shows the history of this Institution. 20

(Witness next reads out para 7 of 1D4.) In this paragraph I give the members at that time of the Vidyadara Sabha.

There is a paragraph with reference to Rev. Jinaratana in this report; that is at page Six where I express my thanks to various people who helped in the affairs of the Pirivena. That is under the heading "Sadarasthuthiya". When I expressed my thanks to Jinaratana I described Jinaratana as the Chief Pupil of Sri Sumangala. I have said there "Pradhana Sisya" referring to him; why I have said so is because I had in mind at that time that he was the chief pupil of Hikkaduwe Sri Sumangala. The term "Pradhana Sisya" can also give another meaning and that is: "Among the pupils who received education from Sumangala the eldest of those who are surviving." That term can also mean this: "Out of the pupils who received education from Sumangala the most eminent of them."

(To Court :

I thought that Jinaratana was the chief pupil of Sri Sumangala by robing and ordination, and I therefore mentioned that fact in this report.)

That was because Jinaratana himself used to say in public that he was the chief pupil of Sri Sumangala. 40

Q. You had no personal knowledge of that ?

A. I was not even born at that time.

After the institution of this action I came to know that Sri Sumangala had executed a deed (P10) on 31st May, 1879.

Q. In which he nominated Mabotuwana Siddhartha as his pupil ?

A. As Sri Sumangala had no pupil of his own he had appointed one of the pupils of his tutor Rewatha Thero, that pupil being Mabotuwana Sidhartha.

10 *A.* At times I attend the meetings of Vidyadhara Sabha.

Q. Were you present at the meeting of the Vidyadhara Sabha at which you were appointed Vice-Principal ?

A. No. At that time I was in Galle.

I was not present even at the meeting of the Sabha at which I was appointed the Principal of the Pirivena on the death of Ratnasara, in 1936.

I can remember the names of the members of the Sabha at that time, that is in 1936. They are Mudaliyar E. A. Abayasekara, H. W. Amarasuriya, K. W. Gonakumbura, B. R. Dias, T. G. C. Perera, 20 Dr. D. B. Perera, Proctor W. H. W. Perera, J. Moonesinghe as Secretary of the Sabha, G. P. Malalasekera, D. S. Senanayake, W. Arthur de Silva, the then Health Minister, Rajah Hewavitarne and Neil Hewavitarne. I mentioned the name of Mr. H. W. Amarasuriya by mistake. He was not a member of the Sabha then, but he is a member now.

Q. Are the Buddhist laity allowed to go and worship in this premises ?

A. There is no objection to that.

Q. Where do they worship ?

30 *A.* There is a Buduge, there is a dagoba, and there is a Bomaluwa.

This place is generally called Vidyodaya Pirivena. But sometimes some of the people who live nearby call it Maligakande Pansala. (No questions by Mr. Kottegoda.)

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

Further hearing tomorrow, the 5th July.

(Intld.) V. S. J.,

A.D.J.

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No. 27
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(Same appearances as before.)

With regard to the notice for issue of writ, Mr. Somaweera Gunasekera for the 1st defendant, says he has sent a cheque.

(Intld.) V. S. J.,
A.D.J.

Evidence of
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BADDEGAMA PIYARATANA NAYAKA THERO. Recalled.

10

Affirmed. Plaintiff.

Cross-examination by Mr. Wikramanayake.

If a Upasampada priest takes anything that belongs to another, that priest may be committing a sin. As the Principal of a pirivena I know that he is committing a sin.

Q. If a person who is in possession of a property that belongs to you does not want to give up that property, and if you take it by force from that person, are you committing a parajeeka offence ?

(Witness did not give an answer.)

(Mr. Wikramanayake states that he does not mean a land in particular but anything.)

20

(*Court :*

Q. Supposing your robe is taken by another priest, do you commit a parajeeka offence if you take it back from him by force ?

A. If any one takes it by force it may be taken back by force.

Q. Without committing an offence ?

A. Yes.)

Q. Is it not your duty for you to make a compalint to the Sabha about it ?

A. If I cannot settle it myself, then I shall have to ask the Sabha to settle it.

30

Q. Even if the Sabha cannot get that person to give it back to you, is it a parajeeka offence for you to take it back forcibly from that person ?

A. No. It is not an offence.

Q. Even if you can take it back by force, is it not your duty to make an appeal to the Maha Sangha Sabha first ?

A. If my robe is taken in that manner, my duty is to make a complaint to that Sabha.

Q. You say it is not a parajeeka offence for a Upasampada priest to take it back by force ?

A. If he can he may take it back.

Q. By force ?

A. Yes.

10 He can take it back if it is within the " Seemawa " which means " within the walls of the premises ".

I do not know about the fact that an order for costs has been entered in my favour in this case.

Q. Have you not instructed your proctor to recover the costs that were ordered by the Court to be paid to you ?

A. I do not know anything about that.

Q. But you know that a cheque was sent to your proctor being the costs in this case ?

A. I do not know even that.

20 I did not instruct Proctor Abhayanyake to return the cheque that was sent to him. I am not aware of the fact that an application has been made in connection with this matter of costs.

Q. You have filed an application in this case ?

A. My proctor may have filed ; I do not know anything about it.

Q. With regard to this case you did not give any instructions to your proctor ?

A. At the very start I did give instructions to my proctor, but I did not give any instructions thereafter.

30 I know that after I brought this action the 1st defendant's answer was filed. I gave instructions to my proctor at the very start. About the filing of the amended plaint, I do not know.

Q. Did you give these instructions to your proctor : " The plaintiff further states that he and his predecessors entitled have been in occupation of the office of Viharadhipathi of the said temple ever since the death of Sri Sumangala . . . " ?

A. Yes.

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As the Principal I have been functioning as the Viharadhipathi of the temple.

Q. So you admit that there was a temple in this premises ?

A. Yes, a temple belonging to the Pirivena.

Q. Is there a Viharadhipathi for that temple ?

A. There is the Principal who is also the Viharadhipathi.

Q. That is to say, he is the Principal of the Pirivena and also the Viharadhipathi of the Temple ?

A. Yes.

Q. As Viharadhipathi what are his functions ?

10

A. He has the entire control of the Temple.

They are functions pertaining to the spiritual side as well as other functions connected with the temple, such as seeing to the arrangements with regard to the bana-preaching, giving of alms, etc.

Q. All those are the functions of the Viharadhipathi ?

A. In this place those are the functions that belong to the Parivenadhipathi.

As Principal he is in charge of the Pirivena ; and by reason of the fact that he is the Principal of the Pirivena he is also the Viharadhipathi.

20

Q. And as Viharadhipathi he has certain functions such as looking after the spiritual side, etc. in the Temple itself ?

A. The Principal gives orders and his orders are carried out. This particular vihare is kept for the use of this Pirivena.

Q. The public then has no right to worship there ?

A. There is no objection to that.

Q. Have the public no right to go there and worship ?

A. They have no such right, but they are allowed to worship there.

Q. Have you a right to prevent the Public from worshipping there ?

A. No sane person will stop the Public from worshipping there.

Q. My question is, have you such a right—a right to stop anybody from coming there and worshipping ?

A. If anybody comes there with a bad motive, I can stop him.

(To Court :

If anybody comes there to worship we never stop him.)

The Principal has a right to stop anybody coming there to worship, but he will not do that.

Q. How does the Principal get that power ?

A. This place has been dedicated by the Vidyadhara Sabha to the then Parivenadhipathi and his successors in office.

Q. Every temple is dedicated to the Viharadhipathi and his
10 successors.

A. There are some such temples.

Q. Do you say that this is not a place of public worship, where the public has a right to worship ?

A. I do not know whether the public has any right ; but if they come to worship we will not object to it.

(Court :

Q. Is this a place of public worship, as of right, and where no one has the right to stop them from going to worship ?

A. The Public has the right to worship.)

20 There is a temple in Galle by name Sudharmaramaya, from where I came. The public has a right to worship there. The Viharadhipathi cannot stop anyone going there and worshipping.

Q. Similarly, has anybody the right to stop the public coming to this temple and worshipping ?

A. Nobody has such a right. But the Parivenadhipathi has a right to stop a person who comes there with a bad intention.

If a person comes there to steal I can turn him out ; but if a person comes there to worship then I cannot turn him out.

30 Even with regard to the Temple in Galle which I now referred to, if a man comes there to rob or to commit any other offence, the Viharadhipathi of that temple can stop him from coming there. But if a person comes there to worship the Viharadhipathi cannot stop him.

Q. Similarly, in this place if a person comes there purely and solely for the purpose of worshipping and you know it, then you cannot stop him from coming and worshipping ?

A. No. At no time can I stop him.

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 Proceedings
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Q. With regard to this Pirivena, the Parivenadhipathi can stop people from coming there, whether they come to learn or not ?

A. Yes, if a person comes there with a bad intention.

If a person had been of bad character and wants to come there, then the Parivenadhipathi can say, "you cannot come in."

Q. If a man of bad character wants to come there with a good intention, that is purely for the purpose of worshipping, you cannot stop him merely because his character is bad ?

A. No.

I came to this premises in 1925. This institution has been in 10 existence long before that.

From the time I came here I have seen thousands of people coming there on Wesak and other Poya days to worship, and they come and offer flowers.

Q. Do they make money offerings also ?

A. They did that before the charity box was removed.

Q. They make these offerings on Poya days just as they do it in other temples ?

A. Yes.

Q. Now with regard to this Sudharmaramaya when people go 20 there and offer money, with what intention do they offer ?

A. To meet the expenses of repairs of the buildings in the premises, etc.

The purpose is that they and others can continue to go there and worship ; that is the object of making those money offerings. It is with that same object that people make money offerings to the Maligakande Temple also. The object is to maintain that place of worship. In this premises there is also a well-known Pirivena.

There is a Pirivena at Malwatta known as the Sangharaja Pirivena.

Q. Is that an ancient Pirivena ?

30

A. That is a branch of the Vidyodaya Pirivena.

It is established in the Malwatta premises. The Viharadhipathi of the Malwatta Vihare is the Mahanayaka Thero of the Malwatta Chapter. The Principal of the Sangharaja Pirivena is Amunugama Vipassi. The control of that Pirivena is in the hands of the Parivenadhipathi. There are many such places.

Q. The Maha Nayaka of the Malwatta Chapter is the Viharadhipathi of that vihare ?

A. In the case of Malwatta Vihare the vihare came into existence long time ago but that Pirivena came there very recently.

Q. Amunugama Vipassi was appointed by the Viharadhipathi of Malwatta.

A. Not by him alone ; I think he was appointed by a majority of the Sangha Sabha.

(To Court :

Q. Did you say that this Malwatte Pirivena is a branch of Vidyodaya Pirivena ?

10 A. It is not a branch of the Vidyodaya Pirivena ; what I meant was it is a Pirivena that was started by a priest who studied at the Vidyodaya Pirivena.)

That Pirivena has no connection with the Vidyodaya Pirivena.

(To Court :

Amunugama Vipassi was a student of the Vidyodaya Pirivena, and he won the Siam Prize.)

It was Madugalle Siddhartha Thero who started this Pirivena at Malwatta, and he was a student at the Vidyodaya Pirivena. He was a very well reputed scholar who studied at the Vidyodaya
20 Pirivena ; and having realised the benefits of this Pirivena here, he went and started a Pirivena in the Malwatta premises.

Q. And he must have started the Pirivena with the sanction of the Viharadhipathi who at that time, that is before the Pirivena was started, as Viharadhipathi had the full control over the premises there ?

A. Yes. He had the full control of the whole Island being the head of the Siamese Sect.

Q. Can the Head of the Siamese Sect then come and take charge of the running of your temple ?

30 A. No. He cannot do that here.

He has the control of his Vihare there and the land belonging to that vihare. There is a Viharadhipathi at Malwatta ; he is also the Maha Nayaka.

Q. As the Viharadhipathi he has the control over the vihare and the other buildings connected with the vihare ?

A. Generally he has the control.

Q. The same control that any Viharadhipathi has over his own temple ?

A. Yes.

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Evidence of
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 Proceedings
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Q. Are you a Viharadhipathi of any other temple ?

A. A dayakaya of mine has dedicated a vihare which is in Bope, in the Galle District, and I am the Viharadhipathi of that temple. That temple is Sri Sudharmaramaya ; that is a new temple and is different from the old temple which has a similar name. I was resident in the old Sri Sudharmaramaya Temple in Galle, and it is from that place that I came here. The temple that I referred to just now is a new temple, which is close to the old temple.

In that Viharasthanaya of mine, where I am the Viharadhipathi, I have a right to put up any buildings. If anybody else wants to put up any building in that premises he has to obtain my permission. That is a right which I possess as the Viharadhipathi of the Temple.

Q. The Maha Nayaka of the Malwatta Chapter has a right over his vihare as Viharadhipathi similar to the right that you have over the Sri Sudharmaramaya Temple as Viharadhipathi ?

A. In the case of Malwatta Chapter there are several sections belonging to various other persons.

There are 20 temples which are generally referred to as Malwatta, one of which is Uposatharamaya.

Q. We are now dealing with one particular temple over which the Maha Nayaka of the Malwatta Chapter as the Viharadhipathi has the control. So far as this temple is concerned, has the Maha Nayaka the same powers as you have over that temple in Galle ?

A. Yes.

Q. And therefore it must be with the consent of the Maha Nayaka that anybody can set up a Pirivena there ?

A. Yes, in this instance, it must have been with the consent of the Maha Nayaka ; but there are other places where that power is in the hands of a body and not of the Maha Nayake.

The decision of the majority of the body is given effect to. That is what I believe.

Apart from being a Principal of the Pirivena I am in charge of the priests also. I am one of the few priests who preside at Upasampada Ordination. So far as the priests who studied at the Malwatta Chapter are concerned, their ordinations take place at Malwatta. To a certain extent I know what is taking place at Malwatta.

There are several places where there is a pirivena as well as a temple. Agrabodhi Vihare Pirivena is an instance. I believe that Pirivena is not in existence now. That Pirivena was in Weligama.

Originally there was only the temple there, but later they started the Pirivena. The Pirivena is no longer there, but the vihare is still there.

Q. When both were there, there were a viharadhipathi for the temple and a Parivenadhipathi for the Pirivena ?

A. There was only one person, and he was known as Vihare-parivenadhipathi.

He had the control of the temple and the temple premises as Viharadhipathi and also of the Pirivena as the Principal.

10 *Maha-vihare Pirivena in Ruanwelisaya is another instance. Originally there was a vihare there and later a Pirivena came into existence in that premises ; in that place also, as far as I know, there was only one person in charge of both the temple and the Pirivena.*

I know the Ratmalana Parama Dhamma Cetiya Pirivena.

Q. That is the Pirivena in which Sri Sumangala himself studied ?

A. At that time there was no Pirivena by that name ; but he had studied there. Originally there was a temple there and now there is a Pirivena also there.

Q. The present Viharadhipathi of that temple is Walane
20 Santhissara but the Principal is Yatipahuwe Marananda ?

A. He has been brought there from some other part of the country. The Viharadhipathiship of that temple will go by succession under the Sisyanusisya Paramparawa. I think it is Rev. Santhissara who appointed Rev. Marananda as the Parivenadhipathi of the Pirivena.

Q. So you realise that there are two distinct functions—one as Viharadhipathi and one as parivenadhipathi ?

A. Yes.

Q. That would be so wherever there is a temple which is a
30 place of public worship and a Pirivena attached to it ?

A. Yes.

They are two different functions. If the vihare was built earlier and the Pirivena came there later, then that Pirivena belongs to the vihare. But if the Pirivena was established first and the vihare came there later, even though the vihare is a place of public worship, that vihare belongs to the Pirivena and is attached to the Pirivena, and is under the control of the Parivenadhipathi. It all depends on what came first.

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Cross-
examination—
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Q. Can you establish a Pirivena on a property which is not a Sanghika property, but one that belongs to a private individual?

A. Yes. If the owner of that property consents to it.

Q. Can you have a Viharasthanaya established for public worship on a property which is not a Sanghika property, but a private property?

A. Yes.

Q. Where the public has a right to worship?

A. In the case of a private property, if it is the wish of the owner of that property he can establish a vihare; and he can stop anybody coming there to worship because it is his own private property. 10

But in the case of a vihare that is established in a Sanghika property the public has a right to go there and worship.

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

Adjourned for lunch.

5.7.50.

D.C. 2882/Land.

5th July, 1950.

After Lunch.

BADDEGAMA PIYARATANA NAYAKA THERO. Recalled. 20
Affirmed.

Evidence of
Baddegama
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Continued

Ananda Pirivena is at Kitulampitiya. It is on Sangha land. During the time I was Vice-Principal and Principal the Viharadipathy of the Anandaramaya temple was Weliwitiye Sri Dharmaratana Thero. It was he who appointed me as Vice-Principal.

Q. You, as his senior pupil, succeeded him as Viharadhipathi?

A. Not the senior pupil. The junior pupil by appointment by the priest. After his death the junior pupil succeeded.

Q. How?

A. The senior pupil did not come forward for the Viharadhi-30 pathiship.

Q. A pupil of his successor, according to Sisyanusisya Paramparawa, succeeded to the Viharadhipathiship?

A. Not the senior pupil but another pupil.

But the succession was according to Sisyanusisya Paramparawa. The name of that gentleman was Nagoda Pandita Pangaratana Thero.

Q. Was it Nagoda Pangaratana who appointed you Principal ?

A. In June, 1919, at about 9 p.m. a Sangha Sabha was held and those two Sabhas appointed me.

Q. As what ?

A. As Parivenadhipathi.

Q. That is, did you function there against the wishes of the succeeding Viharadhipathi ?

A. They were like my pupils. They did not object.

Q. The right of appointment is with whom ? Who has the
10 right to appoint the Principal of the Ananda Pirivena ?

A. The Sangha Sabha and the Dayaka Sabha.

(To Court :-

Q. When you came away from that Pirivena was a successor appointed to you ?

A. After I came here.

He was appointed by the members of the Sangha including myself.

Q. How was it you were appointed Vice-Principal by the Viharadhipathi and not by the Sangha ?

20 A. That Nayaka Thero who established that Pirivena was my tutor.)

Q. Do you say it is the Sangha Sabha who has got the right to appoint the Principal and the Vice-Principal or has the Viharadhipathi the right ?

A. The appointment of a person to be in charge of any Sanghika property is not the Sangha Sabha. That is according to Vinaya law.

Q. But today the succession is according to the Sisyanusisya Paramparawa in Ceylon ?

A. That is the law in acceptance today.

30 Under that law a Viharadhipathi has the control over his temple. In the Anandaramaya Pirivena the Viharadhipathi has the control of the appointment of a Principal in his Pirivena at present. There was then when I was Principal one person functioning as Viharadhipathi of the Viharasthanaya and I functioning as Principal of the Pirivena. The Kitulampitiya Pirivena was started after the Viharasthanaya.

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Q. Can you give me any other instance except the Maligakande Pirivena where the person appointed to be the Parivenadhipathi is the Viharadhipathi and where the succession does not go according to the Sisyanusisya Parmparawa ?

A. At the Addabodhi Pirivena the Viharadhipathi and the Parivenadhipathi are one and the same person. At Maha Vihare also it is like that.

In both those institutions the succession to the Viharadhipathiship is by the rule of Sisyanusisya Paramparawa. The term Viharadhipathi was not known in the Vinaya. 10

Q. That has come into existence as a result of the rule whereby the Sangha appointed a priest to be in charge of the Sangha property ? Sisyanas property has to be managed by a member of the Sangha ?

A. Sanghika property has to be managed by a member of the Sangha appointed in Ceylon by the Sangha.

Q. Later on from time to time the Sangha recognised the senior pupil of the previous holder of the office as the person who would be in control ?

A. Yes. Provided he was a suitable man the Sangha would recognise him. 20

That is how the practice of the rule of what is known as Sisyanusisya Paramparawa grew up. So far as the time of the Buddha was concerned, the rule was what was Sanghika property should be controlled by members of the Sangha.

Q. And in the time of the Buddha there was no question of control in this sense ? The property which belonged to the Sangha formed the abode of members of the Sangha and they would reside there ?

A. In the general Sanghika property.

At the time of the Buddha there were no types of Pinkama. 30
 At that time any member of the Sangha was entitled to reside in Sanghika property, and they did so reside.

Q. It was necessary under those circumstances for one person to be responsible for looking after the needs of the priests resident ?

A. Where several priests resided.

But the Sangha could appoint any other person.

(Shown a side lined portion at the bottom of a page of "Chullawagga Panya")

This forms a part of the Vinaya and is a saying attributed to the Buddha. Those words mean, "O monks! I allow you to elect unanimously a Bhikku who possesses five good qualities as Sennasana Dahapotha." Sennasana Dahapotha means a person who looks after the needs of the others. Sennasana is the place where Bhikkus live. "Daha patha Danwanna" means the person who will allocate the different parts of the abodes of the priests to the various priests in that particular place.)

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Q. That is how you first came to be in charge or control of the
10 premises ?

A. Of places where there are a large number of priests. Wherever there is Sanghika property it must be controlled by a member of the Sangha. The meaning of the word "Sanghika" is "Belonging to the Sangha".

(Shown a text from Patchitiya Pali which also forms part of the five books of the Vinaya :

In that passage it is said that a thing which is given or presented to the Sangha is known as Sanghika.

Q. "Sanghika Viharo Sangassa Dinanhoti Parichcheke" des-
20 cribes anything that is Sanghika ?

A. That is the meaning of the word Sanghika.

That may be a temple or anything other than a temple. I see in the same text at page 53 a definition of what is sacred to the Sangha. It may be a temple donated or presented to the Vihare. "Sanghika-name viharo Sanghassa Dinnohoti Paratchcheke" means a temple donated or presented to the Sangha.)

I have heard of the Vinayalankara.

(Shown a book : This is the Vinayalankara. I have read this book. It is a digest of the Vinaya. This is a commentary by a
30 Burmese priest on Palliwakkawali Vinaya Vinishaya.

Q. Do you agree that that sets out correctly the Vinaya law ?

A. To a large extent this is correct, but there are some passages in this which are not accepted in Ceylon by those in Ceylon learned in the Vinaya.)

(Shown page 322 of the same book : witness reads :

After a thing is given to the Sangha or to a section of the monks or to an individual monk it cannot be controlled by the Dayakayas. There is no reference in this to a condition, and I say that this applies generally but does not apply where a condition is laid down by the
40 giver).

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Q. Can you find any authority in the text for the provision that where a condition is imposed this law does not apply ?

A. I can show.

Q. What is the book ? Is it here in Court ?

A. It is here. The name of the book is Pallimutha Vinnaya Vinnasthaya Sangha. The comment is on this. It is on pages 261 and 262.

The Burmese book Vinayalankara is a commentary on the passage I am referring to now.

Q. Is the passage that I showed you the commentary on the 10 passage which you are now referring to ?

A. This is another passage.

It means that if some person invites a priest for the Vas period to some Avasa, then during that period if they stipulate that some person must keep the place clean they will give alms to the priest. If they want alms given to the priest, that priest must keep the place clean. The Dagoba and Bomaluwa must be kept clean. The priest must see to that. Vasa Vasika refers to the robes and other things given to the priests. All that says that if that priest wants to receive the Vasa Vasika then he must carry out the instructions of the person there. 20 That passage refers to the priest who is going to reside in the Vas season.

Q. When a priest goes and resides in the Vas season he is in Sanghika property ?

A. (No answer.)

Q. He merely is there with the leave of the priest who allows him to be there during the Vas season ?

A. It is not property that is given to the Sangha when he stays there.

Q. Do you go to premises that are not Sanghika during the Vas 30 period ?

A. Sometimes.

Q. Do you say that this passage refers to a Sanghika property where the Vas period is observed ?

A. It may be so.

Q. Do you say it definitely does ? Do you say this is a commentary on the passage I read out to you ? Do you say this refers to Sanghika property ?

A. To a Sanghika property to which people go and observe the Vas period.

If a person expects or hopes to receive that " Tirika " referred to there, he must carry out the directions of the Vinaya with regard to keeping the place clean.

Q. And the giver referred to in that passage is the Sennasana Dahapatha who distributes ?

A. No.

Q. Not through him ?

10 A. It is through him.

It is his direction which requires the place to be kept clean, which is in that passage.

Q. The giver there whose directions have got to be followed is the Sennasana Dahapatha ? The person who resides there and gives certain instructions as to keeping the place clean is the Sennasana Dahapatha ? Who is going to give the directions about keeping the place clean ?

A. The Dayakayas.

The Sennasana Dahapatha allocates the property which is given 20 by the Dayakayas.

Q. Is there any other passage you can show in support of your contention that the text provides for a dedication to the Sangha and for making it Sanghika with the reservation of control by the Dayakayas ?

A. (No answer.)

(To Court :

This property was given by those 13 people to Sri Sumangala subject to certain conditions. In that dedication they have stated that it is given as Sanghika property. I admit that this property 30 has been given as Sanghika property subject to conditions. Under certain conditions it is given as Sanghika.

Q. That is to say that the property now belongs to the Sangha ?

A. The Vidyodaya Pirivena.

Q. And then when you give to the Sangha it is the Principal priest mentioned and he becomes the Viharadhipathi ? Like at your temple in Galle ? That has been dedicated to Sangha at one time ?

A. Yes.

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That is Sanghika property.

Q. Any member of the Sangha coming from any part of the world can go and reside there if he likes ?

A. That particular temple was not given to all priests. But in that particular temple there is a Viharadhipathi now. He is appointed according to this Sisyanusisya Paramparawa.

Q. What the defendant says is that when a property is given to the Sangha as Sanghika property then this Sisyanusisya Paramparawa must apply ? That is, the Sisyanusisya Paramparawa in Ceylon ?

10

A. That is what the defendant says.

Q. What the defendant says is that once it is given to the Sangha the lay people cannot appoint a Parivenadhipathi or Viharadhipathi or Parapalam ?

A. Yes.

But I say that this Vidyadhara Sabha has control of this and can appoint the Parivenadhipathi.

Q. You are asked to say from any of these texts from the Vinaya whether there is provision for this restricted gift ?

A. Yes.)

20

Q. Where nothing can be given to the Sangha, the Dayakaya retaining the right of control ?

A. (No answer.)

(*To Court :* -

I know these two deeds of 1879 and 1882. The Sabha have given those deeds. What the defendants say as regards the right of appointment, these people have no right to have that even if Sri Sumangala promised to follow those directions. I know that once it is given as Sanghika, these people have no more control.

Q. We want to know whether from any text you can site any authority to show that ?

A. I have not seen in any of those texts whether any property can be dedicated to the Sangha with conditions.)

Q. You have not seen any such text which says it can be given with reservations ? Can you show a passage which shows it is allowed ?

A. The example I just cited is one of the other passages which show that. There may be others.

Q. You are thoroughly familiar with the Vinaya ?

A. Hikkaduwe Sri Sumangala was much more learned than I, and he would never have accepted these conditions if it was not permissible in the Vinaya.

I have been the Principal of a Pirivena for the last 25 years both at Anandaramaya and here.

Q. 25 years in the Vidyodaya Pirivena as Principal and Vice-Principal ?

A. 25 years in all.

10 *Q.* Before that I have been for several years as Principal and Vice-Principal of the Anandaramaya. I have been the person who presides at ordinations by reason of my scholarship and for my knowledge in the Vinaya. Among scholars of today I am in the front rank.

Q. Being a scholar who has been so educated in the Vinaya and Dhamma, you can by Friday give me any passage or text other than this passage ?

A. I had no reason to search.

Q. So far as you know, there is no passage which expressly says so ?

20 *A.* I cannot remember.

Q. You say you know this thoroughly—you know there is no other passage ? There is no other passage other than the passage you referred to where it is given to a layman to reserve the right of control of Sanghika property ? You cannot point to any other passage in any text which says expressly that if a person makes a property over to Sangha he can reserve the right of control to himself ?

A. I cannot say now. I will look through the book and say on Friday.

(To Court :

30 *Q.* Will you say this : If a layman gifts any landed property and says he has given it as Sanghika property but imposes certain conditions, one of the conditions being that he is in control of the property, will that property become Sanghika in spite of the fact that he has used the word "Sanghika" in the gift ?

A. Yes. It is Sanghika for the purpose of taking the profits of the land.

Q. Is there anything in the Vinaya that will support this apart from what you said ?

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A. There is, at page 58 of the same text.

Here, when the property is given as Sanghika with conditions the Sangha can take the profits but the donor can take the control of the land.)

Q. Does the ownership pass to the Sangha ?

A. Only the plantations on the land at the time. Instead of the land for ever the crops on the land can be given to the Sangha.

Q. What is given there ? The land or the crops ?

A. The land is given and the paddy field is given. The Sangha can take it. 10

Q. What can he do if they take the produce of the land ? Do you say that according to the Vinaya no lands or fields can be given ?

A. Only the produce of the land.

Q. First of all the land or the fields could be given ?

A. It is so stated.

(To Court :

Q. If a layman gives a person a land to establish a temple?

A. A land can be given but a layman cannot establish a temple.

That is just as it is in my temple Sri Sudharma at Bope. I said my Dayakayas gave me land to establish a temple and I am 20 the Viharadhipathi. That was a land given to me for the Sangha.

Q. You are the Viharadhipathi and there is a temple established there ?

A. Yes. Not a Buduge but an Avasa.

That was given as Sanghika property. There an Avasa was built and the produce of the land was given to the Sangha and I am the Viharadhipathi of it. Those people could have given it to me as Sanghika property and could have made it subject to certain conditions if they wanted to do it.

Q. If they gave it to you as Sanghika property and made it 30 subject to conditions, still it would have been Sanghika ?

A. One is accepted under conditions. Still it would be Sanghika.

They call it Sanghika and give it but impose conditions. Owing to the fact of those conditions it would not cease to be Sanghika. The conditions will not make that property less Sanghika.)

I said that no land could not be made Sanghika.

Q. In this very Maligakande Temple when Hikkaduwe Sri Sumangala was the priest in charge of it you said that they imposed certain conditions ?

A. There is no prohibition in the Vinaya rules.

Q. Any conditions that are not in the Vinaya rules ? Any condition that is not against the rules of the Vinaya ?

A. Yes.

Q. So that if a person dedicates as Sanghika property with conditions, some of which are against the rules of the Vinaya and some are not, what would happen ? Will you acknowledge that a person can dedicate a property as Sanghika with certain conditions ?

A. Yes.

Q. Some of those conditions are against the rules of the Vinaya and some are not against the rules of the Vinaya ? What will happen then ? Do you disregard the conditions that are against the Vinaya and treat it subject to the rules that are not against the Vinaya or as a whole gift ?

A. If the conditions are not contrary to the Vinaya they will be accepted.

Q. That would depend on the person who accepted it and his knowledge of the Vinaya rules ?

A. If he is a person well disciplined he will not consider the case.

Q. Let us consider a person who is not so well disciplined and he accepts a gift, and let us take it that a person dedicates a property as Sanghika property ?

A. Yes.

Q. I am merely putting to you a possibility. A person dedicates a property to the Sangha. That is to say to the whole body of priests, one priest accepting it ? That will be correct ?

A. Yes.

Q. In the dedication to the Sangha the person who gifts it imposes certain conditions ? Some of those conditions are not contrary to the Vinaya and are not acceptable ?

A. Yes.

Q. There may be other conditions which are contrary to the Vinaya which the priest would not notice or would not know were contrary to the Vinaya and therefore takes it ?

A. Yes.

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Q. Then does the gift remain Sanghika subject to the conditions that are good, the others being disregarded ?

A. It becomes Sanghika. The descendants of the donor can be called upon to rectify those conditions.

If he does not rectify those conditions it will still remain Sanghika.

Q. And until the donor or his descendants put right those wrong conditions they will be disregarded ?

A. May be. It may continue like that.

Q. Otherwise ?

A. (Witness gives the same answer.)

10

Q. Or if the person who dedicates, or his descendants, do not want to do anything it will remain Sanghika property in law ?

A. The day one gets to know the wrong it can be rectified.

Q. The rectification must be done by the grantor or his descendants ?

A. The kings of the country also can do it.

Q. But if the grantor and his descendants have lost interest and do not want to put the matter right the property will remain Sanghika and the priest in charge will just ignore those conditions ?

A. It will remain Sanghika.

20

Q. And until those conditions are rectified it will remain ?

A. That is called Akapiya Sanghika. It is in the Vinaya Pitaka. I cannot remember that now. I can bring it on Friday.

(Shown page 322 side-lined in the corner from the Vinayalan-kara : Witness reads that : That passage means that the thing that is given to the Vihare is really given to the member of the Sangha who is in control of the Vihare. Lands and fields can be given to the Vihare and the member of the Sangha in charge of the Vihare. "It is against the Vinaya rules that you cannot give a land and a field, but you can give the profits." It can be given to the Viharasthanaya.) 30

Q. And to whom is it given on behalf of the Viharasthanaya ? According to that passage ?

A. It is given to the vihare and can be accepted on behalf of the vihare by any member of the Sangha.

Q. Does it apply to a person who is residing in the Vihare ?

A. To the person residing in the vihare on behalf of the Sangha. It can be given by a person residing in the vihare and not to any person.

Q. What is referred to there as being given to the vihare is fields and lands ?

A. May be so.

Lands and fields can be given to the vihare and accepted by the person in residence at the vihare on behalf of the Sangha.

Q. You said the word "Aramaya" was being used for a pleasure-garden or a planted land ?

A. That was the meaning originally. Aramayawatte was land once under cultivation but now being neglected. 2,000 odd years ago
10 the word "Aramaya" was used to denote a land that was cultivated land.

(To Court :

Q. Is that in contrast to jungle land or forest land or waste land ?

A. Cultivated land is Aramaya ; uncultivated land, once which had been cultivated to abundance is Aramayawatte.

"Wanantara" is jungle land. I said planted land is called Aramaya. The opposite of that is forest land.

Q. You find in the preface of Pirith "Jethawana" for a forest ?

A. The lands planted by the jungle. The planted gardens of
20 the king Jetha or Prince Jetha. "Anatha Pindika" 'bought the land for money'. He bought the land from that Prince and built temples and other buildings and dedicated them to Lord Buddha. In the text "Evam me sutam ekan samayan . . . pindikassa arame" Aramaya means garden.

Q. When you start chanting Pirith you use a sort of fanfare—we are now trying to find out what "Aramaya" means there ? What is "Aramaya" there ?

A. That refers to the temple built by Anatha Pindikassi. It
30 means a Viharasthanaya built by that Pindikassi priest. He built that in the garden of Jetha. At that time the word "Aramaya" was used to describe the place where Buddha and his priests resided.)

That was over 2,000 odd years ago.

Q. From that time downwards up to date in Ceylon the word "Aramaya" has been regularly used of a residence of a priest and not of a garden ?

A. Generally now it is used for temples.

Q. Within the last 1,500 or 2,000 years ?

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A. I am a scholar in the Sinhalese language. I have studied history. I have read books that have been published within the last so many hundreds of years.

Q. Have you ever, unless you can go back to things over 2,000 years old have you found the word "Aramaya" used except for a temple? Unless you go back to literature over 2,000 years?

A. In the older days as well as now it is only used of a temple, not of a garden.

In paragraph 15 of my original plaint I have stated that the members of the Sangha erected an Aramaya meaning a temple and 10 not a garden.

Further hearing 7th July, 1950.

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

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7th July, 1950.

Same appearances as before. But not Mr.....

BADDEGAMA PIYARATANA THERO. Recalled. Affirmed. 20

Cross-examination (Contd.).

Q. I want to show from the Pitaka that in your statement where you referred to Jethawana itself the word Aramaya was used in the sense of garden?

A. Prince Jetha had a garden. That was known as Jethawana. In the word Jethawana the "Wana" is garden.

Q. And Jethawana is garden of Jetha?

A. The word "Wana" is normally used for jungle which is self grown.

Q. Prince Jetha had a garden which was a cultivated land? 30

A. An "uyana" and that garden was known as Jethawana. It was Anathapindika who built the temple.

(Shown the top of page 277 of the book Vinaya Pitaka Chulawagga Pali, the first line of which is side-lined: It says "O Lord Buddha, please give me your garden to build a temple.")

Here Anathapindika was known to Prince Jetha and said thus :
 “ O Lord, please give me your garden to build an Aramaya.” So
 that what was built there, the Aramaya itself, was the temple in the
 garden of Jetha or the residence of priests in the garden of Jetha.
 Just below the two lines quoted it is stated, “ Even if the Aramaya
 premises have been spread with pieces of gold it will not be given.”
 In that text the prince says that even if the Aramaya is covered with
 gold he cannot give it. There the Aramaya means the ground.)

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(To Court :

10 Lord Buddha resided in these premises at some time.)

On the last date I said that I could not give the Court authority
 straightaway for the proposition that once a property was dedicated
 to the Sangha the Dayakayas or laymen still held the control, and I
 undertook to bring the authority today. I have got that. I have
 brought a book to prove one of those propositions.

Q. You have then no authority brought to Court today from the
 Pitaka to support your statement that where property is made San-
 ghika there can be a reservation of control in the Dayakayas ?

A. I can quote that from the Dhammapada Attakatha by
 20 Buddhaghosa. It is at page 644 of the Dhammapada Attakatha by
 Buddhaghosa in the old edition dated 1898.

Q. What does it say ?

A. The resident vihare was built by a Dayakaya named Abara-
 khita whose elder brother had taken robes and had attained the
 highest order. That dayakaya who was going to offer it to his brother,
 who was a priest, said he was going to offer it to the Sangha. When
 Lord Buddha arrived there he only came under the portico of the
 building but did not step into the main building. The reason was that
 there was very valuable wealth inside the building and if and when the
 30 Lord Buddha actually occupied it various people would have come
 and removed the valuables and the Lord Buddha was not in a position
 to protect these valuables. Then the Arahath, who was the brother
 of the Dayakaya, told the Dayakaya to tell Lord Buddha that the
 Lord Buddha himself will not have any responsibility of protecting
 the valuables inside the house, but that the Dayakaya himself would
 take care of all that and accept the offering. Then Lord Buddha was

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invited to accept the premises in the way the Dayakaya had been advised by his brother the Arahath. Then the Dayakaya said, "O Lord Buddha, the taking care of the thing will remain in my hands. You had better please accept this offering." After the offering was made in this manner Lord Buddha went inside the house. The Dayakaya placed a guard to protect his valuables that were inside.

Q. The Dayakaya undertook to protect the valuables which were inside the property, which valuable the Lord Buddha could not take over as he could not protect them? What are the valuables?

A. Various gems. There were other valuables, but special¹⁰ mention was made of the gems.

Q. Gems placed where?

A. In the room that was provided for the occupation of Lord Buddha the valuable gems had been spread over the floor. Some gems had been set on pillars and some were on the ground. On the seat of Lord Buddha was a big gem of the size of a cucumber. When the Lord Buddha and the members of the Sangha who were with him went into residence there would have been certain arrangements with regard to sleeping and other things like that of the other members of the Sangha. Arrangements had to be made. Priests had to be told²⁰ which rooms they could occupy, etc.

Q. That would ordinarily be the functions of the Sennasana Gahapaka?

A. On that occasion of the dedication of that particular place to the Buddha it must have been the Dayakayas who set up.

Q. Thereafter, the reservation by the Dayakaya when he invited the Buddha to enter was with regard to a request by him that he would protect the jewels, not the right that he would protect the premises? Not the right to control the premises?

A. In any vihare the Dayakaya has a right to control the build-³⁰ ing. I can give an authority for that.

Q. You said "control", or is it his duty to upkeep?

A. Yes.

Q. Do you say the control is also with the dayakaya?

A. It is the duty of the dayakaya who built that vihare to have the control also.

In those days the vihare meant the buildings where the Bhikkus reside. Now a vihare means the place where the images are.

Q. What are the functions of the Viharadhipathi ?

A. There is no Viharadhipathi in the Vinaya. There is a Viharadhipathi according to the law that is prevailing in the country. He is called the incumbent.

Q. He is the person who has the control of the Sanghika premises ?

A. The person who controls the premises justly has got that designation.

Q. The Viharadhipathi today is the successor of the Sennasana
10 Gahapaka at the time of the Buddha ?

A. Sennasana Gahapaka should not necessarily be the incumbent.

Q. So you say that the dayakayas who dedicate a temple have after that dedication any rights of control ? Have some rights of control ? In all cases do you say that dayakayas have the right of control ?

A. Everywhere they have the right of control.

I can quote an example. It is on page 31 of the same book.

(To Court :

20 We have got this Jethawanaramaya given by Anathapindika.

Q. There was some trouble about it after Buddha attained Nibbhana ?

A. During his lifetime there was some trouble between two sects of his disciples.

Q. About this Aramaya ?

A. About the interpretation of some precept. The two sects interpreted the same text in two different ways, but they were very pious. But Lord Buddha advised them to come to a settlement. But they were going on with their arguments about the interpretation.
30 Then Lord Buddha went into the Parileji jungle for 3 months without coming to the Jethawana Temple. Then the chief dayakaya Anathapindika became displeased with the Sangha, saying that owing to your discussions we have not got the opportunity of seeing the Buddha. They said they would not worship or give alms till the Lord Buddha has come back. Then all the dayakayas invited Bhikku Ananda to get Lord Buddha to come back. Lord Buddha was conducted to a Sravasthi. The king made a proclamation saying he could not allow the Sangha to enter the city because the Sangha was not obedient to Lord Buddha. Anathapindika also said he would not allow them to

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come into his vihare. Lord Buddha then said that both sects of the priests were very pious and good and that the only trouble arose over the interpretation of a certain precept and told the prince to allow them to come into the city and the Aramaya.)

Q. Those were Bhikkhus who according to their views had gone against the Buddha himself? The way in which he prevented them from going into the Aramaya was by preventing them from going through the lands which they had to traverse in going into the Aramaya?

A. That was not so. Anathapindika said "I will not give you 10 admittance to my vihare." That was the vihare I said was dedicated to the Buddha and to the priests who came for instructions.

Q. He prevented them by merely telling them not to enter? Had the dayakayas any right to appoint the person who was going to look after the premises?

A. (No answer.)

I also said that there were different types of Sanghika dedication.

Q. Thus, so far as the Vinaya Pitakas themselves are concerned, the only dedication of land was the dedication of land to the priests from the four corners? There is this rule: According to the 20 Vinaya if a land or field or tank is given the Sangha is prohibited from accepting it but they can accept the produce?

A. They cannot touch money, only the produce.

If Your Honour pleases, I am prepared to give quotations from the Sannas dealing with the appropriation of Sanghika property relating to the dedication to the Sangha.

(Shown "Chulawagge Pali" at page 283: The Lord Buddha has asked them to dedicate it to the members of the Sangha, present and absent, from the four corners. That was the answer the Buddha gave to that gentleman when he was asked how to dedicate this 30 Jethawanaramaya. It was to be dedicated to all without a single exception.)

(Shown page 263 of the same book: When asked by somebody how they should dedicate their vihares the Buddha says the same thing with reference to the vihares. In the Vinaya in the Pitakas themselves you find no reference to a dedication of any lands or vihares or to an immovable acceptable to all the Sangha with regard to lands. Even if anybody else were to ask, I would say that no merit will be acquired.)

Q. The only form of dedication known to the Pitakas about lands and vihares is the dedication to the whole Sangha? Not to people within that area or to any restrictions which you drew?

A. Yes.

Q. There is even in the Pitakas restricted dedication within a particular area where there is reference to the dedication of things like robes?

A. Yes. That is so. There is provision.

(Shown page 346 of the Maha Wagga Pali : I accept it.)

10 *Q.* What is the definition of the word " Pirivena " ?

A. Now the word Pirivena means some place where teaching is done to Buddhist priests who are either resident or not or who come there, and the teaching is in respect of oriental language and also the Dhamma and the Vinaya.

Teaching is done mostly by priests, but this Pirivena has been established for imparting knowledge to Buddhist priests and lay people.

Q. The early meaning of the word Pirivena is the same as the modern meaning?

20 *A.* It has not all along been like this, but the word " Vihare " has been used for institutions where teaching is conducted.

Q. A Pirivena is a place where priests reside and where priests are taught by priests?

A. Yes. Mostly.

Oriental languages are taught to lay people and to people of other religions as well.

Q. A Pirivena then cannot be dissociated from a place where priests reside? There would always be priests residing in a Pirivena?

A. Yes.

30 Where the priests reside is the Vihare.

Q. Can the post of Parivenadhipathi be held by a person other than by a priest? Can anybody other than a priest be the Parivenadhipathi?

A. I know of no instance where a layman has been designated as such, but if an educated priest cannot be found there is no objection to a priest who has given up the robes being appointed Parivenadhipathi.

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Q. Can it be possible ?

A. Pirivenas are always for the use of the bhikkhus.

Q. Although there have been no instances of a good layman being a Parivenadhipathi ?

A. There is no impossibility to appoint a layman who is well versed in the Vinaya and the Buddhist doctrine, in the absence of priests with the same qualifications, but I know of no instances where a layman is a Parivenadhipathi. It is only a person who is learned in the Vinaya and the Dhamma who can be a principal.

Q. And if in an exceptional case you find a layman who knows 10 the Dhamma and the Vinaya even better than the priest, then there is no objection to his being a principal ? If you can find such a person ?

A. If it is altogether impossible to find a priest, that work can be done by a layman, but it will be preferable that a priest is appointed.

I said that in the Vidyodaya Pirivena it must be a priest.

Q. Why is that ?

A. According to the deeds the Parivenadhipathi has to be a priest.

Q. Is the place "Avasa" where the priest resides a place of 20 worship ? Taking the word Vihare in the sense in which you used it, is that a place of worship ? In the sense, not of the Buduge but the place where the priests reside, is that a place of worship ?

A. (No answer.)

Q. So that it was done in the place where priests reside ? In the place where you live ?

A. If there are no dayakayas.

Where there is no Image House and no other place to worship, then in the building where priests reside a room can be set apart to keep an image and other things and people can worship. 30

(To Court :

In this Vidyodaya Pirivena there are buildings where priests reside. They sleep, study and live there. People do not go there to worship. People do not go there to worship unless they go there to worship the priests.)

The Bhikkhu himself is an object of worship.

Q. They worship the robes or the person ?

A. The person, because he wears the robes.

The Triple Gem is the Buddha, Dhamma and Sangha. They are all places of worship.

Q. So the priest is an object of worship, not the robes ?

A. The Sangharatana consists of those who have attained the highest order. I am talking of people who have attained some higher plane in their meditation.

The Vihare is a place where many priests reside. Everyone of those bhikkus is an object of worship to the Buddhist laity if they are living within the Sangha. Till they are expelled from the Sangha we
10 assume that they are living within the Sangha.

Q. Where priests reside together, that place is a place of worship? Because there are so many people to be worshipped in that place ?

A. Yes.

Q. And if that place is a place where the public has access of right, the members of the Public have a right to go there and worship ?

A. (No answer.)

(*To Court :*

Q. You have got this place where the priests live ?

20 Not those Bomaluwas or the Viharages or other things ?

A. Yes.

The priest also can be worshipped.

Q. The question is, if the members of the public have a right to go there then they go to the place where you live and worship the priests ?

A. Yes.

Q. Does that place also become a place of worship ?

A. Not usually.)

Q. That is because people do not go and usually worship the
30 priests in their vihares ? They do not as a rule go and worship the priests ?

A. If one goes to an Image of the Lord Buddha and thinks he is worshipping the Buddha. Worshipping an ordinary priest is something like worshipping one of those Bhikkus who had attained the highest plane of the Arahat.

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Q. Let us take the ordinary routine of the laity who go and worship in the temple. The triple gem is the Buddha, Dhamma and Sangha? They go first and worship the Buddha in the place of the image that is there? Then they go from there to the Pothgula and worship the Dhamma, and last of all they go to the Avasa or vihare and worship the priests? That is the order of worship? Sometimes they change the order but they worship all three?

A. The question has not been properly understood. When Buddhists go and worship the Triple Gem they go to the Image House and to the Bo-tree and to the Dagoba thinking they are worshipping 10 all the Triple Gems.

Q. They do not go and worship the priests before they go out?

A. Those who know the priests come and worship.

Q. Do people come to your residence and worship you?

A. All those who come to the vihare would not come to me, but a few who are known to me come.

Q. Those who are not known to you do not come and worship?

A. On occasions some people tell me they are desirous of seeing me and when I enquire they tell me they have come from the Kandy district. 20

Q. Do you say that people who are not known to you when they come to the temple to worship, do they not come and worship you? Has it not been your experience that a person after worshipping all three Gems comes and then worships you? You have said that they worship all three Gems in one place?

A. Yes. All in the mind.

Q. But there are among them people who still think they must worship the three in three different places? Will you admit that?

A. (No answer.)

(To Court :

30

Q. Are there people who think they must go to the Bo-tree and the Pothgula and then think they must go and worship the priests also?

A. There may be.

Q. Do people worship like that?

A. I cannot say whether people do it with that in mind, that is, that they must worship in all three different places.)

(To Court :

Q. Do they in point of fact go round to all three different places ?

A. Yes.

On Wesak days people also come to the Maligakande Temple. There are the Viharage and the Bo-tree. Big crowds go to worship on Wesak days.

Q. We want to know whether most of that crowd go to the rooms where you reside, to worship the priest also ?

A. I do not think even one in a thousand comes to the place
10 where we live and worship us.

(Court adjourned for lunch.)

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

D.C. 2882/L.

7th July, 1950.

After lunch.

BADDEGAMA PIYARATANA NAYAKA THERO. Recalled.
Affirmed.

Cross-examination (Contd.).

Q. The commentary by Buddhagosa is a commentary on the
20 Vinaya Pitakaya ?

A. That is a commentary in respect of one of the books on the Thripitaka.

(Shown passage 326 in Vinayalankaraya.)

Q. You gave a commentary of a passage today by Buddhagosa ?

A. Yes.

This passage in Vinayalankaraya is a commentary by the Burmese priest on the commentary which I read out by Buddhagosa. It is not the same paragraph, but it is a commentary on the same subject. According to this passage 326 in Vinayalankaraya, when the Buddhist
30 priests who had quarrelled came to Sravasti, Anathapindika and Visaka Maha Upasikawa asked Lord Buddha how they were to act towards these priests who had quarrelled. When these two dayakayas who dedicated Jethawanaramaya and Purwaramaya asked this from Lord Buddha, Sariputta asked Lord Buddha how the rooms should be allocated to the priests. Then Lord Buddha asked Sariputta to give the different priests different sections. Then Sariputta again asked

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Lord Buddha how he should act if there were no separate sections to be given to the different priests. Then Lord Buddha asked Sariputta to separate the sections and give them to the different priests.

Q. Then what about Anathapindika saying that he would not allow those priests who had quarrelled to enter his Aramaya. Is there any reference to that in this book “ Vinayalankaraya ? ”

A. I cannot see anything in this book about that.

To Court :

Q. By these commentaries are these two priests trying to explain the Pitaka ? 10

A. Yes.

Vinayalankaraya is not a commentary on any book on the Pitaka. Vinayalankaraya is a commentary on Pali Vimukthake and Vinaya Vinischaya. Buddhagosa's Commentary is a commentary on the Pitaka, *i.e.* Sutta Pitaka, Buddaka Nikaya and several other books on Dhammapada.

Cross-examination (Contd.).

There is the Vinaya Pitakaya and there are other Pitakas. Vinayalankaraya is a commentary on a commentary on the Vinaya Pitakaya. 20

Q. Buddhagosa's commentary is on a pitakaya other than the Vinaya Pitakaya ?

A. Yes.

Q. Is it a fact that when Lord Buddha came with these priests who had quarrelled, Anathapindika refused to allow those priests to enter the Aramaya ?

A. They had decided and they told Lord Buddha that the priests who had quarrelled should not enter the Aramaya.

To Court :

Q. Is that a fact and did that really happen ? 30

A. Yes.

Cross-examination (Contd.).

Q. The answer of Lord Buddha was that Anathapindika had no right to prevent the seelawantha bhikkus from entering the Aramaya ?

A. No.

Q. Did Lord Buddha not say that " you have no right to refuse entry to that place to Seelawantha Bhikshus " ?

A. Lord Buddha has never said that.

To Court :

Q. According to what is written there, Anathapindika wanted to stop the priests who had quarrelled from entering the Aramaya, and he told Lord Buddha that he wanted to stop them. The other side says that Anathapindika did not say that. If, according to the commentary by the Burmese Priest, Lord Buddha had told Anathapindika that he had committed something that is not quite correct, would not the Buddha have preached about it ?

A. Lord Buddha has not preached on that point, but he gave a general discourse as an advice to both parties in a general way.

Q. According to Buddhagosa, Anathapindika wanted to stop the priests who quarrelled from entering the aramaya ?

A. Yes.

Q. But Lord Buddha said " allow them to come in " ?

A. Yes, and gave a reason.

Q. From that the inference is that Anathapandika had the right to stop them from coming ?

A. Yes.

Q. If he did not have the right to stop those priests from entering, Anathapandika would be doing something that was not correct ?

A. Yes.

Q. Then Lord Buddha would have said something about that. He would have explained that once you give a thing in Sanghika you had no right or control over it ?

A. Yes.

Q. According to you he had not preached anything about that matter ?

A. Not at that moment.

Q. According to Buddhagosa's commentary, he says Lord Buddha had asked Anathapandika to allow the priests to come in ?

A. Yes.

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Q. According to the Burmese priest, Anathapindika and Visaka Maha Upasikawa asked Lord Buddha how they were to act towards the priests who had quarrelled ?

A. Yes.

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Q. Before Lord Buddha could reply, Sariputta asked Lord Buddha how he was to allocate places in the Aramaya ?

A. Yes.

Q. At that time Lord Buddha did not give a reply to the question put to him by Anathapindika and Visaka Maha Upasikawa ?

A. There is nothing in the portions that I read out now. 10

To Court :

Q. On that occasion Lord Buddha did not tell the Dayakaya who dedicated the property to the Sangha that once he had dedicated the property to the Sangha he had nothing more to do with that property ?

A. Not at that moment.

Q. Did he preach about it at any time ?

A. The matter has been amply dealt with in the books of the Vinaya Pitakaya.

Seats should be provided according to the age and seniority of the priests. Lord Buddha has said so to the priests who allocated the seats. What I said earlier was not that a Dayakaya had no right to the property he had dedicated to the Sangha. What I said was that a Dayakaya who builds a pansala or vihara and dedicates it to the Sangha has prominence to the Vihara or Pansala he has gifted. If the priests in occupation of that Vihara or pansala do not act according to the law, or if they act in any undesirable manner, the Dayakaya who gifted that temple or Vihara would take necessary action to have them ejected by informing the Sangha. He can represent to the Sangha to take what steps he likes. 20 30

Cross-examination (Contd.).

Q. The Dayakaya himself can do nothing except refuse to give alms ?

A. Yes. A Buddhist will not go to fight with the Buddhist monks.

Q. Apart from informing the Sangha and refusing to give alms the Dayakaya cannot do anything else ?

A. Yes.

Q. The Vinaya Pitakaya are the books which contain the rules which relate to the Sangha ?

A. The rules relating to the Sangha are mostly found in the Vinaya Pitakaya, but even in the Sutta Pitakaya there are matters regarding priests.

Vinaya Pitakaya not only contains things about the Sangha, but you find some things in regard to the laity also.

(Shown the middle of passage 323 in Vinayalankaraya.)

10 Q. The meaning of this passage is that when a thing is dedicated to the Sangha, or a monk or group of monks, then the right of control over the subject matter of the dedication always rests on the acceptor and not on any dayakaya. Is that not what this passage says ?

A. Yes.

Q. Even in the lifetime of Anathapindika, such control vested in the Senasana Gahapaka ?

A. Yes.

Q. Senasana Gahapaka is the person who has been so appointed according to the unanimous decision of the Sangha as laid down by
20 the law ?

A. Yes.

Q. And hence such control vests in the acceptor himself ?

A. Yes. It is so even now.

The members of the Vidyadhara Sabha never came to allocate the rooms. (Shown passage at page 336 of Vinayalankaraya.) The meaning of this passage " Neither in the whole of the Vinaya Pitakaya nor in the commentaries nor in the sub-commentaries in respect of a Vihara which had been dedicated totally without any reservations, is there anything to say that the Dayakaya who has dedicated it in this
30 manner has any control over it." That is a gift without any kind of reservation or agreement.

Q. Does that not mean " Given once and for all and not given for the time being ? "

A. Given without reserving any right or power to himself.

This passage means that this property has been given for ever and not for a period.

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To Court :

Q. What they say is that this passage has no reference to conditions, but it has a reference to time ?

A. There is nothing like that. This has no reference to time at all. It has been given for ever.

Cross-examination (Contd.).

Q. And it applies only to dedications of that nature ?

A. Yes.

I do not know the details of the Buddhist Temporalities Ordinance. I know that there is an ordinance relating to Buddhist temples and 10 temple properties. That ordinance also deals with the registration of Buddhist monks. The Buddhist Temporalities Ordinance deals with properties belonging to viharas and Devalas. The Buddhist Temporalities Ordinance also deals with Sanghika property.

Q. The Vihare in dispute in this case is a Sanghika property ?

A. It is not the ordinary type of Sanghika property.

Q. It is a type of Sanghika property that comes within the Buddhist Temporalities Ordinance ?

A. That is my information.

Q. According to the Buddhist Temporalities Ordinance, 20 " Temple " means Vihare, dagoba, dewale, kovila, avasa or any place of Buddhist worship, and includes the Dalada Maligawa, the Sripadasthana, and the Atamasthana of Anuradhapura. Does the Maligakanda Temple come under any one of these heads ?

A. I am unable to express any opinion about that. I have not seen any action being taken in respect of this Temple under the Buddhist Temporalities Ordinance. After I became the Parivenadhipathi and came here, no action has been taken under the Buddhist Temporalities Ordinance in respect of this Temple.

Q. You have stated in para 21 of your plaint that the principals 30 of this Pirivena appointed by the Sabha and holding under it have been in the undisturbed and uninterrupted possession as trustees of a charitable trust for the purposes referred to in the said deed No. 925 of the said lands and premises described in schedules A and B ?

A. The Trustees referred to therein are the Principals, and I as the present Principal is the Trustee and I have to take care of the Pirivena, but not with regard to the other matters for which the Vidyadhara Sabha is responsible.

As Principal I am the Trustee in respect of the Pirivena, the Vihare, the Dagoba, the library and the other buildings. The picking of nuts and things like that is not my business. I get that kind of work done by a Manager or Kruthyadhikari and apply the proceeds for the maintenance of the Pirivena through the Sabha.

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Q. To whom does this land within the four walls belong ? Does it belong to the Parivenadhipathi or the Vidyadhara Sabha ?

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A. The successive Parivenadhipathis would be entitled to it. I as the present Parivenadhipathi am entitled to it.

10 *Q.* It belongs to me as the Parivenadhipathi on behalf of the Sangha. The Vidyadhara Sabha has no right to take any income out of the land or use it. The Vidyadhara Sabha is not the owner of the land. The land belongs to the Parivenadhipathi so long as he holds that post. The deed says that the Parivenadhipathi and the other members of the Sangha have the right to make use of the income and the produce of the land.

Q. Does that mean that you can do anything that you like with it ?

A. No.

20 *Q.* They have the right to use it only for certain purposes ?

A. In respect of matters pertaining to the Pirivena ; for the maintenance of the Pirivena, its building and so forth.

Q. The Parivenadhipathi has the right to make use of the income so long as he is the Parivenadhipathi ?

A. Yes.

Q. One purpose for which the funds can be utilized is for the carrying on of the Pirivena there ?

A. Yes.

Q. For the maintenance of the priests who reside in it ?

30 *A.* Yes.

Q. For the maintenance of the various buildings that are there ?

A. Yes.

Q. For the maintenance of the Viharage, Bo-maluwa, Dharma-salawa and other buildings ?

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A. Yes.

Q. For the expenses in connection with any religious ceremonies that are held there ?

A. The religious ceremonies are done by the dayakayas.

Q. Have there been pinkamas held in that place during your time ?

A. Yes.

Q. During these pinkamas members of the general public contributed moneys ?

A. I do not know if public funds had been collected. I know 10 that some individuals and associations have performed religious ceremonies in this Temple.

When the members of the public attend those religious ceremonies they make contributions.

Q. Those moneys were also collected and formed part of the funds of this Trust ?

A. It is not done that way. If there is a Pirith Pinkama held for seven days the subscriptions made by the public, which usually is by way of a cent or two by each person, are added on to the funds of the Association which would be responsible for that particular Pirith 20 Pinkama. Then, after going through the accounts, if that Association finds an excess after meeting all the expenses, that excess amount is given to the Vidyadhara Sabha to be appropriated for the maintenance of the Temple.

Q. Similarly there are charity boxes in the temple into which members of the public put contributions on Wesak and Poya days. The moneys collected in these charity boxes are also given to the Vidyadhara Sabha for the maintenance of this Temple ?

A. Yes.

Q. In para 21 of the plaint you say that the principals of the 30 Pirivena are trustees of a charitable trust for the purposes referred to in Deed No. 925 ?

A. They are trustees.

Q. The Trust must be for the benefit of some others ?

A. Yes.

Q. The person for whose benefit you hold this trust, are they only priests, or are they laymen and priests or only laymen ?

A. No benefit will accrue to the members of the laity. The only benefit that the laity would derive will be the knowledge imparted to them in this institution. The laity has no benefit under this deed at all. A layman will not even have the benefit of enjoying a young coconut in those premises.

Q. The benefit of this land is only for the priests who reside in it ?

10 *A.* Mostly yes.

Q. If this is a deed of trust in respect of property, the income that is derived from the property goes for the trust purpose ?

A. Yes.

Q. And the person who then would be entitled to it is the Trustee, and that is yourself ?

A. Yes, so long as I hold the post of Parivenadhipathi.

Q. A king of Siam gave Rs. 5,000/- for the establishment of the Siamese Prize ?

A. Yes.

20 *Q.* And the Trustee should know what is happening to that money ?

A. Yes.

Q. It is his to look after for somebody else ?

A. Yes.

Q. What happened to that Rs. 5,000/-. Does it exist ?

A. Now it is not the Rs. 5,000/- that exists.

Q. Did the Rs. 5,000/- vanish at a certain stage ?

A. No.

Q. Then what happened to it ?

30 *A.* It was given on a high rate of interest.

Q. First of all it was in the hands of Pedris, the Treasurer ?

A. Yes.

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Q. Treasurer Pedris was unable to give this money and he mortgaged one of his lands ?

A. The money was in a Government Bank.

Q. Pedris was the Treasurer and he drew out this money ?

A. With the approval of the Vidyadhara Sabha the Secretary at the time gave that money on a loan to Pedris.

Q. When he could not pay this money he mortgaged his land ?

A. He transferred a land with two buildings on it to the Vidyadhara Sabha.

Q. He first of all gave a mortgage and then later gave a transfer ? 10

A. My belief is that the mortgage was in the name of somebody else. I do not know his name.

The transfer was given to the Vidyadhara Sabha. The transfer was given to the Treasurer of the Vidyadhara Sabha on behalf of the Sabha. I cannot be definite about it. As far as I can recollect, I think the Treasurer at the time was B. R. Dias.

Q. Is that land still in the name of B. R. Dias ?

A. I think the deed was drafted in the name of the Treasurer.

The Treasurer must be the owner of the property now. The Society still has the property in the name of the Treasurer. That property 20 still exists as the property of the Vidyadhara Sabha. I think the two houses on that land bring an income of Rs. 80/- to Rs. 100/- a month in the way of rent.

Q. Did the members or the Sabha or any member of the Sabha raise any money by mortgaging that property ?

A. I cannot say that.

Q. As trustee you should know that ?

A. I am not aware of such a thing.

Q. You know that the 1st defendant's position is that this property passes under the Sisyanusisya Paramparawa ? 30

A. He says so.

Q. He also contends that the chief pupil of Rev. Hikkaduwe Sri Sumangala is Rev. Sri Jinaratana, and that you know ?

A. I know that the defendant says so.

Q. You told us on the last date that until the year 1940 you yourself was under the clear belief that Rev. Jinaratana was the Senior Pupil of Rev. Hikkaduwe Sri Sumangala ?

A. Not up to 1940 but up to 1943 that was my belief.

Q. Until 1943 until after this action was filed ?

A. Yes.

Q. You yourself entertained that belief because Rev. Jinaratana claimed in public to be the Chief Pupil of Hikkaduwe Sri Sumangala ?

A. Yes.

10 Q. That is, Rev. Jinaratana made that claim in public from the time that you first knew him ?

A. Generally speaking, yes.

Q. That is to say, from the time you first knew Jinaratana he publicly claimed to be the chief pupil of Hikkaduwe Sri Sumangala ?

A. Yes.

Q. You also told the Court that you came to know Rev. Jinaratana in 1904 ?

A. Yes.

Rev. Hikkaduwe Sri Sumangala died in 1911.

20 Q. At least for seven years before the death of Rev. Hikkaduwe Sri Sumangala, Rev. Jinaratana was publicly claiming to be the Chief Pupil of Rev. Hikkaduwe Sri Sumangala ?

A. That was my belief and that was his claim, but I did not want to investigate it at that time.

Q. So far as the Sangaras of Vidyodaya Pirivena are concerned, you have seen several publications in which Rev. Jinaratana was referred to as the Chief Pupil of Rev. Hikkaduwe Sri Sumangala ?

A. There was a magazine under the name "Vidyadhara Sangarawa". In the first issue of that magazine in the editorial it was said
30 that Rev. Jinaratana was the Chief Pupil of Rev. Hikkaduwe Sri Sumangala.

That magazine was published during the time of Rev. Kahawe Ratanasara. At the time of his death Kahawe Ratanasara was 63 years and 7 months old. He died in 1936.

Q. He must have been an Upasampada priest in 1885 ?

A. No.

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As far as I remember he got the higher ordination in 1897.

Q. Was he associated with the Vidyodaya Pirivena before he became the Principal of this temple ?

A. Before he became the Principal of Vidyodaya Pirivena, he was the Vice-Principal of Vidyodaya Pirivena. Before he became Vice-Principal he was an Assistant Teacher of Vidyodaya Pirivena. Before he was an Assistant Teacher he was a pupil of Vidyodaya Pirivena.

Rev. Kahawe Ratanasara was associated with this Pirivena as pupil, teacher, Vice-Principal and Principal for over a period of 40 10 years. He died in 1936. He was associated with this Pirivena before the year 1900. He was associated with Rev. Hikkaduwe Sri Sumangala for a period of about 15 years. He was the Principal in whose time this magazine was published.

Q. Rev. Kahawe Ratanasara's Prize Report refers to Rev. Jinaratana as the Chief Pupil of Rev. Hikkaduwe Sri Sumangala ?

A. Yes, I know that he is referred to as the Chief Pupil, but under what meaning he has been so referred to I cannot say.

(Shown copy of a printed set of verses.)

I composed these nine stanzas, but there is no signature or date 20 on this pamphlet. I have no doubt that these stanzas were composed by me, but I do not know who published this pamphlet.

Q. Why did you compose these verses ?

A. I could not visit Rev. Jinaratana on the occasion of his birthday. I respected and regarded him. So I sent him my blessings in these stanzas.

Q. You sent him these complimentary verses on his 80th birthday ?

A. Yes.

(Mr. Wikramanayake produces this pamphlet marked 1D41.) 30
 I wrote these nine stanzas only in Sanscrit.

Q. In 1D41 you have called Rev. Jinaratana the Chief Pupil of Rev. Hikkaduwe Sri Sumangala ?

A. I have referred to him here as the Chief Pupil, that is not as the chief among the learned pupils or the chief among the robed. My impression all the time had been that he was the chief among the pupils who had been robed and ordained.

Q. Does it not suggest in the 7th stanza of 1D41 that Sri Gnanessara was a pupil of Rev. Jinaratana ?

A. Yes.

Q. You refer in stanza seven of 1D41 to Sri Gnanessara as being Rev. Jinaratana's pupil by instruction, robing or ordination ?

A. I heard that Sri Gnanessara had given up his robes on one occasion and was presented for ordination a second time by Rev. Jinaratana. That is why I referred to him as Jinaratana's pupil.

Q. These stanzas were written by you in 1934 ?

10 A. I cannot remember the date, but that was the year in which Rev. Jinaratana reached his 80th birthday.

Q. You said you do not know who is responsible for the publication ?

A. Yes.

Q. Did you request Rev. Jinaratana to publish it ?

A. No. I would never have entrusted him with such work.

(Shown 1D42.)

Q. These are the original stanzas in your own handwriting ?

A. I cannot say whether these stanzas are in my handwriting,
20 but I remember I wrote a letter and sent along with these stanzas.

I cannot say whether I sent my letter and the stanzas to Rev. Jinaratana, but even if I did so I would not have asked him to get it printed. The handwriting on the overleaf of 1D42 is mine. The signature is also mine. The " Uthsavaya " referred to in 1D42 is the ceremony in connection with Rev. Jinaratana's 80th birthday. The last two sentences above my signature refer to something, but I cannot remember what it is about. I have not written this letter to Rev. Jinaratana. I have written it to somebody else. I cannot definitely say that I did not write this letter to Rev. Jinaratana. The difficulty
30 is that I cannot remember the person to whom I wrote this letter. The handwriting on the overleaf of 1D42 is mine, but I am definite that I did not write this letter to Rev. Jinaratana.

(Shown 1D42a.)

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Q. In whose handwriting is this document ?

(Shown a document.)

A. With regard to the signature I do not doubt much that it is the signature of Rev. Hikkaduwe Sri Sumangala, but with regard to the handwriting I cannot say whose handwriting it is.

I can recognize the handwriting of Rev. Hikkaduwe Sri Sumangala. I have seen his handwriting several times.

Q. Is it that you cannot recognize the handwriting, or is it not the handwriting of Hikkaduwe Sri Sumangala ?

A. I cannot be definite about the handwriting, because the handwriting of an individual differs according to his age.

(This document is not marked.)

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

7.7.50.

The cross-examination of this witness to be continued on the next date.

Further hearing on 10.7.50.

(Intld.) V. S. J.,

A.D.J. 20

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D.C. No. 2882/L.

10.7.50.

(Appearances same as before except that Mr. Adv. Herath appears with Mr. W. H. Perera for the plaintiff.)

BADDEGAMA PIYARATANA NAYAKA THERO. Recalled.

Affirmed. Plaintiff.

Cross-examination (Continued).

On the last date, *i.e.* on the 7th of July, when a document was shown to me I said that I could identify the signature therein as being the signature of the late Rev. Hikkaduwe Sri Sumangala's but I could not say definitely whether the handwriting therein was the handwriting of Sri Sumangala's.

(Shown another document of 1907 which Mr. Wikramanayake marks as 1D43.)

The handwriting as well as the signature in this document are those of Rev. Hikkaduwe Sri Sumangala's.

(Mr. Wikramanayake says that the object of his producing 1D43 is not to put in the contents of the document, but merely to show a specimen of the signature and handwriting of Sri Sumangala's in case witness denies the handwriting in some other documents which he will be producing later.)

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10 (Shown another document.)

The signature in this document is Sri Sumangala's signature. (Shown the handwriting on the middle page of this document.) I cannot say definitely whether the handwriting on this page is that of Sri Sumangala's.

(Mr. Wikramanayake marks that signature as 1D44.)

I have initialled the handwriting in question just above it and just below it.

(Intld.) V. S. J.,
A.D.J.

20 (This document is also produced by Mr. Wikramanayake for the purpose of showing the specimen signature.

Mr. Wikramanayake says that the handwriting on the middle page will be proved by him later on to be that of Sri Sumangala's. The relevance of the contents of the passage will also be proved by him when the writing is proved.)

(Shown another document, which is a small notebook and which has no signature.)

I cannot say definitely whether this handwriting is Sri Sumangala's handwriting.

30 *Q.* Do you not know that this book was proved in Court as being Sri Sumangala's and that the writing therein was his handwriting, that the action was brought against Rev. Soratha and that the book was produced by him ?

A. I know the case ; but I do not know anything about this book.

Q. Do you not know that Soratha, your Vice-Principal and your friend, went to Galle where that case was heard, and he went from the Vidyodaya Pirivena ?

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A. I know that he went to Galle from the Vidyodaya Pirivena, but I do not know where he was putting up in Galle from where he attended Court.

Q. Did he not go to Galle direct from the Vidyodaya Pirivena on the dates of the trial ?

A. On some days he went direct from the Pirivena ; on some days he stayed in Galle.

Q. Did you not discuss with him what was happening in that case on the days he was with you in the Pirivena ?

A. No. 10

Q. Up to date you did not know that a diary kept by Sri Sumangala was produced and proved to be his diary in that case ?

A. This is the first time that I hear about it.

(Shown another page of that same notebook.)

This handwriting looks like Sumangala's handwriting, but I cannot say definitely that this is his handwriting.

(Shown another page of that same book.)

I cannot say definitely whether this is Sumangala's handwriting, but it looks like his writing.

(Shown another page.) 20

This is not at all Sumangala's handwriting.

I initial that page.

(Intld.) V. S. J.,
 A.D.J.

I do not know exactly whether Rev. Devundara Jinaratana himself gave evidence in that Galle case ; but I have heard of it. I do not know whether Pahamune Sri Sumangala, the then Maha Nayaka of the Malwatta Chapter, gave evidence in that case.

The late Rev. Hikkaduwe Sri Sumangala did not publish books, but I know that he wrote books. 30

Q. Among other things, did he not write a full commentary for the "Sudharsana Sangarawa" ?

A. He wrote an article for that magazine.

I know that he also wrote an article for the "Sanhaya Sangarawa" under the heading "Sinhalese Grammar". That article was published as a book after some time ; but it was not Sumangala who got it done. I know that without the consent of the author none of his articles can be published, and that he can prevent other people from publishing his articles. I have not seen the Sixth Edition of this "Sinhalese Grammar". I do not know whether the publication of this Sixth Edition was done with the permission of Rev. Jinaratana the High Priest of the Gangaramaya Temple at Hunupitiya.

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10 Q. Did you discuss with Rev. Soratha at any time the question of Jinaratana's claim which he made publicly that he was the chief pupil of Sri Sumangala ?

A. I cannot remember.

Q. You have told the Court that Jinaratana used to make that statement publicly ?

A. Yes. He used to speak about it publicly.

Q. You have also been shown a number of documents in which the fact that he was the chief pupil of Sumangala had been mentioned, and you yourself have acknowledged those documents ?

20 A. There are several documents in which I myself have mentioned about it.

With regard to other people writing about it I do not know.

I am in the habit of reading the "Sinhala Bauddhaya". I cannot remember whether I have seen in this paper references to Jinaratana as being the chief pupil of Sumangala.

Q. These disputes about the control of this premises on the footing of Viharadhipathiship, according to you, arose for the first time in 1942 ?

A. There was no dispute of that sort.

30 Q. Is there no dispute about the Viharadhipathiship of this premises then ?

A. There was no dispute about that. The dispute was about the salawa.

There is a dispute now between myself and the 1st defendant. That dispute arose, I think, in December, 1941.

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Prior to that I was never aware of any person claiming to be the Viharadhipathi of this premises.

Q. Prior to 1941 you did not hear anybody being ever referred to as the Viharadhipathi of this premises ?

A. I cannot remember.

Q. You yourself never believe that there was a Viharadhipathi of this premises ?

A. Except the Parivenadhipathi, at no time was there a Viharadhipathi in this premises.

Q. So that prior to 1941 have you ever heard of any person ¹⁰ being referred to as the Viharadhipathi apart from the Parivenadhipathi of this premises ?

A. Nobody told me about such a thing.

I did not hear anybody at any time being referred to as the Viharadhipathy of this premises apart from the Parivenadhipathi. If anybody at any time referred to someone as being the Viharadhipathi of this premises it would have impressed on me because I do not consider anybody else as the Viharadhipathi of this premises ; and if such a statement had been made publicly it would have made a greater impression on me. 20

Q. So that you are certain that there was no reference made in public to any person, other than to the Parivenadhipathi, as being the Viharadhipathi of this premises ?

A. I do not know whether anybody called himself the Viharadhipathi of this premises, but there was no Viharadhipathi as far as I know.

I know that Rev. Devundara Jinaratana was made the Nayaka of the Nine Korales several years ago. That is long before the dispute in this temple arose. When a person is granted a Nayakaship, that is done under an Act of Appointment by the Maha Sangha Sabha. The ³⁰ ceremony of Jinaratana being made the Nayaka of the Nine Korales was held in the Poyage in Malwatte ; that ceremony was held publicly. I cannot say whether the full staff of the Vidyodaya Pirivena attended that ceremony, but I know some of them went. I also cannot say whether the entire Vidyadhara Sabha was present. As far as I can remember some were present. I was also present. The main body of the Malwatta Chapter was present.

Q. The Act of Appointment on that occasion was read aloud publicly ?

A. Usually it is read publicly, but I cannot say definitely whether I was there during the reading of that Act of Appointment.

Q. Especially as a mark of respect to Rev. Jinaratana did you not go there yourself ?

A. Yes. I went.

Q. If you had gone, would you not have been in the front row ?

A. I cannot say where I was seated.

10 (Mr. Wikramanayake reads out the full title given to Jinaratana as stated in the Act of Appointment.)

All that may have been read out. But I did not hear it being read out at that time.

After the appointment of Jinaratana as the Nayaka of the Nine Korales there was a reception for him at the Gangaramaya Temple at Hunupitiya. I did not go to that reception. Not only myself several other priests did not attend that function, that was because of a certain displeasure that arose as a result of Jinaratana's appointment. Jinaratana was accepted for this office when there was
20 Ratanasara who was older than Jinaratana, and a remark was made that Ratnasara should have been appointed earlier. That remark was made at Malwatta in Kandy on the day Jinaratana was appointed as the Nayaka of the Nine Korales.

Q. At that time Ratanasara was dead ?

A. It is for that vacancy that Jinaratana was appointed.

Q. You said that there was a remark made that he should have been appointed earlier ?

A. That he met with an untimely death.

Because he made that remark that he was appointed before
30 Ratanasara, not only myself but many other priests, especially from the Malwatta Chapter, did not go to that reception. It is true that I was offered the chair, but I refused the offer.

Q. You said there was no reference from time to time in the "Sinhala Baudhdhaya" to Jinaratana as the Chief pupil of Hikkaduwe Sri Sumangala ?

A. I do not deny it.

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It may be that lots of people have been publicly referring to Jinaratana as the chief pupil of Sumangala. I may have read such articles sometimes.

I have told the Court that in deed P10, which is dated 31st May, 1879, Sri Sumangala had said "I have no pupil".

Q. Do you say that, in view of Jinaratana's declaration in 1879 where he says he was ordained in May, 1878, the deed P10 cannot be correct?

A. If Jinaratana was ordained in 1878 Sri Sumangala could not have stated in 1879 that he had a pupil. 10

Q. When Jinaratana made that declaration he was nearly 80 years old?

A. I cannot say that.

It is true that I congratulated him on his 80th birthday. But I cannot say definitely whether it is a year or two before he made his declaration that that birthday took place. I think he was about 78 years at that time.

Q. Do you not consider it possible for a man of 78 to have made a mistake in his declaration?

A. A priest cannot make a mistake with regard to the date of 20 the Upasampada.

I cannot admit that it is a mistake that he had made. When a priest is ordained the year, the month, the day, and everything is noted down and a receipt given to him. A register known as the "Lekammita" is kept and everything is entered there.

Q. Are you not aware of the fact that at the time of the ordination of Jinaratana this register was not properly kept?

A. I do not know that. It has been there from the very start.

Q. Will you admit this, that in 1932 there was hardly a priest in the whole Island, other than Sri Sumangala, who was of the age of 30 Jinaratana?

A. There were, for instance Mampe Thero.

There may have been several others, but I cannot remember their names. From the majority of the priests who were living at that time Jinaratana would have received obeisance at least by reason of his age without having to find out whether he had been ordained

earlier. Even now it is not possible for Jinaratana to forget the date of his ordination. He should know that date. I am a much younger priest today than Jinaratana was in 1932.

(Mr. Wikramanayake refers to the first few lines of this witness's evidence in the examination-in-chief.)

I still say that it was not in 1889 that I was robed. I was robed in 1898 I think. But I am definite that it was not in 1889.

If I had mentioned 1899 in my declaration then it may be a mistake. But the date of ordination is very much more important than the 10 date of robing and cannot be forgotten by anybody.

(To Court:

I do not admit that Jinaratana was a pupil of the late Hikkaduwe Sri Sumangala either by robing or by ordination.)

I have not discussed this question with Pahamune Sumangala at any time.

Q. Did Pahamune Sri Sumangala himself tell you that he was present at the ordination of Jinaratana and that he was ordained a pupil of Hikkaduwe Sri Sumangala ?

(Mr. Perera objects to this question.

20 Mr. Wikramanayake says he is prepared to prove this statement and that he will argue that the statement is admissible when it is disproved.

I allow the question.

(Intld.) V. S. J.,
A.D.J.)

(Court :

Q. Did Pahamune Sumangala tell you at any time that he was present at the ordination of Jinaratana and that Jinaratana was presented by Hikkaduwe Sri Sumangala at the ordination ?

30 A. He did not tell me that. There was no occasion for him to tell me that.

Q. Was Pahamune Sumangala an older priest to Jinaratana ?

A. He was older than Jinaratana by ordination.)

I think Pahamune died in 1945. It may be that he died after the institution of this case. I know definitely that he died after the institution of this case. I cannot remember whether Pahamune was in Court on the first date of trial in this case before it went up in Appeal.

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Q. Did not Pahamune Sri Sumangala and the Maha Nayaka of the Malwatta Chapter make a strong effort to settle this dispute before it came to this Court ?

A. Yes. That was before the matter was referred to this Court. For the purpose of settlement they did discuss the rival claims of both parties ; and they ascertained what matters were in dispute.

Q. And one of the matters that were discussed was the grant of deed in favour of the 1st defendant by Jinaratana who claimed to be the Viharadhipathi of this premises and who got it by succession from Hikkaduwe Sri Sumangala as the chief pupil ? 10

A. In June, 1941, the 1st defendant had got a deed executed.

Q. Were not that deed and the claims on that deed were some of the matters of dispute which Pahamune Sumangala and the Maha Nayaka were trying to settle ?

A. No. That is about the closing of the salawa.

The 1st defendant, myself and the Maha Nayaka and Jinaratana signed the terms of settlement. One of the terms of settlement was to cancel the deed by Jinaratana in favour of the 1st defendant.

Q. And in that deed was there no reference to Jinaratana as being the chief pupil of Hikkaduwe Sri Sumangala ? 20

A. There may have been such a reference in that deed.

Q. Was that not the occasion on which Pahamune Sri Sumangala told you that he himself was present at the ordination of Jinaratana and that he was presented by Hikkaduwe Sri Sumangala as his chief pupil ?

A. I do not know that.

(Shown document marked 1D45.)

I had a copy of this document, but I do not know where that copy is.

Q. And you did not carry out those terms of settlement that were agreed upon, but you merely filed this action ? 30

A. We were very anxious to have this matter settled without bringing it to Court ; but the very first condition was not carried out, and that is why I brought the matter before the Court. That first condition was to cancel that deed.

Under the terms of the agreement, so far as the Pirivena itself was concerned, the clause in regard to the control of the Vidyadhara Sabha is accepted.

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Q. With regard to the appointment of Kruthyadhikara, it was agreed that that appointment should be made with the approval of Rev. Devundara Jinaratana, the chief pupil of Sumangala (clause 3) ?

A. Yes. It is so stated here in this document.

The first defendant was not a pupil of Jinaratana.

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Q. Rev. Pachiswara was robbed long after the 1st defendant ?

10 *A.* The 1st defendant is about 60 years old and at the time he was robbed I do not think that Pachiswara has even come to the temple.

I know that Kotte Nikaya was a student at Vidyodaya Pirivena and that he was awarded the Siam Prize.

Q. Do you know that at the request of Morontuduwe Sri Nanesara, Kotte Nikaya disrobed and on the same day he was robbed by Nanessara and Jinaratana when he came to this Nikaya ?

A. I have heard of it.

Q. Do you also know that Pachiswara was a senior pupil of Jinaratana by robing ?

20 *A.* It may be so. I was not here at that time.

Q. Did you say that in your Nikaya seniority by robing is not taken into account ?

A. In our Nikaya it is the ordination and not the robing which is taken into account for seniority.

Q. Is it not the usual practice for a Viharadhipathi to have a Kruthyadhikara to manage his affairs ?

A. Anybody who has work for a Kruthyadhikara can keep one to do that work.

(To Court :

30 “ Anumathy ” in this document means “ with the approval ”.

I know Rev. Soratha. He was my vice-principal, who was appointed as such by me. He is now functioning as the Viharadhipathi of the Hettigalle Temple in Talagashena.

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Q. And he started to exercise the function after Thapasse who was the chief pupil of Soratha ?

A. I do not know that.

When I came here Rev. Pemananda was the Kruthyadhikara. He was appointed long prior to my arrival here. I know that he belongs to the same paramparawa as Sri Sumangala.

Q. While you were there Jinaratana used to go to Pemananda's room and discuss with him ; you have already said so ?

A. Anybody comes to that room.

Q. Did you not tell the Court that Jinaratana used to come there 10 mostly to talk to Pemananda ?

A. Usually he was talking to him.

Sometimes I was present at those conversations. He used to come once in a way. It may be that most of the conversation between him and Pemananda were not in my presence.

Q. And naturally not being present you did not know what was being discussed by them ?

A. I had no need whatever to find out what they discussed.

I have said that the produce of the coconut trees was taken by the Kruthyadhikara, and that was for the purpose of giving alms. 20

Q. Some one connected with Don Carolis & Sons used to come and collect the moneys ?

A. It was the Treasurer of the Vidyhadara Sabha who used to come and collect the moneys.

There was one individual as the Treasurer. The firm of Don Carolis & Sons belongs to one family ; and a number of members of that firm functioned in this Sabha.

Q. Are you not aware of the fact that Don Carolis & Sons, in September, 1911, published in the "Sinhala Bauddhaya" for the benefit of the public a statement of income and expenditure in connection 30 with the Sripadasthanaya, and Hikkaduwe Sri Sumangala was the Viharadhipathy of the Sripadasthanaya ?

A. At that time I was not here, and there I do not know about that.

Q. It was Sri Sumangala who was the Nayaka of Sripadas-thanaya ?

A. Yes.

Q. And as such large sums of money were coming to him ?

A. Personally I am not aware of that.

I know that after the death of Pemananda the person who was appointed as Kruthyadhikara was Pachissara.

(To Court:

Pemananda died in February, 1942.)

- 10 Before Pemananda died, during the period of war, it became necessary to despatch some of the books, etc. from this premises to a place of safety. That was done by the then Secretary of the Sabha, Mr. Wimaladarma Hewavitarne.

(Shown 1D19 and 1D20.)

They must have exchanged this correspondence. I was in Galle at this time. Pemananda was functioning as Kruthyadhikara at that time. After Pemananda's death a letter was written to Vachissara by the Vidyadhara Sabha asking him to give up the keys. (Shown a document.)

- 20 I was aware of this letter. I am also aware of the fact that Vachissara did not hand over the keys.

Q. And that he continued to reserve for himself the right to function as Kruthyadhikara ?

A. I do not know that Kruthyadhikara is there to do my work. It is I who appoint a Kruthyadhikara, and according to my wish. Vachissara did not hand over the keys to me or to the Sabha. From the 1st defendant I came to know that the keys were taken by him. Vachissara went to the Hunupitiya temple. This document was addressed to him to the Hunupitiya temple.

- 30 (Shown the same document again.)

He was a teacher at that time. There was a special room for Vachissara in the Pirivena pemises.

Q. And this document refers to that room, the key of which was with him ?

A. As far as I know he was not there at that time.

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It is a fact that a couple of months after this he was stopped from being a teacher. It is the Sabha who stopped him, with my approval.

Q. That was because he would not give up the keys but claimed to be functioning as Kruthiadhikara ?

A. He had given the keys to the 1st defendant. About his functioning as Kruthiadhikara I do not know.

(To Court :

Why he was stopped was because he disobeyed me and the Sabha in not returning the keys.) 10

No inquiry was held about this matter. In consultation with the Sabha it was found that he had done a wrong and therefore he was discontinued.

(To Court :

He is now at the Gangaramaya Temple at Hunupitiya.

The room that Vachissara occupied is now closed. He may be having the keys, but I do not know exactly.

Q. He still goes there ?

A. Long time ago he came to my room.

Q. Does he not come to his room from time to time ? 20

A. No.

With regard to the agreement which I referred to earlier and which was arrived at through the intervention of the Maha Nayaka, it was signed by four persons, viz. the 1st defendant, Vachissara, Jinaratana and myself. I do not know whether Proctor Weerasooria drafted a deed after that agreement was signed.

Q. Do you not know that a draft deed was sent to the 1st defendant by Mr. Rajah Hewavitarne for approval, before signature ?

A. The 1st defendant told me that a deed had been shown to him and that he would not sign that deed. 30

I did not try to find out what that deed contained. I did not have a copy of that draft deed. It was not sent to me.

To my knowledge a copy of it was not sent to Pahamune. I do not know whether a copy was sent to Jinaratana who was also a party

to this agreement. I have said just now that apart from the 1st defendant and myself, Vachissara and Jinaratana also signed this agreement. A draft of that deed may have been sent to Jinaratana, but I do not know.

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Q. If you do not know what deed was signed, why did you say that it was the 1st defendant who did not carry out the terms of the agreement ?

Evidence of
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examination—
Continued

A. He himself told me that he would not sign that deed ; that no self-respecting man would sign that deed.

10 *Q.* You did not ask the Sabha or your proctor to get you a copy of that draft deed and then find out whether the necessary clauses have been inserted in that ?

A. I did not do that.

A copy of that deed in Sinhalese may have been sent to the Maha Nayaka Thero. I do not remember whether the 1st defendant told me that a copy of that draft had been sent to the Maha Nayaka Thero. I told the 1st defendant that I would sign that document.

Q. Without knowing what its contents are you told him that you would sign that document ?

20 *A.* Yes. Because I know that the deed will not be drafted by anybody contrary to the agreement arrived at.

I have spoken a great deal about the 1st defendant's fast. I do not know whether this is the first time that the 1st defendant had ever come to a Court of law. I cannot mention any instance where he had sought to establish a claim by going to a Court of law.

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

10.7.50.

Adjourned for lunch.

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D.C. 2882/Land.

10th July, 1950.

(After Lunch)

BADDEGAMA PIYARATANA NAYAKA THERO. Recalled.
 Affirmed.

Evidence of
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Q. Let us go back to your declaration for a few minutes.

Q. Who was your robing tutor ?

A. Sumanatissa.

Q. You have stated in your evidence that you were robbed at the Malwatta Vihare ? That cannot be a mistake ?

A. That was for ordination. 10

I was robbed at Baddegama in Galle.

Q. In point of fact, what you have stated in your evidence was that you were robbed at the Sudharamaya Temple in Bope ?

A. That is my tutor's temple.

I was robbed in a temple at my village. The name of the temple was Talgama Vihare.

Q. You were not robbed at the Sudharmaramaya ?

A. I was robbed at the temple of my village.

Bope and Baddegama are a little more than 10 miles apart. The date of my ordination is 28.5.1904. 20

Q. Who were your ordaining tutors ?

A. For Upasampada the priest who was my tutor priest at the ordination ceremony. That is K. D. S. Sumanatissa.

Q. In your evidence you have stated that on 28.5.1904 you were ordained ?

A. Later I was ordained on 28.5.1904 in the same temple by Seelawansa Maha Thero.

I was ordained at the Malwatta Temple. I was ordained by Sumanatissa.

Q. What did you mean by saying you were ordained by Seelawansa Maha Thero of Kandy ? 30

A. I said Ananda Mahamada Seelananda. He was a Karma-chari. The necessity for declarations arose in 1931 under the Ordinance. At that time I did not register myself. I did not register myself for four years. I did not register myself till 1936.

Q. Why was that?

A. Kahawe Ratanasara and others

Q. I am asking you why you did not register till 1936 ?

A. There were discussions going on whether there was an advantage in being registered or not.

I did not know that the Ordinance prescribed a penalty for non-registration.

Q. And the Malwatta Chapter gave instructions that all priests should be registered in terms of that Ordinance ?

A. No such directions were given to me by the Malwatta Chapter.

Q. Did they not publish such directions in the Press ?

10 A. May have.

Q. You did not know anything about it ? Did you not know it at that time ?

A. I knew it.

Q. And you did not register ?

A. I and others did not register.

Q. Why did you register yourself in 1936 ? Was there any reason for it ?

A. Later we all agreed upon registering ourselves.

Q. There was no special reason ?

20 A. I cannot remember whether there was any reason.

Q. Did you in 1936 not apply for the Nayakaship of Dalu Kaluwattara and Akmeemana in 1936 ?

A. Not in 1936.

Q. In 1935 then ?

A. I cannot remember the year.

Q. That was in January, 1936 and the Nayakaship was the Nayakaship of the four Gravets in Galle and the Akmeemana Nayakaship ?

A. No.

30 Q. Of what place was it then ?

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A. Of Hinidumpattu, Werellagampattu, Akmeemana. For the whole Galle district except one Pattu.

Q. Then you were informed by the Malwatta Chapter that no Nayakaship could be given to any other priests except to a priest who had been registered under the Ordinance ?

A. I did not know.

It may have been a coincidence that I registered in 1936 and that immediately after I registered I was appointed a Nayaka of that area. I got a Nayakaship in, I think, January, 1936. I cannot exactly remember when. I did not accept the Nayakaship. As the Principal 10 of the Vidyodaya Pirivena of that day, I did not interest myself in any Ordinance that was published with regard to Bhikkhus.

Q. When a Vihare or a pansala is dedicated it is dedicated to the Sangha or a section of the Sangha ? According to the wishes of the Dayakaya can a temple be dedicated to one individual priest ? And not to the Sangha ?

A. If a dayakaya wanted to he could do so.

Q. As a Sanghika dedication ?

A. On behalf of the Sangha anyone could accept. He could dedicate it to the Sangha. 20

Q. Do you not know that there should be more than four members of the Sangha to accept the dedication ?

A. Even one could. One may accept whether it is a Sanghika or Puggalika dedication.

Q. I am not asking about Puggalika dedication. Is it not necessary for a Sanghika dedication that there must be present at least five priests to accept on behalf of the Sangha ?

A. On behalf of the Sangha even one could accept.

Q. What is the practice ?

A. Generally more than four must accept. Generally five must 30 be present and accept.

Q. That is, the Sabha ? It is the practice ?

A. It is the practice at present.

Q. When was the practice different ? Was the practice different at any time within your memory ?

A. According to the Vinnaya and Dhamma.

Q. When did you say this practice came in ? How long did you say the practice has existed ? For five members of the Sangha to be present ?

A. I cannot say.

I cannot say whether it was for the last 500 or 600 years, as far as I am aware. It is generally accepted that the laity has an idea, 10 but that is wrong. So far as I know it has always been the practice for there to be at least five priests grouped together for the laity to form a Sabha.

Q. When the other priests are there at a dedication, it is handed over to one who is chief among the five ? Accepted by one on behalf of the others ?

A. It is the chief priest who always accepts.

But when a Vihare is so dedicated it is not the practice for that Paramparawa or Chief Priest that succeeds to the post of Adhipathi to accept the dedication.

20 Q. To whose Paramparawa does the Adhipathiship go ?

A. (No answer.)

Q. Take your Sudharamaya Temple in Galle. Who was the Adhipathi of that ?

A. Are you referring to the new temple.

Q. No. I am referring to the old temple ?

A. Kalpawala Indajoti was the Adhipathi.

Q. Who was the chief person who accepted the dedication there ?

A. It is too long ago for me to remember.

Q. Some person in whose Paramparawa Indajoti was ?

30 A. I cannot say.

Q. You are not aware of a practice whereby, when a dedication is made, after the dedication is made it is the paramparawa of the chief priest there who accepts that succeeds to the Adhipathiship ?

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A. There it was the practice to give the Viharadhipathiship to the most fitted man, not to the most senior person.

The practice is not to give it invariably to the oldest pupil.

Q. You are not aware of any such practices? One of those persons, the Sudusudaya is the Viharadhipathi?

A. The Sudusudaya chosen by the Sangha.

After that it goes to the Sudusudaya's paramparawa.

Q. I am talking about the practice that obtains?

A. It is in the Vinaya rules . . .

Q. But the practice that obtains in conformity with the law of 10 the land is that every priest of that paramparawa has the right of succession to that temple? You are also aware that the practice that obtains in accordance with the law of the land is that every priest of that Paramparawa has the right of residence in the temple?

A. Yes.

Q. In the Maligakanda Temple premises there resides pupils and teachers of the Vidyodaya Pirivena? There are residing?

A. There are the Principal, Vice-Principal and the staff who are studying and the Krathi Adhikari and there is a guest room where a person can stay for a day or two and also a priest who will have to 20 attend to those who worship. There is a priest who will have to go to the Vihare to attend to worshippers who come there. In the absence of the Parivenadhipathi the Krathi Adhikari may officiate. Rev. Pemananda was in point of fact of the same Paramparawa as Hikkaduwe Sri Sumangala. They are pupils of the same tutor. I have already said that I do not know how Pemananda came to be appointed. I came there long after Pemananda's time.

Q. Apart from the tutors and the pupils, there was according to you the 1st defendant who had not been a teacher from the year 1930 or thereabouts?

30

A. In 1930 he was on the staff.

Q. According to you, in what year was he stopped from teaching? You said he was stopped?

A. During the time of Kahawe Ratanasara.

Q. Give the time roughly.

A. As far as I can remember in 1933 he may have been teaching and after that he was stopped.

Q. You said that Kahawe Ratanasara stopped him from teaching ?

A. He was not entrusted with classes.

Q. Did you not tell the Court that in 1933 he was stopped from teaching by Kahawe Ratanasara ?

A. (No answer.)

10 *Q.* From 1933 up to date he continues to reside in that temple ?

A. He occupies the same room he occupied when teaching.

Q. At least till 1940 his alms were provided by the Vidyadhara Sabha ?

A. Pemananda Thero used to send him alms from the alms supplied by the Krathi Adhikari.

Pemananda as Krathi Adhikari supplied his meals, and his electric lights.

Q. And after this action was filed you had his alms stopped ? He got his meals till then ?

20 *A.* I did not stop, neither did I have them stopped. I never caused them to be stopped. I did not have his lights cut off. I did not ask for his lights to be stopped.

Q. Whose business was it to give him his alms ?

A. The duty of the Vidyadhara Sabha.

They did not hand alms round to each particular priest. That distribution was done by the Krathi Adhikari. I said that after Pachissara went the Krathi Adhikari who functioned was the man appointed by me.

Q. That was Thepassi and on behalf of Thepassi somebody else
30 is functioning ?

A. Devarakkhita.

Q. That was the priest who stopped sending the meals to the 1st defendant ? Who was the Krathi Adikari in 1943 ?

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A. Thepassi.

Q. And it was Thepassi then who stopped sending his meals ?

A. I cannot quite remember.

The new Krathi Adhikari was not given the opportunity of looking after those things.

Q. I put it to you that in order to be able successfully to prevent 1st defendant getting his meals, the new practice was started by you of giving each priest Re. 1/- a day to buy his meals ?

A. I do not know of that. The Kepakarayas of the Vidyadhara Sabha see to those things. 10

The Kepakarayas were those who attended to their work.

Q. Do students get anything for their meals ?

A. The Achchariyas get Re. 1/- a day to get their meals. It is only for the mid-day meal.

(To Court :

Q. The tutors are given Re. 1/- a day for their meals ?

A. I do not know whether it is a Rupee or more. The Vidyadhara Sabha provides for the morning meals. I do not know whether it was in money.)

Q. What do you yourself get ? 20

A. I did not take.

I get my alms separately, from seven places.

Q. Not from the Vidyadhara Sabha ?

A. Some members of the Vidyadhara Sabha also supply me my meals.

Q. You have a separate set of dayakayas for a separate Isthana of yourself ?

A. Not separate.

Q. Is there a different place which has been dedicated to you in this vicinity recently ? Bought in your name ? 30

A. I have no such recollection.

Q. In the name of Dhamminda, your pupil ?

A. He is not my own pupil. He is a pupil of me and others.

(To Court :

Q. How is he your pupil ? Is it by robing ?

A. No. At the ordination I was also one of his tutors.)

Q. He was a student at the Pirivena under you and you were his ordaining tutor ?

A. Now he is a teacher.

Q. You use a car ?

A. I travel in a car.

Q. The car in which you travel is registered in the name of
10 your pupil Dhamminda ?

A. That may be.

(To Court :

I do not know who pays the chauffeur.)

I do not know that those premises were acquired in the name of Dhamminda recently after this dispute.

(To Court :

Q. Was any property bought in the name of Dhamminda ?
(Counsel may be having some view in asking these questions.)

A. Yes.

20 Dhamminda was my pupil because at the ordination I was the tutor. I have pupils who will be able to succeed me according to the Sisuyanusisiya Paramparawa.

Q. Is Dhamminda one of them ?

A. As my junior pupil he has a claim, because at the ordination I was his tutor.)

Q. Do you know the Bauddha Madyasthanaya ? There is a place that was bought recently in the name of Dhamminda ?

A. I do not know.

Q. Are you not aware that the land has been purchased in the
30 name of your pupil ?

A. I do not know.

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Q. You admit the custom of giving presents to teachers on the staff—Principals and Vice-Principals? Presents by grateful pupils?

A. Some of them give presents.

Q. You know that the presents given to Rev. Kahawe Ratana-sara were removed by his pupils from the premises? There was nearly a case?

A. Some of the articles given are still there.

Some articles were taken away by some of his pupils.

Q. There was a little trouble about that?

A. There was no trouble.

10

Q. So far as you are concerned, you get presents of that nature?

A. Sometimes I do get.

Q. And the presents that you have got, as soon as this dispute arose, have been taken away by you to this Baudhha Madyasthanaya?

A. On the first day I preached Bana at the Bauddha Madyasthanaya I presented a chair which had been gifted to me from the Kelaniya district. Other than that I have not taken any gifts away.

I also offered a cloth to cover the chair which I presented to be used for Bana preaching.

Q. You know Lelwala Sri Niwasa?

20

A. There was a priest by that name.

Q. He was neither a pupil nor a tutor in this institution?

A. He came as a pupil and received his education there.

He was not a pupil there during my time.

Q. Then you do not know whether he was a pupil there or not except what you were told?

A. I know the time of his education.

He was not a pupil before I came to this institution.

Q. And prior to your coming here in 1925, you did not know what was happening at this institution? You have never been here? 30
 Except from hearsay you do not know?

A. I have seen some things.

Q. How many times have you come to this Pirivena prior to 1925 ?

A. Even during the time of Hikkaduwe Sri Sumangala I have been here.

In all I have been here about 7 or 8 times or 10 or 12 times. I have seen Lelwala Sri Niwasa as a pupil there.

Q. Then you challenge Mr. W. H. W. Perera's evidence that Lelwala was a pupil ?

A. He came from Kitulampitiya Pirivena and at that time I 10 saw him.

Lelwala Sri Niwasa is now dead.

(Shown 1D46—the declaration made by Lelwala under the Ordinance.)

Q. Does that show you who his tutor was and his residence ?

(Mr. Perera objects to this unless the document is proved.)

(Witness reads out the names of Lelwala's tutors and the places of residence.)

One of the ordaining tutors, according to the declaration, was Hikkaduwe Sri Sumangala and the residence at the time of the 20 declaration was the Vidyodaya Pirivena. After he ceased to be a pupil Lelwala continued to reside in these premises when he was neither a tutor nor a pupil.)

Q. He was in residence there at the time you were here functioning ?

A. For some time. For a short time, till the date of his death.

Q. And he was at that time neither tutor nor pupil ?

A. Although he was a teacher I allowed him to stay here as he was functioning as a teacher of the Mahabodhi College. He gives his permanent residence at the time of the Ordinance as the Maligakanda 30 Temple premises.

The declaration has got to be countersigned. It is countersigned by Kahawe Ratanasara, who was at that time the Principal of these premises.

Q. Let us go to another priest whom you knew. You remember the priest Hikkaduwe Upatissa ?

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A. Yes.

Q. He was the priest who died as a result of a stab wound from a beggar ?

A. That was before I came here. I have heard about that.

Q. Apart from these priests there was nobody else who ever resided there who was neither a tutor nor a pupil ? Except Pemananda and Seelawansa ? Can you give the name of any other priest who resided there who was neither pupil nor tutor ?

A. Pemananda's assistant. There was a person by the name of Maligaspe Chanda. 10

Q. Did you see that priest in this temple ?

A. Even up to recent times he was there. He had a room in the Vihare with my permission.

Up to the time of this dispute he was there. At the time I came also he was there. He was not my pupil when I came. He had finished his studies by that time. I cannot remember any other person who was residing there.

(To Court :

Q. How did these pupils get their meals ?

A. Some of them get their meals down from outside. Their 20 temples and some of their relatives pay for their meals.

Q. Was that done right along or only recently ?

A. The majority, at the time I came in, were getting their meals like that.

The Vidyadhara Sabha did not send meals to these pupils. 1st defendant priest was not a tutor for some time. But he was given his meals by the Sabha for some time.

Q. For how many years ?

A. I cannot say.

It was from 1933 till the end of 1940. 30

Q. Were the meals prepared on the premises or were they obtained from elsewhere ?

A. During the time of Pemananda meals were supplied to 1st defendant in his room from the Dhanasalawa and also from outside.)

I spoke about a deed that Rev. Jinaratana had given in favour of the 1st defendant.

Q. You know that 1st defendant was elected by a certain vote as the Nayaka priest of the Sripadasthanaya by some people ?

A. By two sects.

I do not know that he was elected by the majority vote of those who were registered bhikkus.

Q. But you admit that there were two people who were elected ?

A. I have heard so.

10 All these things were matters that received a great deal of publicity. There were two priests, Urapola Ratnajoti and the 1st defendant priest, both claiming to be elected as the Nayaka priest of Sripadasthanaya.

Q. Are you aware of the fact that the Malwatta Chapter expelled Urapola Ratnajoti from the priesthood ? Or purported to expel ? The Maha Sangha Sabha ?

A. That was during the time of Kahawe Ratanasara.

Q. Under the Ordinance any alterations or modifications by the Maha Nayaka had to be entered by the Registrar-General ?

20 *A.* May be so.

Q. Do you know that the Maha Nayaka of Malwatta made an application to the Supreme Court for a writ of mandamus on the Registrar-General against Urapola Ratanajoti ?

A. I cannot remember.

Q. During the time of Hikkaduwe Sri Sumangala as Nayaka of Sripada a lot of money came in from the Sripadasthanaya collections ?

A. May have.

30 *Q.* In about 1940 certain things happened which made the Vidya-dhara Sabha feel that the 1st defendant would be able to function as Nayaka of Sripada ? In about 1940 a select Committee was appointed by the State Council to go into this question under the Chairmanship of Colonel T. G. Jayawardene and that Committee made public to the Island its report ?

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A. May be.

Q. And also in 1940, at the same time that this report came out, 17 members who formed the Karaka Sabha made a fresh application to the Supreme Court for a writ of mandamus on the Registrar General? I am putting it to you that you realised at that time that the Sabha was leaning more to the side of the 1st defendant more from the point of getting moneys? Before that there was the tussle between you and the 1st defendant - 1st defendant asking for classes and you refusing? That had been going on from time to time? There were letters and so forth? 10

A. There was correspondence.

Q. I am putting it to you that in 1940, at this time, you realised that the Sabha by reason of the process of getting money from Sri-pada were leaning more to the side of the 1st defendant than towards you? Did you realise it?

A. I never realised.

Q. I am putting it to you further that you and Sorata acting together got round Pemananda to accept Sorata as Pemananda's chief pupil?

A. No. I deny it. 20

Q. Pemananda had executed a deed in favour of Sorata in favour of another temple, Talagastheniya?

A. Yes.

Q. That deed was attested at the Tilakaramaya Temple at Balangoda? You yourself went down for the attesting of that deed?

A. That was executed at Ambalangoda. I did not go there. I went on another day with Sorata and Pemananda to my temple at Galle. They went to Tilakaramaya at Hikkaduwa. The three of us left Colombo together. I also got down at Hikkaduwa. 30

Q. And at that Tilakaramaya was attested the deed by Pemananda in favour of Sorata?

A. There was a talk of attesting a deed.

Q. By a Notary called D. P. Abeysiriwardene ?

A. I do not know that Notary.

Q. Do you know whether a deed was attested at the Tillakaramaya Temple on the day you went ?

A. A deed was attested, but I do not know the Notary.

Q. And you knew that they were going for the purpose of attesting this deed ? That was a deed No. 1299 written on 26.10.1940 ?

A. I cannot remember the date of the deed.

Q. I am putting it to you that all that was done in pursuance of
10 a conspiracy among the three of you to create a pupillary succession from Pemananda to Sorata by Paramparawa for these premises ?

A. That may have been the idea, but I do not know.

Q. I am putting it to you that you were also one of those three members of this conspiracy ?

A. I took no part in such a conspiracy.

Q. I am putting it to you further that you were actuated by a fear that the Sabha would go over to the support of the 1st defendant and that you would yourself have to lose the Parivenadhipathiship of the place ?

20 A. I had no reason to fear that.

Q. That deed by Jinaratana in favour of the 1st defendant was subsequent to this trip by the three of you to the Tilakaramaya Temple at Hikkaduwa ?

A. That I do not know.

Q. Later by almost a whole year ?

A. In 1940 I came to know of the execution of a deed by Jinaratana in favour of the 1st defendant. Before that I did not know. In 1943 also I came to know. In 1942 I came to know.

In 1942 I got to know of the deed executed in 1941.

30 Q. In June, 1941, the deed was written and you knew also that was about nine months after your trip to the Tilakaramaya Temple ?

A. I cannot remember.

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Q. I put it to you that at this time you were beginning to feel that the Sabha was leaning more towards the 1st defendant? It was at the end of 1940 that you received a letter from the Sabha asking you to give classes to the 1st defendant?

A. (No answer.)

(Witness is shown the letter from the Vidyadhara Sabha and he says, "I did not accept this letter as coming from the Vidyadhara Sabha".)

(*To Court :*

Q. But some members of the Vidyadhara Sabha wrote to you? 10

A. Some members have signed.)

Even the letter of appointment I received had been signed by the President and Secretary, but here 10 members of the Vidyadhara Sabha had signed.

Q. You will admit that the Vidyadhara Sabha did its business by a majority vote?

A. The Vidyadhara Sabha has convened a meeting.

There is, according to me, 13 members of the Sabha. There are 10 signatures on that letter.

Q. Who was the President at that time? 20

A. They will have to select one person.

Q. Who was the Secretary at that time?

A. They had taken this document to each member and got his signature.

Q. There was a permanent Secretary? Who was the Secretary at that time?

A. I think it was Mr. Rajah Hewavitarne. His signature is on that document.

Q. Did you ever make enquiries to find out whether this had been done before the Sabha and approved? Was this placed before 30 a meeting?

A. No.

To my knowledge it was not put before a meeting.

Q. You have been present at several meetings?

A. At some meetings.

(Shown a minute of January, 1942, on page 143 ; already marked 2D12T : I accept my presence at that meeting. My name is there.

Q. Turn over to the same minute continued at page 146. (Witness turns over to it.)

(Shown a passage, witness reads it aloud.) That makes reference to a letter of the 1st defendant sent on 7.1.1942. That letter was read before the Sabha. (Mr. Wikramanayake marks the original of that letter as 1D47.) It bears signatures of those present at that
10 meeting and it has been tabled on 20.1.1942. He says that the principal person's statement is mentioned by me in my letter of 13.5.1941 and that " nothing can be done without Soratha's consent."

Q. When you received that earlier letter from those members of the Sabha, did you tell the 1st defendant " nothing can be done without the consent of Sorata " ? About giving classes ? Did you say that or not ?

A. I cannot remember having said so.

Q. I am putting it to you that you said so ? Are you prepared to deny it ? Are you prepared to deny it if the 1st defendant swears
20 that you said that ?

A. I cannot say that.

Q. When this letter was read to the Sabha and the statement was read out that 1st defendant said you said " nothing can be done without Sorata's consent " ?

A. (No answer.)

(To Court :

I was present when the 1942 letter was tabled and discussed.)

Q. Is that statement of yours " nothing can be done without Sorata's consent " there in the letter ?

30 A. Yes. It is so said.

If it is there I will not deny it.

Q. When that statement came, within a short time of its coming you did not question its correctness ?

Whether this was true or false you did not say ?

A. I cannot remember whether I spoke or not.

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Q. I am putting it to you that you wanted Sorata's consent because by this time Sorata was establishing his claim to a Viharadhipathiship by succession ?

A. I cannot remember.

(Further hearing 11th July, 1950).

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(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

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10

D.C. 2882/Land.

11th July, 1950.

BADDEGAMA PIYARATANA NAYAKA THERO. Recalled.
Affirmed.

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Cross-examination (Contd.).

I was being shown yesterday a minute at page 146 of the Minute Book and the letter 1D47. That is the letter that was discussed at the meeting at which I was present.

Q. The letter says that when the 1st defendant spoke to you after the letter sent to you by 10 members of the Sabha, you said, "nothing can be done without Soratha's consent" ?

20

A. I cannot remember having said that.

Q. He put it down in writing a few days after the alleged statement and the statement he put down in writing was brought to your notice shortly after ? If that statement had not been correct you would then have contradicted it ?

That time you would have remembered quite well ?

A. I cannot remember that.

Q. 1st defendant states in the letter that you told him, "The Sabha has no right to interfere with the internal affairs." Did you make that statement ?

A. I cannot remember having said that.

30

If I was at the meeting at the time of the reading of this letter, that would have been a matter for me to have raised. Had I been present at the meeting at the time this letter was read by the Sabha, I would have raised this question and the minutes would show whether this point has been raised or not.

Q. Yesterday counsel told you that you were present at that meeting ?

A. The letter was read at that meeting. If I had made that statement it would have been to the Sabha, not to the 1st defendant.

10 (Shown the minute 2D12T at page 146.

Q. Can you find out from the minutes how this matter was discussed at the meeting ? Just read that paragraph. (Witness reads.)

A. This was in January, 1942. It was in 1940 that the deed was executed in favour of Soratha.)

This Thepassi, who I say I made Kruthyadhikari, is a co-pupil of Soratha.

Q. He is also by ordination a pupil of Sorata ?

A. That I do not know.

20 Devarakkhita is now occupying the room that was occupied by Pemananda.

Q. That Devarakkhita, who you say is functioning as Kruthyadhikari on behalf of Thepassi, is a pupil of Soratha ?

A. I do not know about that.

Q. Do you know whether Devarakkhita is Thepassi's pupil ?

A. Each one belongs to the temple of both these priests.

Q. They belong to the same Paramparawa as Sorata and Devarakkhita ?

A. They belong to the Totamunne Vihare Paramparawa. I do
30 not know whether he is a pupil of one or both.

Q. Is it not a fact that when you found the Sabha veering round to the 1st defendant you tried to set up a different line of pupillary succession there to the Viharadhipathiship through Sorata ?

A. There was no such thing. You can enquire from any member of the Sabha.

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Q. And is it not the fact that in order to meet that situation, it was at the instance of the members of the Sabha that the deed was written in favour of Morontuduwe ?

A. (No answer.)

(To Court :

Before Jinaratana wrote the deed I did not know that he was going to write it. I came to know long after.)

Q. How long after ? In 1942 you did not know ?

A. No.

I came to know in March, 1942, not before that. I told the ¹⁰ Court that it was Rev. Kahawe Ratanasara who stopped 1st defendant from teaching.

Q. Is it not the Sabha, and the Sabha alone, under that deed who had the right to appoint and remove teachers ?

A. The Sabha have the right of appointing the Parivenadhipathi.

In all other deeds it is with the approval of the Parivenadhipathi. Teachers should be appointed by me.

(Shown P1.)

Q. Where the removal of teachers provided for ? Read clause 10. 20

A. That is the only clause which deals with removal.

(Mr. Wikramanayake reads that clause.)

The provision for the dismissal of teachers is that the Sabha should hold a meeting and enquire into the charges and the dismissal. There is no power in that deed nor in any of the other deeds I rely on for the Principal to dismiss teachers. There is also provision that before dismissal there should be an enquiry into the charges by the Sabha.

Q. Is there a minute anywhere that Morontuduwe Dhammananda was stopped from teaching and asked not to teach ? 30

(To Court :

I do not know whether this matter of dismissals was discussed at any meeting.)

Q. In 1932 the 1st defendant raised this question of the charging of fees, of levying of moneys for lights and taxes ?

A. The first trouble arose owing to that.

Q. The question that he raised was one of the impropriety of charging fees from the Bhikkus in a Pirivena where the Bhikkus were taught not to deal with money ?

10 *A.* Those fees are not collected from the pupils but from the Dayakayas.

I have not got a letter addressed to Sorata, my Vice-Principal, on 15.6.1932 by Morontuduwe Nayaka priest.

Q. Following on that a letter was sent to you on 18.6.1932 ? Have you got that ?

A. Yes.

The next letter is dated 21.6.1932.

Q. As a result of his protest and the Sabha not heeding his protest, whether that protest was right or wrong, 1st defendant
20 threatened a fast ?

A. In July 1933 he threatened to fast.

Q. It was not merely in connection with the collecting of moneys, but while this dispute with regard to the collection of moneys was going on there arose disputes between priests and laymen in this Pirivena and between priests and priests ? During the period of this discussion and in connection with it ? Rajah Hewavitarne filed an action against Hewavissa Wimalaratana in the Magistrate's Court ?

A. Not in that connection.

Q. He filed an action ? And about this time ? Shortly before
30 the fast ?

A. Yes.

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Q. And Hewavissa Wimalaratana filed an action in the Magistrate's Court against Kukulnape Devarakkhita and . . . Pannasara ?

A. It was 1st defendant who got him to file that action.

Q. All along you have been saying that you did not see things about which you were not personally aware, but when I asked you this question you say it was at the instance of the 1st defendant? Why is that? Did you see 1st defendant doing anything or hear him doing anything ?

A. I did not see.

Q. Did you hear him instigating the other man to go and file 10 the action ?

A. I felt certain in my mind that he did it.

Q. Although it is an inference you are drawing from the fact ?

A. Yes, and Kahawe Ratanasara told me that.

Q. When I put you questions to get anything out you told me you could not say anything because you did not know personally? Here you volunteer what was your inference ?

A. Yes.

Q. Is it not the fact that 1st defendant intimated to the public the reasons for his fast in the Press ?

20

A. Yes.

Q. And in so publishing it he set out first the reason of the dispute between him and the Sabha with regard to the charging of moneys ?

A. Yes.

Q. And then he went on to say that it has come to a stage where bhikkhus are fighting each other and charging each other in the Magistrate's Courts? Did he say that ?

A. May be so.

Q. And his fast was a penalty self-imposed until these matters 30 could be put right? That was what he said ?

A. Yes.

That was in the papers.

Q. There was a great commotion, you told the Court already, over this business ?

A. All over the Island there was a big commotion.

Q. And round the Maligakanda temple premises the people crowded in thousands ?

A. Yes.

: Because of the crowds who collected outside the temple premises and for fear of a breach of the peace the Nayake priests of Malwatta and Asgiriya came down to settle this dispute.

10 Q. The general feeling was that there would be riots outside that place if 1st defendant continued to fast ?

A. I do not know why they came.

They came to stop the fast. But they made a publication in the Press of their order in the matter. I said yesterday that I did not read much of these newspapers. The Sinhala Bauddhaya is not sent to me daily. It is not sent to me free by the Society. It is not published daily.

Q. Whenever it is published it is sent to you free by the Mahabodhi Society ?

20 A. I was the patron of the Mahabodhi Society.

I read the Dinamina. During that period there were frequent letters in the press about the matter of this fast.

Q. And a number of editorials were written ?

A. I cannot remember. There were editorials.

(To Court :

The Two Maha Nayaka priests came to Colombo in connection with that fast.)

Q. What did they decide ?

A. They asked 1st defendant not to enter upon the fast. They 30 said they would look into the matter and make a suitable decision.

Q. Did they enquire into it and make some decision ?

A. Nothing happened.

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Q. Did they decide anything on that matter at any time ?
 About the charging of fees for lights ?

Q. Did they ask you not to collect fees ?

A. I do not know.)

The collecting of fees was not stopped.

Q. The old order was amended in conformity with the desires of the 1st defendant before he went on his fast ? It was amended in accordance with the suggestion that was made by 1st defendant before his fast ?

A. I do not know.

10

(*To Court :*

Before the fast fees were charged.)

Q. How were the fees charged ?

A. Rs. 20 from each pupil per year or Rs. 10 every six months.

I do not know who paid that money at that time before the fast.

Q. Money was collected from the pupils ? From whom did the money come ?

A. I did not see.

I do not know whether the pupils paid the money.

20

Q. Why were you appointed as Principal in that Pirivena ? What were you doing there ?

A. I was Vice-Principal.

Q. What were you doing as Principal and Vice-Principal if you do not know these things ? Is this only a name ?

A. I do not know those things.

Q. What are you doing now as Principal ?

A. I teach in the higher classes and attend to other duties.

Q. What are the other duties ?

A. I go outside preaching Bana.

30

Q. What are your duties as Principal? I want to know what you do as Parivenadhipathi?

A. I arrange classes in the Pirivena and I examine at the annual examinations. I maintain discipline among pupils and teachers. I also look after the comfort of the resident pupils and teachers.

Q. When you look after the comfort of pupils you must be knowing whether they get lights?

A. During my time there were no lights.

10 *Q.* There are now no electric lights for pupils to study. After the dispute the supply of electric lights to the pupils was stopped.

Q. Do you know whether they study at night without electric lights?

A. They get kerosine oil and use lamps.

Q. You do not know how they get kerosine oil?

A. From the dayakayas or from the temple from which they come.

20 *Q.* You do not interest yourself in what is brought into this temple? You do not take any interest in what is brought into the premises as meals, oil etc.?

A. (No answer.)

Q. Boarding fees were charged for residence?

A. Not to my knowledge during my time.

Q. Are any fees for anything other than lights charged from these pupils?

A. For taxes and for the telephone. There is only one telepone.

For rates a fee has not been charged during my time. I was appointed Principal in 1936. No rates were charged from pupils from that time.

30 *Q.* From 1936 the residence of a pupil there does not cost him anything? Those pupils have not got to pay anything?

A. No priest is charged by the Pirivena.

Q. Then who charges anything?

A. At present no priests are charged.

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Q. Does the Municipality recover rates ?

A. It is free from rates, from during the time of Kahawe Ratanasara.)

Q. From a year or so after the fast ?

A. I cannot say the exact period.

(To Court :

Q. When you were Vice-Principal do you know whether fees were charged by the Municipality ?

A. Yes.

First, rates were charged.

10

Q. How were those paid ?

A. I did not enquire into it. They were paid through the Sabha.)

Q. Did the Sabha collect the money ?

A. I did not enquire how the Sabha collected the money.

(To Court :

I did not ask the pupils whether they had to incur any expenses.

Q. Now we want to know whether the Malwatta and Asgiriya priests took some interest in this fast ? They came to see what happened ?

20

A. Yes.

Q. After they came they must have advised you people ? To the Sabha and Vice-Principal and tutors and everybody ?

A. They did not tell me anything.

They may have told the Sabha.)

Q. Did they write to Kahawe Ratanasara, the Principal, asking him to come to Malwatta to discuss this matter ?

A. I remember the writing.

Q. And after a discussion of these matters did they not send to Rev. Kahawe Ratanasara their decision ? By a letter ?

30

A. (No answer.)

The whole public had been upset about this fast. And they had to satisfy the public also.

Q. And in order to let the public know what was happening they published in the papers a full statement of what was decided on by their discussions ?

A. I cannot say.

(Shown the Dinamina of 10.8.1933 :

I may have read this article.)

(*Court :*

10 If you had told us half an hour ago what these people had discussed we would have gone on to the next point. (Witness answers "I cannot remember.") I tell you this : When you try to evade answers like this these things become very big. These are very minor points. You were in Court right throughout the time Mr. W. H. W. Perera was cross-examined by Mr. Wikramanayake. You must have heard him being cross-examined on this point and on what the Maha Nayaka priests did. You could have refreshed your mind at that time as to what took place, and told us what had happened long ago, and you would have gone out of the witness box about two days ago.)

20 (Witness reads the article in the Dinamina of 10.8.1933.)

After that both those cases were withdrawn.

(*To Court :*

I do not know that the accused were convicted in both those cases. Wimalaratana left the premises.)

(Shown the signature of Mr. J. Munasinghe, the Secretary.) That is his signature. He issued receipts like that to the individual bhikkus pupils for the moneys taken. After the decision that practice stopped.

(Mr. Wikramanayake marks the document dated 5.6.33 as 1D49.)

30 *Q.* Then the fast ended and the decision that was taken was the decision that supported the view that had been taken by 1st defendant ?

A. (No answer.)

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(*To Court :*

But subsequent to this fast, the Vidyadhara Sabha conducted themselves, as far as the lights and rates were concerned, in accordance with what was proposed by 1st defendant. They stopped collecting fees, and also money for electric lights. 1st defendant priest wanted the Sabha not to collect fees either for the lights or for rates. The Sabha only stopped collecting fees for rates, and stopped the using of lights also.)

Now we come to the second fast I spoke about at the Sri Sumangala Memorial Hall. 10

Q. That was not a matter that came up at all in any part of this case until you got into the witness box ? The first fast came in as a result of the second ? Why did you come out with the story of the second fast ? How is it relevant to the case ?

A. He began the fast with the object of closing the Hall.

Q. So far as that was concerned, this Hall had not been used for examinations for a very long period of time ?

A. After 1942.

Q. Before 1942 for quite a long time this Hall had not been used ?

A. (No answer.) 20

Q. 1st defendant had shifted his possessions, his bed, into that Hall because there was a crack in the wall of his Avasa ?

A. There was no such crack to my knowledge.

There was a war on.

Q. Plenty of firing of guns and lots of vibrations were felt that might damage a cracked wall ?

A. Yes. He said so.

The Pirivena itself had been shifted from Colombo in 1942.

Q. The teaching of the Pirivena was taking place in different places outside Colombo ? 30

A. Because pupils did not come to Colombo.

Q. And this Memorial Hall had not been used for a considerable time prior to 1st defendant taking his things into it ?

A. In the whole of 1942 that Hall had not been used.

Q. And it was towards the end of 1942 that the 1st defendant priest moved his bed into the front room of that Hall ?

A. At the end of 1941.

I was in Galle towards the vacation period.

Q. When the 1st defendant had gone away to a temple at Ratnapura and preached Bana ?

A. I do not know about that.

Q. He had gone away from the temple on a particular day ?

A. May be so, but I do not know.

10 Q. And in his absence the locks were broken open and fresh locks were put in ?

A. May be so.

I do not know that when he tried to enter that room I got some persons there and pushed him and his bed forcibly out of the room.

Q. Do you know whether that was the reason for his fast ?

A. That may have been so.

Q. And those people acted on the instructions of Mr. Rajah Hewavitarne? Was Mr. Rajah Hewavitarne given directions by the Sabha to take possession of that Hall ?

20 A. Yes.

That is why he took possession of that Hall. On the orders of the Sabha it was taken back to hold other examinations.

(To Court :

Q. You are now asked whether 1st defendant was turned out of that Hall by force and his things thrown out ?

A. It is not true that he was pushed out of the Hall and that his things were thrown out of the Hall.)

At the time 1st defendant moved his things into that Hall the key of the Hall was with 1st defendant. He had got the key from the
30 Kruthyadikara. That key neither I nor anybody else got back from the 1st defendant.

Q. It was a different key that you gave the Education Inspector ?

A. It was the key that Mr. Rajah Hewavitarne gave me.

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Q. Did not Mr. Rajah Hewavitarne remove the bolts and the locks that were there and so open the doors ?

A. May be so.

He then fitted new locks the keys of which he gave you. He also kept a watcher there. I do not know that when 1st defendant came back in the night and tried to get back to this room the watcher pushed him out and put his things out. 1st defendant published in hand-bills a statement of the reasons for that fast. I saw the hand-bills.

(Shown 1D50, witness reads it out.)

10

There was a lot of commotion over this fast. In the end the whole thing was settled by Mr. Rajah Hewavitarne begging pardon. The third fast was in 1945.

Q. What was that fast about ? Had it something to do with a visitor's room ?

A. Yes.

During the war the books of the library were taken away to Bandarawela and other places. They have not been brought back yet.

Q. And from 1945 this library has not been properly swept and properly cleaned ?

A. 1st defendant had taken the key.

That was from the time he claimed to be Viharadhipathi. Then this case was filed.

Q. There was a bana preaching and Pirith ceremony arranged by 1st defendant on 22.5.1945 ? He had made arrangements ?

A. Yes.

Q. And this fact that the Pirith and Bana preaching was going to take place was advertised by the dayakayas ?

A. Not by the Dayakayas of the Pirivena, but there was a notice published.

Q. And the publication was in the press on the 17th ?

A. I cannot remember, but in a local paper it was published that at the Sri Sumangala Memorial Hall there would be Pirith.

Q. And the purpose of the Pirith was also set out ?

A. May have been, but I do not know.

Q. On the 22nd, the day on which it was advertised, the Bana was about to begin ?

A. I do not know whether there was Bana as I was not there at the time. I saw in the papers that a Pirith ceremony was to be held.

On the day which was appointed for the Bana and which was advertised in the papers I went there. When the Bana was about to start I went on the platform and preached Bana.

Q. There was somebody else who was appointed to preach Bana on that day ?

10 A. Anybody else cannot be allowed to preach Bana there.

That Hall had to be used for teaching and not for the purpose of preaching Bana.

Q. But the Bana had been advertised and it was going to be preached not when teaching was to take place ?

A. Yes.

Q. Everything was ready and the preacher's name had been advertised ? The preacher was the 1st defendant ?

A. That was without the permission of anybody in the Pirivena.

20 Q. But the name of the person who was due to preach according to the advertisement I saw was the 1st defendant ?

A. May be so.

At that time this action was pending in appeal. In the first instance, I had brought this action and at that stage the action I had brought had been dismissed on a point of law. I had appealed and the matter was pending in appeal. During that period I and the 1st defendant were both in residence in this place. And just a few minutes before the Bana preaching was to take place I occupied the platform and occupied the seat which was reserved for the preacher.

Q. There was a commotion there ?

30 A. I preached Bana and came away.

Q. But for the intervention of the 1st defendant, was it not a fact that you would have been manhandled by some of the crowd ?

A. No.

Q. This was not during the school sessions but during the vacation ?

A. If it was on 22nd May the school would have been in session.

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Q. That was also the time of the smallpox epidemic ? There was no Pirivena in session at that time ?

A. May be so.

Q. So you went there forcibly, took your seat and preached Bana ?

A. Not forcibly. I was invited by the Dayakayas who had come there to hear Bana.

Q. This had been advertised in the press several days before ?

A. That may have been so, but I was not prepared to allow them to preach Bana in that place. 10

Q. But you forcibly took charge of the seat and preached ?

A. I cannot say it was forcibly.

Q. Then by what right did you go to somebody else's Bana preaching ? That was the reason why 1st defendant fasted on that occasion and he published handbills ?

A. May be so.

Q. There was an intimation to the public as to the reason for that fast ?

A. If he had published a notice I must have seen it.

Q. It was distributed within the temple premises also ? 20

(Shown a handbill :

Q. Have you seen that handbill ?

A. I think I have seen it.)

(Witness reads out the handbill.)

That fast was terminated by the intervention of Mr. Goonesinghe. I spoke about a fourth fast.

Q. Had the fourth fast anything to do with this case ? How did the fourth fast of 1949 affect this case ?

A. Mr. Rajah Hewavitarne was the person in charge of many of the matters of the Sabha and it was as a result of something that 30 happened between 1st defendant and Mr. Rajah Hewavitarne that 1st defendant fasted.

Q. It was a matter that had no connection whatever with this case or with the Sabha ?

A. Nothing whatever.

Mr. Rajah Hewavitarne, apart from being one of the members of the Vidyadhara Sabha, has also something to do with the Mahabodhi Society. The Mahabodhi Society premises are just opposite the Maligakanda Temple.

Q. One night the 1st defendant had gone to the Mahabodhi Society office to use the telephone ?

10 *A.* May be.

Q. The reason for this fast is an allegation that on that occasion he was treated in a manner unworthy of a gentleman by Mr. Rajah Hewavitarne ?

A. It was so published.

Q. What had all that got to do with this case ?

A. Mr. Rajah Hewavitarne was taking an interest in this case and that was why that was done.

Q. The fast was because Mr. Rajah Hewavitarne took an interest ?

20 *A.* I think it was so.

Q. The Mahabodhi Society is one that formed part of the Dharmapala Trust ? That was created by a relative of Mr. Rajah Hewavitarne ?

A. Yes.

Among the Trustees there was so much litigation that Mr. J. R. Jayawardene was appointed to handle the funds of that Turst.

Q. Mr. Rajah Hewavitarne still acts as though he were the proprietor of that institution ?

A. No.

30 He acts as an official of the Sabha.

Q. The person in charge of the office there was Mr. Francis Gunaratne at that time ?

A. He was one of the members.

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I do not know that with the permission of Mr. Francis Gunaratne the 1st defendant was on that occasion using the telephone of the Society. I saw the publication in that instance as to the reason why 1st defendant fasted.

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 examination—
Continued

Q. The allegation 1st defendant made was that Mr. Rajah Hewavitarne had actually laid hands on him ?

A. That he had assaulted him.

I do not know whether it was all because he had gone to use the telephone in the Mahabodhi Society.

(Shown the handbill marked 1D52, witness reads it out.) 10

Q. Will you tell me this. Has the Vidyadhara Sabha the right to grant a Nayakaship ?

A. No. Only the granting of the Nayakaship of the Pirivena. The Nayaka of the Pirivena is the Parivenadhipathi.

Q. But they have not the right to give you the rank of a Nayaka ?

A. The chief priest of a place is always called the Nayaka of that place, but it cannot be granted by the Vidyadhara Sabha.

Q. If you say I hold the rank of a Nayaka what does that mean ? That is the rank held by somebody having the right to hold it ? 20

A. Not by me.

I am a Nayaka priest of the Southern Province since 1949.

Q. That was by a Sannas granted to you by the Malwatta Chapter.

A. Yes.

Q. Prior to that nobody had conferred on you the rank of a Nayaka ?

A. I was offered the Nayakaship.

That was the Nayakaship I spoke about yesterday. I did not accept that. At the start I accepted it but later refused. 30

Q. You did not get a Sannas ?

A. I did not receive an appointment.

For the first time I was appointed a Nayaka priest in 1949. I know exactly what is meant by a Nayaka priest. I have the right to call myself a Nayaka priest now because I got that Sannas. And every other priest who has been so appointed a Nayaka priest by the Chapter to which he belongs has a right to call himself a Nayaka priest. That is really the title that I got—the rank of Nayaka. No lay person and no Vidyadhara Sabha has the right to grant the rank of Nayaka.

(Court adjourned for lunch.)

No. 30
Proceedings
before the
District Court
11.7.50—
Continued

Evidence of
Baddegama
Piyaratana
Nayaka Thero
Cross-
examination—
Continued

10

(Sgd.) V. S. JAYAWICKREMA,

A. D. J.

11.7.50.

D.C. No. 2882/L.

11.7.50.

After lunch.

BADDEGAMA PIYARATANA NAYAKA THERO. Affirmed.
Plaintiff.

Evidence of
Baddegama
Piyaratana
Nayaka Thero
Cross-
examination—
Continued

Cross-examination (Contd.).

There was an action in Galle which was brought against me and one Siyadoris, my lessee, by the Viharadhipathi of the Sudharmara-
20 maya Temple in respect of a block of land that was covered by deed
No. 2367. It is true that that case went up in appeal.

Q. Is it not a fact that the plaintiff won that case ?

A. It is I who won the case in the District Court.

(*To Court :*

I was the defendant in that case.)

It is correct to say that in that case I was claiming the land which was the subject matter of that case. The Viharadhipathy filed action against me. It was a property not bought by me but by one of my dayakayas who dedicated it to my temple. It is also correct to say
30 that in that case I ended my evidence by saying that I was a D.Phil. of the Ceylon University and that I was the Principal of the Vidyodaya Pirivena. I won that case in the District Court, but the case went up in appeal, and in the appeal judgment was entered for the plaintiff, with costs.

Q. You have said that this was Sanghika property the title of which is, for the time being, with the Parivenadhipathi for the benefit of the Trust ?

A. With the Parivenadhipathi's paramparawa.

No. 30
 Proceedings
 before the
 District Court
 11.7.50—
Continued

Evidence of
 Baddegama
 Piyaratana
 Nayaka Thero
 Cross-
 examination—
Continued

Each Parivenadhipathi while he functions as such holds that title.

Q. Who holds the title during a period from the date on which a Parivenadhipathi dies, or goes out of office, and the date on which another is appointed by the Vidyadhara Sabha ?

A. When a Parivenadhipathi dies, before his body is taken out for burial another person is appointed as Parivenadhipathi. That is the usual practice.

Q. If the Vidyadhara Sabha ceases to exist, then what will be the position ? 10

A. Such a situation will not arise. If the Vidyadhara Sabha ceases to exist, then another Sabha will be appointed.

I have said that the keys were taken by Pachiswara who refused to return them. I also said that the keys were with Devarakkhita.

Q. They were the keys which were returned by Pachiswara ?

A. Pachiswara did not return the keys.

Devarakkhita were handed a new set of keys.

Q. Those keys are not with Thapasse ?

A. Some are with Devarakkhita and some are with him.

I remember reading out a passage from the “ Vinayalankaraya ” ²⁰ wherein the word “ Vithsathgethwa ” occurs (page 336). I have said that that word qualifies “ the full control is given but some rights are reserved with the person giving.”

Q. “ Vithsathgethwa ” is the participle of “ Vithsathgethy ” ?

A. Both words come from the same “ dathu”, which means the root. “ Sathwa ” is the prefix of “ we”. It is correct to say that “ Vithsathgethwa,” which is the participle, comes from the indicative mood of the verb “ Vithsathgethy ”.

(To Court :

“ Vithsathgethy ” is varthamana kriyawa, which means present ³⁰ tense.)

That is a Pali word. I know the Maha Nayaka Thero of Widurapola.

Q. Do you know that he is the author of an English/Pali Dictionary ?

A. May be so.

I know that he wrote several books, but I do not know definitely whether he wrote such a dictionary. He may have written such a dictionary. I do not know English and am not interested in that subject.

“ Parashadethy ” means “ to give to someone else ”. This word has the same meaning as “ Vithsathdethy ”. I accept the Commentary by Buddhaghosa given in the “ Vinayapitaka ”.

(Witness reads out a passage from the Dictionary—p. 468.)
 “ Vithsathdethy ” means “ to give to someone else ”. “ Dinnassa ”
 10 means “ giving ”. “ Vithsathdethwa ” means “ having given ”.

Buddha Dhamma Sangha is divided into three pitakas, viz. Suddha, Vinaya and Pitaka. It has five paramparawas, viz. Paradika Pali, Pajiththaya Pali, Mahawagga Pali, Chullewagga Pali and Pariwara Pali. Buddhaghosa has written a Commentary known as “ Parapastha Pradeepika ”. There is a special commentary on the “ Samantha Pasadika ” which is also called ‘ Wimathavinothanee-theeka ’.

(Shown page 411 of Mahawagga Pali which is the original text.)

(Witness reads out a passage from that page.) The translation
 20 of this passage is thus :

“ Anepidu Situwaraya heard that the priests who were having a dispute were coming to Savath Nuwara ; then he went to the place where Lord Buddha was, worshipped and then sat on a side ; he then addressed Buddha as follows :—

“ Lord, certain priests are coming here to make some complaint. I am not going to listen to those priests.”

Buddha then said :

“ Listen carefully to what both sides have to say, and accept what is right.”

30 Anatha Pindika and Anepidu Situwaraya are one and the same person.

(Court :

Q. Do you remember you recited a passage from Buddhaghosa ?

A. Yes, not one but two passages.

Q. In one you said that Anatha Pindika would not allow the priests to enter his vihare. That occurred in that passage of Buddhaghosa's Commentary which is in the “ Vinayapitaka ” ?

No. 30
 Proceedings
 before the
 District Court
 11.7.50—
Continued

Evidence of
 Baddegama
 Piyaratana
 Nayaka Thero
 Cross-
 examination—
Continued

No. 30
 Proceedings
 before the
 District Court
 11.7.50—
 Continued

Evidence of
 Baddegama
 Piyaratana
 Nayaka There
 Cross-
 examination—
 Continued

A. He had commented something in the “Dhammapada” commentary.

There is only one gathawa in that story, and it appears in the “Dhammapada” commentary.)

(Witness recites that gathawa from that book.)

(Shown page 32 of “Dhammapada”.) This is an edition by Rev. Kahawe Ratanasara.

(Witness reads out a paragraph from the middle of page 32 of “Dhammapada”.)

When Anatha Pindika said: “I will not allow them to enter into my vihare”, Buddha cautioned them and separated them.

Buddha told the king:

“These priests are holy persons; they did not accept my word as they had some dispute; now they have come to beg my pardon.”

Q. Is it “they had a right to come” or “they must be allowed to come”?

A. There is no mention of any “right”; it is “allow them to come”.

(Court:

Q. What words were used by Anatha Pindika?

20

A. He said “I will not allow the priests to enter my vihare.”

Q. Then what did Buddha say?

A. Buddha stopped him from preventing the priests to enter, and he then became silent.)

Q. You said he stopped him also in the same way he stopped the king? Is the word “wage” (in the same way) in that passage?

A. Yes.

Lord Buddha stopped him from preventing the priests to enter in the same way as he did to the king, and he became silent.)

Q. With regard to the other story, which you told the Court, of what happened to the gems in the place where Buddha was asked to enter?

A. That is not Gautama Buddha; that is during Vipassi Buddha's time; that is during the time of one of the earlier Buddha's.

(To Court :

It is very difficult to give the number of the Buddhas prior to Gautama Buddha.

Q. About what is that story ?

A. That story is about two persons who were immune from sin were reborn in this world as brothers; they were born in this world during Vipassi Buddha's time; and they were reborn during Gautama
10 Buddha's time; that story came out in conversation between them.)

I admit that gems are not things that can be dedicated, or accepted if dedicated, by the Sangha. A certain person wanted to dedicate a place of residence to Buddha, had that residence ready, and then had gems scattered all over. When the Buddha came there he found that gems were laid on the ground. Gems are things which he would not take over.

Q. Why Buddha did not enter that premises is because there were things which he would have to take over, but which he did not want to take ?

20 A. Because he did not want to take the responsibility of those gems. He would not undertake the protection of those gems.

(Court :

Q. Can gems be given to the Sangha ?

A. They will not be accepted by the Sangha.)

Q. So if they are not accepted by the Sangha, they become the property of the person who offered them ?

A. They can be offered to the vihare to be kept as ornaments, but the priests cannot accept them.

When the Buddha would not enter that premises as there were
30 gems laid there, that person who dedicated that place told the Buddha that he would not hold the Buddha responsible, but that he himself would take up the responsibility for that property.

Another person by name Kiribathgoda took a particularly big gem to Buddha.

Q. Did not Buddha tell that man, " you must look after your own property " ?

No. 30
Proceedings
before the
District Court
11.7.50—
Continued

Evidence of
Baddegama
Piyaratana
Nayaka Thero
Cross-
examination—
Continued

No. 30
 Proceedings
 before the
 District Court
 11.7.50—
Continued

Evidence of
 Baddegama
 Piyaratana
 Nayaka Thero
 Cross-
 examination—
Continued

A. I cannot remember that whole story. If the book is given to me I shall tell it.

(Shown page 678 of “ Dhammapada ”.)

(Witness reads out a passage from page 678.)

Buddha had told that man “ When a thing belongs to you do you not know that you should protect that property.”

(*Court :*

Q. According to that, the property still belongs to the dayakaya who offered it ?

A. The person who dedicated that article only protected it.) 10

Q. Are you aware of the fact that the 1st defendant has been long accepted by the Malwatta Chapter as the Viharadhipathi of this premises ?

A. Later I heard about it.

(Counsel says the 1st defendant was appointed as Viharadhipathi of this premises by the Maha Nayaka of the Malwatta Chapter.)

(*Court :*

Q. Do you know that the Malwatta Chapter has appointed the 1st defendant as Viharadhipathi of this premises ?

A. That is what I have heard ; I do not know the details. 20

The Sangha Sabha had not given him the appointment as Viharadhipathi ; but I heard that a document had been signed by the Maha Nayaka's Secretary and given to the 1st defendant. I do not know anything further.)

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

11.7.50.

Further hearing on the 13th July.

No. 31

Statement of objections of the 1st Defendant

IN THE DISTRICT COURT OF COLOMBO

Ven. Baddegama Piyaratana Thero, Principal of Vidyodaya
Pirivena, Maligakanda, Colombo *Plaintiff.*

No. 2882/L.

vs.

1. Ven. Morontuduwe Sri Dhammananda Nayaka Thero
of Vidyodaya Pirivena, Maligakanda, Colombo and
others..... *Defendants.*

10 On this 13th day of July, 1950.

The statement of objections of the 1st defendant abovenamed
appearing by Somawira Gunasekera, his proctor, states as follows :—

1. The 1st defendant objects to the issue of Writ against him by
the plaintiff for the following reasons :—

(a) A cheque in payment of the District Court costs was sent to
the plaintiff's proctor who kept the said cheque for a long time and
thereby the 1st defendant states the Decree for the District Court
costs has been satisfied.

20 (b) The 1st defendant has to receive from the plaintiff costs which
the plaintiff has not set off. The 1st defendant states that he will not
be able to recover from the plaintiff the costs ultimately if the same
is not now set off.

(c) The plaintiff has not instructed his proctor to recover the
costs and therefore the Notice issued by Court is improper.

Wherefore the 1st defendant prays :—

(a) that the Notice issued on him for the issue of Writ be
discharged ;

(b) for costs, and

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

(Sgd.) S. GUNASEKERA,
Proctor for 1st Defendant.

No. 31
Statement of
objections of
the 1st
Defendant
13.7.50

No. 32

Proceedings before the District Court

No. 32
Proceedings
before the
District Court
13.7.50

D.C. 2882/Land.

13th July, 1950.

Appearances as before.

BADDEGAMA PIYARATANA NAYAKA THERO. Recalled.
Affirmed.

Evidence of
Baddegama
Piyaratana
Nayaka Thero
Re-examina-
tion

Re-examination.

I was questioned by Counsel on the other side with regard to the document marked 2D11 dated 16.12.1940 when certain members of the Vidyadhara Sabha requested me to allow the 1st defendant to be given classes. That matter was brought up on 20.1.1942 before the Vidyadhara Sabha according to the minutes marked 2D12T. Among other things that were brought up at that meeting, the Secretary informed the house that a class-room in the Sri Sumangala Memorial Hall could not be utilised for their work as the 1st defendant had stored some of his belongings in the room and had retained the key in accordance with the wishes of Rev. Pemananda.

(Shown the fourth paragraph of the Minutes :

It is further stated that the monks referred to Rev. Pemananda and Rev. Morontuduwe Dhammananda the 1st defendant, be brought before the Sabha. The Honourable D. S. Senanayake was elected Chairman on that occasion.)

Questioned on this by the Chairman, Rev. Pemananda Nayaka Thero said that he did not give the keys to Morontuduwe, but that Morontuduwe had taken the key from the Tamil cooly. Morontuduwe then said that because the room he occupied was in a dilapidated condition it is true that he had kept some of his belongings in the Sri Sumangala Memorial Hall. Asked whether that hall could be obtained now, 1st defendant said that he had sent certain letters to the Vidyadhara Sabha and that he was not in a position to reply to that question till he had received a letter from the Sabha. The Chairman then made a statement. According to the minutes the Chairman said that there was no reference between those letters and this matter. The Chairman asked whether the 1st defendant sought to introduce pressure tactics in order to vindicate his rights. Then the 1st defendant stated that he was here as a pupil of Hikkaduwe Sri Sumangala and that he would not leave the Hall or hand over the key. The Chairman then said that the point was now clear and that the presence of the two monks was not necessary for the rest of the meeting. The two monks were then asked to leave the meeting. Later, the same minutes say in the second paragraph from the very end at page 145 that a letter from

Morontuduwe Dhammananda was then read. It was decided to reply to that letter that everything done by the Sabha was legal and properly constituted. (The letter of Morontuduwe Dhammananda that was read is marked 1D47.)

No. 32
Proceedings
before the
District Court
13.7.50—
Continued

With regard to this question of lights, the 1st defendant, Morontuduwe, published a letter in the Ceylon Daily News dated 19.7.1933. It has been addressed from the Vidyodaya Pirivena to the Editor, Ceylon Daily News, and is a letter purporting to have been sent by the 1st defendant.

Evidence of
Baddegama
Piyaratana
Nayaka Thero
Re-examina-
tion—
Continued

10 (Mr. Perera reads that letter out. It is marked P34.)

(At this stage Mr. Wikramanayake says that the 1st defendant admits that he sent this letter to the Ceylon Daily News.)

(Mr. Perera produces a letter, marked P35, sent by Mr. Jacob Munasinghe to the Editor, Ceylon Daily News, in reply to the letter P34 by Morontuduwe Dhammananda. Mr. Perera reads out the letter P35.)

(Court adjourned for lunch.)

A.D.J.
13.7.50.

20 D.C. No. 2882/L.
After lunch.

13.7.50.

BADDEGAMA PIYARATANA NAYAKA THERO. Affirmed.
Plaintiff.

Evidence of
Baddegama
Piyaratana
Nayaka Thero
Re-examina-
tion—
Continued

Re-examination (Contd.).

(Mr. Perera moves to produce a tablet of Mahinda's image at Mihintale, with a sannas just below the image, appearing at page 98 (English translation) of the First Volume of "Epigraphia Zeylanica".

Mr. Wikramanayake objects. He says that the sannas is there, but this book is not an actual copy of it.

30 I allow the document to go in.

Mr. Perera marks the document as P36.)

I produce, marked P37, the agreement dated 2nd March, 1943 (which document has been marked by the other side as 1D45).

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

No. 32
 Proceedings
 before the
 District Court
 13.7.50—
 Continued

Evidence of
 Mudaliyar E. A.
 Abayasekara
 Examination

Mudaliyar E. A. ABAYASEKARA. Affirmed. 59 years old.

I am a Buddhist.

I was the Chief Sinhalese Translator in the Education Department. I retired in October, 1949, after a continued service of 40 years. I worked as the Chief Translator (Sinhalese) of Government from 1932. Prior to that I was the Sinhalese Translator Mudaliyar of the Education Department. I worked in that capacity from 1924 to 1932.

Q. Apart from that, were you also the Inspector of Buddhist Pirivenas ?

A. I was the Officer-in-Charge of Buddhist Pirivenas of the whole 10 Island.

In this capacity I worked till the date of my retirement in 1949.

(To Court :

It was as a member of the Education Department that I was in charge of the Pirivenas.

That was a Government appointment.)

I joined the Department in 1924 as a Translator. I got the other appointment as Chief Translator later. During the period I was in charge of the Pirivena I used to visit the Pirivenas in my official capacity. 20

There are examinations conducted in these Pirivenas, and such examinations are conducted in the Maligakanda Vidyodaya Pirivena also, for the purpose of giving the Government grant.

Q. Did you supervise any of those examinations ?

A. I did not supervise examinations.

My duties in connection with these examinations at the Pirivenas were I had to go through the reports and make my recommendations to the Director of Education before the grant is made. I also had to see whether the necessary requirements have been satisfied and whether the the Pirivena is entitled to the grant; and it is on my 30 recommendation that the grant is given.

There is a society called Colombo Oriental Study Society which was founded in 1902, but that is not a Government concern. That Society is intended for the whole island. The President of that Society is the Director of Education. He is the ex-officio president. The Sinhalese Translator Mudaliyar is the Secretary of that Society, and as such I was the ex-officio Secretary there while I was functioning as the Translator of the Education Department. Why the Director of Education is the ex-officio President and the Translator the ex-officio Secretary is because that Society was started by a one-time 40

Director of Education when he was the Director for the purpose of improving and developing the oriental studies. It is a sort of a quasi-government department. The Governor is the Patron, and as I have already said the Director of Education is the Ex-officio President and the Translator Mudaliyar the Secretary. I functioned as the ex-officio Secretary of that Society up to the date of my retirement. Examinations are held by that Society.

No. 32
Proceedings
before the
District Court
13.7.50—
Continued

Evidence of
Mudaliyar E. A.
Abayasekara
Examination—
Continued

Q. Had you anything to do with those examinations ?

A. I was the officer in charge of the examinations.

10 Up to two years back I functioned as such.

As Translator Mudaliyar and the Chief Translator (Sinhalese) of the Government I had to be proficient in Sinhalese. I also had to have a knowledge of Pali and Sanscrit. I do not claim to be a Sinhalese Scholar, but I have a good knowledge of Sinhalese.

I was elected a member of the Vidyadhara Sabha also, and I am still a member of that Sabha. I was elected a member of that Sabha on the 12th of September, 1925. From 1925 I have been a member continuously up to date. As a member of the Vidyadhara Sabha I have been attending meetings of the Sabha. Apart from my
20 connection with the Sabha as a member I have been visiting the Vidyodaya Pirivena. I started to visit this Pirivena 40 years ago. When I first visited this Pirivena I was about 13 or 14 years of age. I went to the Pirivena with my father whose name was James Abayasekara. I am related to Mabotuwana Siddhartha Thero. He is my father's maternal uncle. In fact, it is to see him that my father and I used to visit this Pirivena. At that time this grand-uncle of mine, Mabotuwana Siddhartha, was residing at Vidyodaya Pirivena.

I am not quite sure when Mabotuwana Siddhartha died. But I know that he died when he was in the Siriwardhanaramaya at
30 Bambalapitiya. He did not die in that Siriwardhanaramaya. He died in the Vidyodaya Pirivena. Why that was, is because my father removed him from the Siriwardhanaramaya to the Pirivena when he was ill. He went there about two years before his death. The Siriwardhanaramaya was put up by him, and that is why he happened to be there.

I have seen the late Rev. Hikkaduwe Sri Sumangala and have spoken to him. He was the Principal of the Vidyodaya Pirivena prior to his death. The Vice-Principal of this institution at that time was Rev. Nanessara. Rev. Nanessara succeeded Rev. Sri Sumangala
40 as the Principal on the latter's death. Rev. Kahawe Ratanasara succeeded Naneswara as the Vice-Principal.

I was present at the meeting of the Sabha at which Rev. Baddegama Piyaratana, the plaintiff, was appointed the Principal of this

No. 32
 Proceedings
 before the
 District Court
 13.7.50—
Continued

Evidence of
 Mudaliyar E. A.
 Abayasekara
 Examination—
Continued

institution. I cannot remember whether I was present at the meeting of the Sabha at which Kahawe Ratanasara was appointed the Principal of this institution.

The Education Department is notified about these appointments. Rev. Baddegama Piyaratana's appointment was also notified to the Education Department in the usual way. It is the Secretary of the Vidyadhara Sabha who notifies these appointments to the Department. I cannot recall who the Secretary was at the time the appointment of Rev. Piyaratana was notified to the Education Department.

Q. At these annual examinations at the Pirivena did you go 10 there yourself ?

A. I usually visit on the first day. That is for the purpose of seeing whether the arrangements for the examinations are made satisfactorily.

I was appointed as the officer in charge of the Pirivenas in 1924.

Q. Did you go in 1924 itself to the Vidyodaya Pirivena on your appointment as the officer in charge ?

A. In fact for all the examinations I had to be present, and that only on the first day. Every year I had to go.

Q. Because the grant is given on your report ? 20

A. Not only because of that, but I had to go and see whether the arrangements are made satisfactorily.

The examinations at the Pirivenas are held not by the Inspector of the Pirivenas, but by a special body nominated by the Principal and appointed by the Director of Education.

Apart from the Vidyodaya Pirivena I have been visiting the Vidyalankara Pirivena at Peliyagoda in my capacity as Officer-in-Charge. The examinations at that Pirivena are conducted in a different way. The authorities there have the power to conduct their own examinations, which are internal examinations. 30

The buildings in the Vidyodaya Pirivena premises are in charge of the Vidyadhara Sabha. I know this because I was a member of the Sabha myself. It is the Sabha who spends for the repairs and improvements to the various buildings in that premises.

Q. Who takes the produce of whatever trees there are on that premises ?

A. Personally I have not seen anybody taking the produce of those trees. But I find from the accounts of the Vidyadhara Sabha that the amounts recovered from the produce from those trees are credited to the Sabha. 40

I have not been there myself to collect those amounts.

I know the 1st defendant, Rev. Morontuduwe Dhammananda, for the last 20 years or so. When I first knew him he was at the Vidyodaya Pirivena. He has been speaking to me. I know him fairly well. When I first came to know him about 20 years ago, he was a teacher at the Vidyodaya Pirivena. He was living there then. Kahawe Ratanasara was the Principal at that time, and I knew him very well. When Ratanasara was the Principal, the 1st defendant was a teacher, and Baddegama Piyaratana, the plaintiff, was the Vice-Principal. At that time there was only one Vice-Principal. Later on there were two Vice-Principals.

During the time of Ratanasara I cannot say exactly how many resident pupils were there in that Pirivena. After I became a member of the Sabha there were a number of priests resident there ; I cannot say the exact number ; there must have been about 60 or 70.

I remember an incident that took place at an annual examination at the Pirivena about 15 years ago. The incident is this : On the day in question the first defendant, Rev. Dammananda, tried to assault another priest, whose name is Kukulnape Devarakkhitha. I do not know whether Kukulnape was the Vice-Principal at that time ; but I know it was Kukulnape whom the 1st defendant tried to assault.

Q. Were you present when that incident took place ?

A. I was not present at the time of the incident, but officially I was informed about it.

(Mr. Wikramanayake objects to this portion of the evidence of this witness going in, as he says it is heresay evidence.)

(To Court :

I was not present when that incident took place, but being the Officer-in-charge of examinations at Pirivenas the incident was reported to me by the presiding Inspector ; and the Director of Education to whom I referred the matter forwarded the papers to the Principal for necessary action. The Principal at that time was Baddegama Piyaratana, plaintiff.)

(Shown a letter dated 20th November, 1929.)

I can identify the signature of this document. That Kukulnape Devarakkhitha who made the complaint is dead.

Q. Was that complaint made to the Sabha ?

(Mr. Wikramanayake objects to this question.)

No. 32

Proceedings
before the
District Court
13.7.50—
Continued

Evidence of
Mudaliyar E. A.
Abayasekara
Examination—
Continued

No. 32
 Proceedings
 before the
 District Court
 13.7.50—
Continued

ORDER

The portion of the evidence of this witness which refers to an assault by the 1st defendant, which assault the witness says he has only heard about, is not admissible and therefore it has to be deleted.

Evidence of
 Mudaliyar E. A.
 Abayasekara
 Examination—
Continued

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

I produce P38 pages 43 and 44 of document marked by the other side as 2D12—minutes of a meeting of the Vidyadhara Sabha held on 24th January, 1930.

Mr. Perera moves to produce the letter of 20.11.29 which he says 10 is referred to in the above minutes (P38).

Mr. Wikramanayake objects to the production of this letter.

(To Court :

Kukulnape Devarakkhitha was a tutor and the 1st defendant was also a tutor at the time of the incident. Our Inspector made a report about the incident separately to me, which I referred to the Director. The complaint made by Kukulnape about the incident was inquired into by the Sabha.)

Order.

I rule out this letter.

20

Intld.).....

A.D.J.

I know that that complaint was investigated. I have said that a report was made about this incident to the Department by our Inspector.

The 1st defendant, Rev. Dhammananda, came and saw me personally about this incident.

Q. What did he come and tell you ?

A. He asked me whether the incident has been reported to the Education office.

30

I told him that the presiding inspector had already made a report to me about it and that I had sent that report to the Director. He then asked me what the outcome of that report would be. I told him that the Director would refer the matter to the Principal, asking the Principal to see that such incidents do not occur at examinations in the future and also to take suitable action. The first defendant then left the Education office and went away.

Q. When the 1st defendant came to the Education office to see you, did he tell you exactly what the incident was ?

A. He said that there was a talk about a telephone message.

He did not say anything more. He did not tell me the full details of the incident.

I told him that the report would be sent to the Principal by the Department for suitable action.

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

10 After tomorrow, further hearing will be on the 5th, 6th, 7th, 8th, 11th, 12th, 13th and 14th of September, 1950.

(Intld.) V. S. J.

13th July, 1950.

No. 33

Proceedings before the District Court

D.C. No. 2882/L.

14.7.50.

(Appearances same as before.)

Mudaliyar E. A. ABAYASEKARA. Affirmed.

Examination-in-Chief—(Contd.).

20 On the last date I have said that in connection with an incident that took place about 15 years ago the 1st defendant came and saw me at the Education Office a few days after that incident.

I knew Rev. Devundara Jinaratana of the Gangaramaya Temple at Hunupitiya from my childhood. That is because my father was a dayakaya of that temple and I used to go along with him to that temple. I was present on the occasion on which congratulations were offered to Jinaratana on his 80th Birthday. I made a speech myself on that occasion.

30 I have seen Jinaratana at the Maligakanda Pirivena only once or twice. To my knowledge he never claimed to be the Viharadhipathi of the Maligakanda Temple ; and he never supervised the maintenance of any of the buildings in the Maligakanda premises.

I, as a member of the Vidyadhara Sabha, know that if any additional buildings were required to be erected in that premises the Sabha had to meet the expenses of such buildings ; and that if any outsider wished to erect any building on that premises, the permission of the Sabha had to be obtained first. For instance, it was with the

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prior consent of the Sabha that the Sri Sumangala Dharmasalawa and a set of dormitories were put up by a certain outside body. I cannot remember now any other instance in which buildings were put up in this premises in a similar manner.

As an ex-Sinhalese Translator Mudaliyar of the Education Department I am familiar with the Sinhalese language.

(Shown document P2.)

This is a notarial document attested by Mr. Ranasinghe, Proctor and Notary Public. I have not seen Mr. Ranasinghe.

(Shown P1—deed No. 925 of 6.12.1873.)

10

I have read this document before.

(Witness reads out the paragraph towards the end of the deed where the words “ge-dora adiya” occurs.)

Q. If there was a temple or aramaya on that land, would the executants have used the words “ge-dora adiya” only in this document?

(Mr. Wikramanayake objects to this question being put to the witness.)

I uphold his objection.

(Intld.) V. S. J., 20
A.D.J.

Q. Do the words “ge-dora adiya” in this document include temple buildings?

(Mr. Wikramanayake objects to this question also.)

I uphold the objection in view of the provisions of Sections 93, 94 and 95 of the Evidence Ordinance.

(Intld.) V. S. J.,
A.D.J.

Q. If a person wanted to transfer to another a land with a temple building or avasa thereon, would the words “ge-dora adiya” have been used in the deed?

(Mr. Wikramanayake objects to the question and says that this witness is not in a position to state what was in the mind of the person who wrote the deed.)

I uphold the objection.

(Intld.) V. S. J.,
A.D.J.

(Mr. Kottegoda questions the witness.)

I have already told the Court that I used to visit the late Rev. Mabotuwana Siddhartha at the Vidyodaya Pirivena.

Q. Did the pudgaleeka heirs of Mabotuwana Siddhartha go to possess any property in that Pirivena premises ?

A. No.

On the death of Siddhartha, Rev. Nanessara was appointed the Principal. This property was surrounded by a wall with all the buildings standing thereon.

10 (Shown P8.) This plan depicts that entire premises. I know that Rev. Nanessara as the Parivenadhipathi was in complete control of these buildings. Rev. Kahawe Ratanasara succeeded Nanessara as the Parivenadhipathi. During the lifetime of Ratanasara I visited these premises. To my knowledge Ratanasara was also in possession of all the buildings that existed in that premises at that time. (Shown P11.)

These are minutes of the meeting of the Vidyadhara Sabha held on 7.3.36, at which the plaintiff, Rev. Baddegama Piyaratana, was appointed to act as the Principal of the Vidyodaya Pirivena. I 20 was present at this meeting.

(Shown P12.)

These are minutes of the meeting of the Sabha held on 6.4.36 at which the appointment of Rev. Piyaratana as Acting Principal was confirmed. I was present at this meeting also.

The full complement of the Sabha of 13 members were not present at both these meetings. At the meeting held on 7.3.36 at which the plaintiff was appointed to act as Principal (P11) only 11 members were present, the two absent being the late Dr. W. A. de Silva and Dr. Malalasekera. At the meeting held on 6.4.36 at which that 30 appointment was confirmed (P12) only 9 members out of the 13 were present. The names of the four members who were absent are given in P12.

(Shown Minutes Book of the Vidyadhara Sabha covering the period from 1923 to 1928, which Mr. Kottegoda marks as 2D29.)

I produce marked 2D29a, minutes of a meeting held on 6th February, 1923. These minutes have been signed by C. Hewavitarne and J. Moonesinghe, the latter as the Secretary of the Sabha. The words " 50th Anniversary " are given therein.

I produce, marked 2D29b, minutes of a meeting held on 13th 40 March, 1923, which shows that permission had been given by the Vidyadhara Sabha to a Samithiya to hold an Assala Festival.

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I produce, marked 2D29c, minutes of a meeting held on 12th June, 1923, in paragraph 2 of which there is a reference to a letter from Rev. Pemananda. Permission had been given by the Sabha to conduct a pinkama. The words “sufficient space in the premises” are given in the next paragraph.

In the next paragraph there is also a reference to the Sabha accepting the resignation of Ratnasara as he had found unable to discharge the duties as a member.

The next paragraph refers to a request made by the teachers. There were two categories of pupils, namely, the lay pupils and the 10 robed pupils. There were English Classes also at the Pirivena, but I do not know exactly who attended those classes. I think the robed pupils also attended the English classes.

I produce, marked 2D29d, minutes of a meeting held on 21st October, 1923 (pages 6 and 7). I draw the attention of the Court to paragraph 3 in which there is reference to the appointment of a President.

I produce, marked 2D29e, minutes of a meeting held on 4th September, 1923, where the following words occur:—“To hand over to the Sabha the balance money.” At that time the Treasurer 20 of the Sabha was D. D. Pedrick. This is with regard to the cremation of the late Rev. Nanessara who officiated as Parivenadhipathi after 1922.

These minutes also contain a reference to the resignation of K. D. M. Perera as a member of the Sabha and also to the appointment of a new member in his place.

I also produce, marked 2D29f, minutes of a meeting held on 14th October, 1923, (page 9) which, among other things, refers to the election of a president of the Sabha.

I also produce, marked 2D29g, minutes of a meeting held on 30 16th October, 1923, and I draw the attention of the Court to item 3 with regard to the “laying of the foundation-stone for the Sri Suman-gala Hall”. The election of a new member is also mentioned in these minutes.

Q. Was this Kularatne elected in place of Dr. Hewavitarne?

A. Both Hewavitarne and Kularatne were elected as members.

I produce, marked 2D29h (at page 12 of this Minutes Book) minutes of a meeting held on 28th October, 1923, paragraph three of which refers to a certain dispute that arose at that time.

The “50th Anniversary” referred to in these minutes is the 40 Anniversary of the Vidyadhara Sabha.

I also produce, marked 2D29i minutes of a meeting held on 20th November, 1923, which refers, among other things, to the formation of a Samithiya. The functions of that Samithiya were to be carried out by various societies led by the Vidyadhara Sabha.

I next produce, marked 2D29j minutes of a meeting held on 5th February, 1924, and I draw the attention of the Court to paragraph 2 wherein there is a reference to a letter of resignation by Chas. Dias. The appointment of Piyadasa in his place was considered at that meeting.

10 I produce, marked 2D29k minutes of a meeting held on 4th March, 1924, wherein there is a reference to a contribution towards the construction of dharmasalawa.

I produce, marked 2D29l, minutes of a meeting held on 25th March, 1924, which refers to the construction of that building and various other matters regarding the Pirivena.

I next produce marked 2D29m, minutes of a meeting held on 8th April, 1924, wherein there is a reference to the fact that an engineer attended the meeting and explained the details of the building operations. This is in connection with the Memorial Hall to be put up in
20 the memory of the late Rev. Sri Sumangala.

I produce, marked 2D29n, minutes of a meeting held on 21st May, 1924. I draw the attention of the Court to paragraph two thereof. There is a reference to a thief who broke open the charity box that was placed at the Dagoba and to the fact that Mr. W. H. W. Perera was appointed to look into the matter.

In these minutes there are the words "lay and laity" that is a mistake; it should read "lay and clerical".

I produce, marked 2D29o, minutes of a meeting held on 3rd June, 1924. I draw the attention of the Court to paragraph three. The
30 plaintiff was appointed as Vice-Principal in 1925.

I produce, marked 2D29p, minutes of a meeting held on 11th June, 1924, and I draw the attention of the Court to paragraph three thereof. I also produce, marked 2D29q, minutes of a meeting held on 8th July, 1924, and I draw the attention of the Court to paragraph three. There is a reference to certain discrepancies in the accounting with regard to the building of the dagoba and the hall. At that time I was a member of the Sabha.

Paragraph two refers to a request made at that time for the reduction of taxes.

40 I produce, marked 2D29r minutes of a meeting held on 5th August, 1924. There is a reference to the fact that the Sabha decided to give a contract to one K. D. Perera.

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I also draw the attention of the Court to the last paragraph of these minutes which refers to the appointment of a Nayake Thero. This shows that the Sabha attended the ceremonial functions when the teachers of the Pirivena were given various ranks in their clerical life.

I also produce, marked 2D29s minutes of a meeting held on 16th September, 1924. Paragraph 3 refers to the publishing of certain leaflets. This relates to item 3 of the minutes (2D29r) of this same Minutes Book which refers to the appointment of a Deputy Nayake and about which leaflets were published. 10

(At this stage witness reads out the relevant paragraph of the original Sinhalese minutes to show how "Deputy Nayake" is worded in this Sinhalese document.)

I also produce, marked 2D29t, minutes of a meeting held on 13th November, 1924, and I draw the attention of the Court to item 3 thereof. There is a reference to a letter received from Rev. Morontuduwe Dhammanande, 1st defendant in this case.

I next produce, marked 2D29u, minutes of a meeting held on 26th November, 1924, where there is a reference to the illness of Devanande Upa-Nayake Thero. Meedeniya Adigar was willing to 20 join the Sabha at this time.

I produce, marked 2D29v, minutes of a meeting held on 15th January, 1925, where there is a reference to "the construction of living rooms in this premises". Those rooms were for the resident priests.

There is also a reference to the death of Devanande Upa-Nayake Thero.

An item in regard to settling the gas bill is given here. At that time there was no electricity in this premises.

Rev. Vajiragnana was the Inspector of Pirivenas at that time and 30 Rev. Soratha was the Vice-Principal of this Pirivena. In consequence of the death of Devanande there was a vacancy in the Pirivena for the post of Vice-Principal at that time; and the present Principal of the Pirivena succeeded to that post of Vice-Principal.

I produce, marked 2D29w, minutes of a meeting held on 7th February, 1925, where there is a reference to a statement of income and expenditure. The Vidyadhara Sabha was in the habit of making and publishing reports of its administration, sometimes yearly and sometimes in 2 or 3 years. The Sabha was also making up their accounts half-yearly and publishing a statement of income and 40 expenditure.

I produce, marked 2D29x, minutes of a meeting held on 13th March, 1925, and I draw the attention of the Court to paragraph 3 thereof. At this meeting a discussion took place on the appointment of a suitable monk for the library and for maintaining a register. That shows that the Sabha was appointing monks who used to work in the library and who used to keep the registers and books at the Pirivena.

The "constitution" referred to in these minutes is the constitution of the Sabha. That shows that the Sabha discussed questions
10 about their rights.

I also produce marked 2D29y, minutes of a meeting held on 18th May, 1925. These minutes show that Pemanande has been for a long time attending to that work and that at that time he was ill and the Sabha had appointed Soratha to assist him.

I produce, marked 2D29z, minutes of a meeting held on 10th August 1925. I draw the attention of the Court to paragraph 2 where there is a reference to me. I received my appointment as a member in that year—that is in 1925.

I produce marked 2D29(1) minutes of another meeting of the
20 Sabha held subsequently.

I also produce, marked 2D29(2), a copy of the "Sinhala Bauddha" of the 22nd of August, 1925, and a translation of this document marked 2D29(3).

I produce, marked 2D29(4), minutes of a meeting held on 28th January, 1926.

I next produce, marked 2D29(5), minutes of a meeting held on 19th March, 1926. Mr. D. S. Senanayake succeeded the late Mr. F. R. Senanayake, his brother. I cannot say whether their father was a member of the Sabha.

30 I produce, marked 2D29(6), minutes of a meeting held on 27th September, 1926, and I draw the attention of the Court to a reference to the fact that the income at that time was not sufficient to meet the expenditure and that the Secretary of the Sabha was spending about Rs. 1,000/- from his pocket. The Secretary at that time was Dr. Hewavitarne.

I also produce, marked 2D29(7), minutes of a meeting of the Sabha held on 21st April, 1927, which shows that various members had done various things for the Pirivena. T. G. M. Perera had done something to the Pirivena. He was the father of T. C. P. Perera who was a
40 member of the Sabha. The Sabha gave permission to the father of a member of the Sabha to conduct a pinkama, with the consent of the Principal of the Pirivena. The Nayake Thero referred to in the

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next paragraph is the Principal of the Pirivena ; that is in 1927. The sums of money referred to were spent on whitewashing, colourwashing and repairs, etc.

I also produce marked 2D29(8), minutes of a meeting held on 5th December, 1927. In the middle of paragraph 2 there is a reference to a letter received from Rev. Vajiragnana. There are the words "for the maintenance of the Vihare premises". The Vihare referred to is the Buduge. The Hony. Secretary at that time was Dr. Hewavitarne.

At page 53 of that minutes there is a reference to a report with 10 regard to the work done by the Vidyadhara Sabha from December, 1923, to February, 1925.

(Mr. Kottegoda marks that report as 2D30.)

Paragraph 3 of this report shows the death of the Vice-Principal.

The next paragraph deals with the "betterment and the welfare of the Pirivena premises". This paragraph also shows certain sums of money spent and also certain donations received from certain members.

I also produce, marked 2D31, a statement of income and expenditure from 1st January to 30th June, 1925; and its translation marked 20 as 2D31A.

(Counsel reads out the various items.)

The next column shows that the Sabha had received certain donations to construct living quarters. A number of persons have contributed for the funeral of Devananda Thero ; and on the other side items of expenditure are shown.

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

14.7.50.

Adjourned for lunch.

30

D.C. 2882/Land.

14th July, 1950.

(After lunch)

District Court costs have been taxed at Rs. 446/01 and Supreme Court costs at Rs. 390/50, making a total of Rs. 836/51. 1st defendant has been given costs on 6.12.1944 of Rs. 73/50. It is agreed that this amount be set off, and the balance costs due to the plaintiff from 1st defendant are Rs. 763/01 and the prospective costs Rs. 292/-. It is stated that a cheque for Rs. 446/01 was sent to Mr. Abhanayake but after some time the cheque was returned to Mr. S. Gunasekera. Now it is agreed that Rs. 763/01 is due as costs from the 1st defendant 40

to the plaintiff as costs of the previous trial and also the appeal costs. Plaintiff can have writ for this amount and also his prospective costs.

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

Mudaliyar E. A. ABAYASEKARA. Recalled. Affirmed.

Cross-examined by Mr. Kottegoda.

Q. P31 then is a publication of your accounts in what paper ?

A. In the Sinhala Bauddhaya of 19.9.1925.

I can speak to the facts of this Society from September, 1925.

10 Those very same accounts appear at page 70 of our Minute Book. I mark that as 2D31B. D29, as I said already, are minutes from the year 1923 to the year 1927.

(Shown D12 : After that the minutes of the Sabha are in this book.

Q. From 1928 up to the present ?

A. The last meeting is supposed to have been held somewhere in September, 1949.

The accounts of our Sabha are appearing in this Minute Book and they have been produced as 2D14 to 2D28.)

20 (Shown the original Minute Book :

Q. Turn to pages 11 and 12.

A. After that the accounts at 2D13 on pages 11 to 12 appear from 1.1.28 to 30.6.28. For the balance of the year the accounts are from July, 1928, to December, 1928 in 2D14. 2D15 is the half-yearly accounts from 1.1.29 to 30.6.29. 2D14 appears at page 19. Then you have 2D15. 2D16 at page 55 is the half-yearly accounts from 1.7.29 to 31.12.29. On page 57 2D17 is the half-yearly accounts for the first half of the year 1930. At page 59, 2D18, you get the balance half of the year 1939. At page 65 marked 2D19 is the full year's
30 accounts from 1.1.31 to 31.12.31. 2D20 at page 67 is the half-yearly accounts from 1.1.32 to 30.6.32. 2D21 is the half-yearly accounts from 1.7.32 to 31.12.32. Similarly 2D22 at page 96 is for the year 1933. 2D23 at page 100 is for the first half of the year 1935. 2D24 are the accounts for the balance half of the year 1935, 1.7.35 to 31.12.35. 3D25 at page 107 is the half-yearly accounts from 1.1.36 to 30.6.36. At page 107 2D26 is the accounts for the balance of the year 1936, from 1.7.37 to 31.12.36. 2D27 appearing at page 123 is the half-yearly accounts from 1.1.37 to 30.6.37. 2D28 is the half-yearly accounts from 1.7.37 to 31.12.37. Some of those show that the accounts are
40 both entered in the book and printed in the newspapers.)

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Q. What is that newspaper? First, you know when a vacancy occurred in the Sabha was that fact advertised in the papers?

A. Yes.

In some instances the newspapers copies are also there.

(Shown a copy attached to part of the minutes of 1931—a copy of the Sinhala Bauddhaya of 5.9.31 marked 2D32 and the translation marked 2D32a.)

The advertisement says that a special public meeting of the above Society will be held on the 12th instant at 5 p.m. at the Vidyodaya Pirivena, Maligakanda. 10

(Mr. Kottegoda reads the notice appearing in the issue of 5.9.35.)

The minutes 2D12I at page 50 show that in 1931, Mr. D. S. Senanayake has been elected to fill the vacancy created by Mr. D. C. Senanayake. It is minuted on 3.10.31. Mr. D. S. Senanayake continues up to date.

I also produce at page 95, attached to 2D12M, an advertisement with regard to a vacancy advertised in the Sinhala Bauddhaya of 5.5.34 marked 2D33 and the translation marked 2D33A. (Mr. Kottegoda reads that notice in Sinhalese.)

The minutes shows that Mr. D. D. Pedris, who has been the 20 Treasurer, has resigned and Mr. B. R. Dias has been elected in his place.

(Shown page 93 of 2D12 :

That purports to be the minutes of a meeting of the Vidyadhara Sabha held on 25.7.33. It is not signed.

(Mr. Kottegoda marks as 2D12X page 93 of the minutes.)

Q. At the bottom of that minute you find the letter purported to have been signed by how many members?

A. It is the same as 1D28 written to the 1st defendant.

(Mr. Kottegoda reads the second para of those minutes.) 30

The minutes show that the letter 1D28 is given and signed by six members of the Sabha.)

Now I remember that about that time there was some trouble with regard to electricity.

Q. What was that trouble?

A. Some of the pupil priests sent a petition to the Vidyadhara Sabha that they were unable to pay. A high priest also sent a letter and several other letters were sent by Mr. Goonesinghe and other people to the Sabha.

That matter is recorded in the minutes at page 91 of the book 2D12. (Mr. Abayasekara reads those minutes out.)

That minute is dated 31.7.33. That minute says, "Read two letters received from Morontuduwe Nayaka Thero regarding the other expenses of charging a levy. The letters stated that the resident priests who are there should not be charged this fee. The Secretary informed the house that the Revd. priest was told that a charge would be made only from the Kepakara Dayakayas, who were the supporters of these priests."

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10 Q. Then with regard to this question about the charge for electric lights, did your Sabha appoint any committee ?

A. A special committee was appointed consisting of one David Mudalali, Mr. W. H. W. Perera, Muhandiram D. P. A. Wijewardene myself and a few others.

Q. About what date was it appointed ?

A. After we received the letters.

Q. And did that Sub-Committee bring out the report to the Sabha ?

A. The Sabha made a report to the Sabha, who advised all those
20 persons who had signed that letter as well as the Morontuduwe High Priest to come before the committee and state what they had to say.

Those priests were present at the meeting of our Sabha held on 23.6.33. (The minutes have been already marked 2D12L.)

On that day I was the Chairman of the meeting, and our Sabha took statements of three persons, W. Seelaratana, Pannatissa and Hewavisse Wimalaratne. That is embodied in the minutes of that date. That was in 1933. At that time Kahawe Ratanasara was the Principal and the plaintiff was the Vice-Principal.

30 Q. About this time 1st defendant was taking tutorial classes at the Pirivena ?

A. I am not sure.

Q. Did the Parivenadhipathi do anything to the 1st defendant when he started that fast in 1933 ?

A. I cannot say, but I know about the fast.

Q. Was anything done to the 1st defendant in consequence of that fast, by the Principal or the Parivenadhipathi ?

A. He was not punished.

Q. What was 1st defendant doing at the Pirivena about that time—in that year ?

40 A. I do not know the dates but he was teaching about that time.

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Q. Did he continue to teach ?

A. He was stopped teaching, but I do not know the date.

Q. About the time of the fast was there some litigation ?

A. Yes.

Q. What was there ?

A. It was after the fast.

There were two cases.

Q. Where ?

A. In the Police Court.

One was filed by Hewavisse Wimalaratne and the other by 10 Mr. Rajah Hewavitarne.

(Shown P13 : That was written by 1st defendant to the Sabha. It is a letter written on 28.3.36 by 1st defendant to the Sabha. In that letter 1st defendant says, "in 1928, I was appointed Chief High Priest of the Sabaragamuwa Province . . .")

(Shown the last paragraph of that letter : There the 1st defendant wrote to the Sabha asking that he be entrusted with classes again.)

(Mr. Kottegoda reads the translation of that letter.) 1st defendant wrote various other letters to the Sabha.

(Shown 2D4 written on 11.5.33 : That is the letter he wrote to 20 the Sabha with regard to the levy of fees.)

(Shown 2D5 : That is also a letter with regard to the same subject.)

Thereafter he has written 2D6 dated 8.7.33 to the Sabha and various other letters. I draw the attention of Court to a letter dated 19.1.37 where he complained that he was not given classes. By the letter of 29.7.38 he asks the Sabha to decide finally whether he was to be entrusted with classes. He wants to know the decision.

(Shown document 2D11 : I have signed that document.)

Q. Who brought that document ?

A. Nobody brought it to me, but I came to the Pirivena and the 30 Morontuduwe High Priest called me to his room and showed it to me and I signed that letter. That is the letter signed by 10 members of the Sabha.

I say I had come to the Pirivena and 1st defendant called me and asked me to sign it. Nothing happened in consequence of this letter. He was not appointed a tutor.)

(Shown the minutes at page 136 in 2D12.)

Q. What does that state? (Witness reads.) That is a reference. There it says that the Parivenadhipathi sent a letter to the Sabha with regard to the letter sent by Rev. Morontuduwe.)

Q. Was the question of appointing 1st defendant to take classes discussed by the Sabha?

A. There were so many discussions, but I cannot particularise.

Q. At any of those discussions was your Sabha prepared to appoint the 1st defendant to take classes?

A. The Sabha appoints teachers on the recommendations of
10 the Principal.

Although this letter was sent, the Parivendhipathi did not give classes to 1st defendant.

Q. Did you at any time ask the Parivenadhipathi to give classes to the 1st defendant?

A. Individually I asked.

Q. Collectively?

A. As far as I can remember, the Sabha in a body never made such a request.

My Sabha also received from the 1st defendant about the time we
20 appointed the plaintiff as Principal, an application to consider him also as a suitable person to be appointed Parivenadhipathi.

(Shown P13, dated 28.3.36: In that letter he speaks of his qualifications, his residence at the Pirivena and various other matters. In the 5th Paragraph he says that the seat which fell vacant by the demise of Hikkaduwe Sri Sumangala was transferred to Nanissara; the seat vacated by Nanissara on his becoming Principal of the Pirivena was transferred by the Venerable Kahawe Nayaka Thero, who was then a teacher.

(Mr. Abayasekara reads the letter.)

30 There he says that the seat vacated by the Venerable Kahawe Ratanasara is vacant.

(Mr. Abayasekara reads further.)

There he makes an application both to the vacant seat of the Venerable Kahawe Ratanasara and he says he is entitled to it. We considered this application also.)

(Shown P12 of 6.4.36 appearing at page 104 of the Minutes: It says that the minutes of three previous meetings were read and confirmed. A letter sent by Rev. Morontuduwe on the subject was also read. That is a reference to the letter I already read out, P13. After

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discussions, Dr. D. P. Perera proposed that Baddegama Piyaratana be appointed as Principal of the Pirivena. It was also proposed and seconded and accepted by the Sabha that it would be good if Morontuduwe could be included among the tutorial staff and it was announced at that meeting. At that meeting we considered the letter sent by 1st defendant. I appointed the plaintiff as Principal of the Pirivena and minuted classes should again be given to the 1st defendant, who had ceased to take classes for a year or two. From 1936 he sent those letters asking that he be entrusted with classes, up to 2D13. In spite of that request no classes were entrusted to him.) 10

Between 1936 and 1940 1st defendant continued to reside in the Pirivena off and on. I remember the 1st defendant getting a deed from Devundera Jinaratana.

(Shown P7 : That document says, " To all to whom these presents shall come : I, Devundera Jinaratana, Chief Nayaka Priest of Colombo of the nine" (Mr. Kottegoda reads the deed.)

Q. Between all these years, 1936 to the time of this document, did 1st defendant lay a claim to any Viharadhipathiship within these premises ?

A. After 1940 only he started. 20

Q. Was it after he was not entrusted with classes in spite of the letter 2D11 ?

(Mr. Wikramanayake objects to the question.)

Till that period he never claimed. I have been connected with the Pirivena from 1925.

Q. During all that period did Jinaratana lay claim to an incumbency at these Premises ?

A. Not at all.

Revd. Mahagoda Nanissara succeeded Hikkaduwe Sri Sumangala to all the rights of Hikkaduwe Sri Sumangala in the premises. 30

Q. At that time did Devundera Jinaratana claim any rights ? Are you aware ?

A. No.

I was visiting these premises, temple, vihare and Pirivena for a long time. I was aware of the death of Mahagoda Nanissara.

Q. And after that Kahawe Ratanasara succeeded to all these rights ?

(Mr. Wikramanayake objects.)

At the time Kahawe Ratanasara succeeded to the Parivenadhipathiship there was no separate Viharadhipathi. Devundera Jinaratana did not claim any rights as Viharadhipathi when Kahawe Ratanasara succeeded Mahagoda Nanissara. As I know, during the 25 years I was there he never resided there. On the death of Kahawe Ratanasara we appointed the plaintiff as Parivenadhipathi.

Q. At that time did Jinaratana claim to be Viharadhipathi or did anybody else claim any rights from the pupils of Hikkaduwe Sri Sumāngala ?

10 *A.* No.

Q. When did you for the first time become aware that 1st defendant was claiming the Viharadhipathiship of the Vidyodaya Pirivena ?

A. About 1940.

(Shown 2D1 : From 1929 1st defendant has been writing letters to the Pirivena. 2D1 is a letter written by 1st defendant to the Vidyadhara Sabha.)

From 1929 to 1940 he has been writing various letters on various subjects to the Vidyadhara Sabha, which letters have been produced. In none of those had he urged his claim to the Viharadhipathiship.

20 I am aware that he had written a number of letters to the present Parivenadhipathi, the plaintiff.

(Shown P27, dated 28.6.40, P28 dated 7.7.40, P29 dated 20.7.40 and P30 dated 24.7.40 :

In none of these letters has he ever claimed any rights to this place, except to ask that classes be entrusted to him.)

(Shown a letter dated 20.5.46 : That bears the signature of Dr. Sandeman. He was the Director of Education. That is a letter written to the 1st defendant, a copy of the letter. It is an information copy sent to Mr. Rajah Hewavitarne of a letter sent to 1st defendant.

30 (Mr. Wikramanayake objects.)

(At this stage Mr. Kottegoda moves to withdraw the letter.) but states he will produce it later after getting out some more questions.

I was the Secretary of the Oriental Studies Society.

(*To Court :*

That is a Society of which all oriental scholars in the Island are members.)

Dr. Sandeman was Director of Education at the time and President of this Society. He sent some certificates to the Pirivena.

Q. Did the Director of Education write to the 1st defendant with 40 regard to the loss of the certificates ?

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(Mr. Wikramanayake objects.)

The Director gave an order. I was the Secretary of this Society and was in charge of issuing these certificates to this Pirivena which had sent its candidates to the examination.

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(*To Court :*

Q. Did you not send a certificate to this Pirivena ?

A. I sent 92 certificates addressed in English to the Principal of the Vidyodaya Pirivena. The Principal wrote to us stating that he had not got that letter.

Q. What was the next step you took then ?

10

A. We wrote to the Postmaster-General also. The registered packet did not come back.

Q. Then what did you do next ?

A. I complained to the Postmaster-General, but the registered packet did not come back. Then the Department wanted the packet recovered from the person who took it. Then I wrote to the Postmaster-General asking that the packet be recovered from the person who took it. He stated that it had been delivered to some person. Then the Principal wrote to us asking for the certificate, and we wrote to the Principal stating that we were issuing duplicate Certifi- 20
cates. Then I wrote to the 1st defendant.)

Futher hearing 5th September, 1950.

(Sgd.) V. S. JAYAWICKREMA,

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Same appearances as before

Mr. W. H. Perera states that Mr. Herath who is appearing with 30
him for the plaintiff, will conduct the case for the plaintiff.

Mr. Herath at this stage moves that he be permitted to call the
Rt. Hon. D. S. Senanayake, Prime Minister, who is a defendant in
the case, to give evidence because Mr. Senanayake, he states, will
not be able to be present in Court to give evidence at any other time
later owing to State business. Mr. Herath also states that the Hon'ble
the Prime Minister has curtailed his business activities to attend
Court to give evidence today.

Mr. Wikramanayake objects to this, on the ground that a witness has to be cross-examined.

Chapter 19 indicates how a trial should be conducted. Section 166 of the Code says that "the Court may, for grave cause to be recorded by it at the time, permit a departure from the course of trial.

Mr. Wikramanayake objects to this. There is a witness to be cross-examined, and Mr. Wikramanayake states that if he had been given any information about this some time earlier, he might have been prepared to adopt this procedure.

10 In reply to Court Mr. Herath stated that they came to know only today that Mr. Senanayake was available and they made up their mind to call him, although he should have given notice of that fact to the other side before today.

Order

It may be that the Hon'ble Mr. Senanayake cannot come owing to State business, but he might be available at some time or other. It is not a case of a witness who cannot be available on some other date of trial owing to some other unfortunate circumstances. I refuse the application.

20

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

Mudaliyar E. A. ABAYASEKARA.

On the last date I was asked about certain letters we wrote to the 1st defendant with regard to certificates.

I produce the original letter written direct, marked 2D34.

(Mr. Wikramanayake states he has no objection as he proposes to put the whole correspondence in.

Mr. Kottegoda states he does not object to the whole correspondence going in.

30 This correspondence will be on this subject.)

I did not get back the certificates. I then wrote a letter to the plaintiff sending the duplicate of the letter sent by me. That letter was dated 7th February, 1949, and I produce it marked 2D35. There I say that owing to the loss of the original certificates I sent the duplicates of the very same certificates that were lost in transit.

On the last date I have told the Court that I knew Rev. Mabotuwana Siddhartha. (Shown P4.) This shows that Siddhartha died in 1909.

40 About two years thereafter Ven'ble Hikkaduwe Sri Sumangala died, and his Death Certificate is P5. His successor was Rev. Nanessara. Nanessara died in 1922, and P6 is his Death Certificate.

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I have told the Court on the last date that the 1st defendant was in possession of the Sri Sumangala Memorial Hall. We do not run any institution there at present. Nor does the Principal of the Pirivena run any institution there now.

Q. You are aware that the 1st defendant is running a school there ?

A. I know there is a school there.

On the last day I spoke about certain accounts of the Vidyadhara Sabha, and I produced, marked 2D28, those accounts up to 1937. I have also accounts of the Sabha from 1937 up to date. 10

I produce, marked 2D36, accounts of the Sabha from 1st January to 30th June, 1938, and I also produce its translation marked 2D36A.

I also produce, marked 2D37, the accounts of the Sabha from 1st July, 1938, to the end of December, 1938; and I also produce its translation marked 2D37A.

I next produce, marked 2D38, the accounts of the Sabha from 1st January to 30th of June, 1939, and its translation marked 2D38A.

I produce, marked 2D39, the accounts of the Sabha from 1st July to 31st December, 1939, and its translation marked 2D39A.

I also produce, marked 2D40, the accounts of the Sabha from 1st 20 January, 1940, to 30th June, 1940, and the translation marked 2D40A.

Next I produce, marked 2D41, the accounts from 1st July to 31st December, 1940 and the translation marked 2D41A.

I produce, marked 2D42, the accounts of the Sabha from 1st January to 30th of June, 1941, and the translation marked 2D42A.

I also produce, marked 2D43, the accounts of the Sabha from 1st July to the end of December, 1941, and the translation marked 2D43A.

I next produce, marked 2D44 the accounts from 1st January to 30th June, 1942, and the translation marked 2D44A.

I produce, marked 2D45, the accounts from 1st July to 31st 30 December, 1942, and the translation marked 2D45A.

I also produce, marked 2D46, the accounts of the Sabha from 1st January to 30th June, 1943, and the translation marked 2D46A.

The accounts of our Society are there up-to-date.

Q. What was the procedure you adopted when there was a vacancy among the 13 members of your Sabha ?

A. We advertised in the papers saying that there would be a meeting and that a member will be elected.

And it is at a public meeting that that vacancy was filled. I have produced some of those advertisements, viz. 2D29 which is dated 22nd August, 1925, 2D32 which is dated 5th September, 1931, and 2D33 which is dated 5th September, 1934.

I now produce, marked 2D12Y (page 171 of minutes book) the minutes of 17th March, 1946, referring to the death of Dr. D. B. Perera and the election of Dr. B. E. Fernando in his place, as a member.

I have also told the Court that after the 1st defendant got the deed from Rev. Jinaratana he created this dispute. As far as I am
10 aware, the 1st defendant did not claim any rights in this place before that deed. The 1st defendant and I used to meet very often when I went to the Pirivena premises.

Q. As far as you know, other than appointment by the Sabha, did anybody claim that this Pirivena went to the pupil successor ?

A. No.

I remember the time when Rev. Nanessara died. None of his pupils claimed to succeed to the office of Parivenadhipathi. Nor did any of his pupils claim to be the Viharadhipathi inside the premises. I remember the time when the late Rev. Ratanasara died
20 and the plaintiff was chosen by our Sabha to succeed him. At that time none of the pupils, either by robing or by ordination, of Ratanasara claimed to succeed to his rights. Nor any pupils of Rev. Jinaratana claimed to be the Parivenadhipathi or Viharadhipathi in these premises. Nor Jinaratana himself claimed any of these offices.

I have told the Court that the 1st defendant raised a number of disputes ; owing to these disputes it was difficult for the Sabha to conduct the Pirivena. According to the terms of the deed, and according to the rules of the Sabha, the Sabha expects that all the teachers and priests resident there to obey the Parivenadhipathi. Owing to
30 the disputes raised by the 1st defendant the Pirivena suffered a great deal, as far as the work of the Pirivena is concerned.

Q. You have told us that the 1st defendant is in forcible occupation of the Memorial Hall ?

A. Yes.

Q. Did you ask the 1st defendant to be ejected forthwith ?

A. Yes.

Cross-examination.

I am not a plaintiff in this case. I gave evidence in this case as a member of the Vidyadhara Sabha. I was asked whether I was
40 a Sinhalese Scholar, and I said that I know Sinhalese well, just sufficient to do the work of the Chief Translator of the Education Department. I did not tell the Court that I am a scholar in Pali and Sanscrit.

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(Mr. Wikramanayake refers to page 361 of the proceedings in this case where the witness has mentioned this fact—Mr. Wikramanayake reads the relevant portion of the evidence of the witness.)

I do not claim to be a Sinhalese Scholar, or a scholar in Pali or Sanscrit, I said that I have a working knowledge of Sanscrit and Pali.

(Shown an extract of “ Vinayalankara ”.) I cannot translate this. This is a very high text of Pali. I have the knowledge of Pali which an average educated Buddhist has.

Q. When you take “ sil ” you repeat certain “ gathas ”. Have you only that knowledge ? 10

A. I know a little more than that.

But I have not studied Pali or Sanscrit at all.

I claim to be a member of the Vidyadhara Sabha. I have told the Court what happened when the Sabha wanted to fill a vacancy. I also told the Court about a deed No. 925 (P1) by which the Sabha operates its functions. This Vidyadhara Sabha is a Sabha by itself. It is not a committee of any other Sabha. Nor is it a committee of a dayaka Sabha of any sort.

Q. Who has the right to elect a member of the Sabha when a vacancy occurs ? 20

A. The remaining members of the Sabha plus those who are supporting the Pirivena.

The right of dayakas to vote is mentioned in the deed (P1).

Q. The Sabha is a committee of management elected by a bigger Sabha ?

A. The Sabha is first formed ; and then when a vacancy occurs dayakayas are allowed to vote.

Q. Then it is a dayakaya Sabha ?

A. No. It is not a dayakaya Sabha.

Those dayakayas do not claim, and cannot claim, any rights to the temple. Dayakayas have only a right to vote in case of an election of a member to the Sabha, when a vacancy occurs.

I cannot give a list of the dayakayas.

Q. How are you to ascertain who is a dayakaya and who is not a dayakaya at a meeting ?

A. Usually, when an advertisement is published, those who are supporting the Pirivena come and attend the meeting at which a member of the Sabha is to be elected.

Q. How do you distinguish the people who assist the Pirivena from those who are not assisting the Pirivena ? 40

A. The Principal of the Pirivena who will be present at the meeting and the others will know that.

As far as I am concerned I am unable to say from among the people who attended the meeting, as to who are eligible to vote. As far as I know, other than the dayakayas and the members of the Sabha, no others are entitled to vote. I do not know whether a list of the dayakayas is available. Usually the quorum of a meeting at which an election of a member is made is seven. That is for the purpose of filling a vacancy. My own election as a member of the Sabha took place on 10 12th September, 1925, and it is referred to in the minutes 2D29(1)—page 64.

(Mr. Wikramanayake reads out these minutes.)

Q. The minutes say “ six members and others were present.” Who are these “ others ” ?

A. At public meetings where elections take place, others are also present. This is one such meeting.

As far as I know it is only meetings at which elections are to take place that are advertised, and that is in accordance with the deed. I was elected a member in place of Muhandiram C. S. de Silva 20 who died a few days before that. I do not know the exact date on which he died. I cannot say whether it was within a month of my election.

2D29(4) are the minutes of a meeting held on 28th January, 1926. On that day Mr. D. C. Senanayake had been elected a member. According to the minutes, on that day he had not yet been made a member.

Q. These minutes show that Mr. D. C. Senanayake was not yet a member, but he had presided at a meeting ?

A. That is so according to the minutes. The minutes have not 30 been signed by the Secretary.

This refers to the minutes of a meeting held on 28th of January, 1926. These minutes say “ proposed by Mr. Moonesinghe and seconded by Dr. Hewavitarne, Mudaliyar Abayasekara is elected ”. Four members have been present at the meeting. Then there had been a discussion in regard to the election of a member in place of Mr. F. R. Senanayake. On that day Mr. D. C. Senanayake had not yet been elected a member—that is on the 28th day of January. The election of a new member was still under discussion at that meeting. The person who confirms the minutes is the person who presides at 40 the meeting. It is clear that it was Mr. D. C. Senanayake who presided at the meeting. The next meeting was held on 19th March, 1926, and Mr. D. C. Senanayake may have been elected within that intervening period ; that is between the dates of the two meetings.

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Q. By whom and how you say that he may have been elected between the two meetings ?

A. I cannot say that, but it is clear that he had been elected between the dates of the two meetings.

(Mr. Wikramanayake says that the minutes 2D29(4) have not been signed by the Secretary.)

2D29(5) is the minutes of the next meeting held on 19th March, 1926. According to these minutes there had been three members of the Sabha and several others present. There is the name of Mr. Dolapihilla mentioned ; he was not a member of the Sabha. 10

(Witness reads out the original minutes in Sinhalese, and he says there are the words " Appa Sabha " there.) D. C. Senanayake was elected at that meeting—meeting on 19th March, 1926.

Q. Only three members of the Sabha were present at that meeting, and the resolution was passed at that meeting ?

A. Yes. But there had been several others whose names are not mentioned.

Q. That meeting had not even a quorum ?

A. Yes. Names of only 3 members are mentioned.

There were also priests, but they are not members of the Sabha. 20
 (Shown minutes of the meeting held on 31st March, 1927.)

Q. Does it show that Mr. Neil Hewavitarne was appointed Secretary of the Sabha on that date ?

A. He was appointed to act on that date.

According to the minutes only four members, including Mr. Neil Hewavitarne, were present. The High priest was also present at that meeting, but he was not a member of the Sabha.

(Shown minutes of the meeting held on 21st January, 1929—
 1D17.)

(Witness reads out the original minutes in Sinhalese.) 30

Q. At this meeting Mr. Nanayakkara was expelled from the Sabha ?

A. He had forfeited his right to be a member.

Q. Under what rights had he to do so, if he had been elected a member ?

A. That is mentioned in the deed (P1.)

Q. Can you show that in the deed ?

(Witness reads out paragraph nine of P1.)

(Mr. Wikramanayake reads out the relevant paragraph in 1D17, and draws the attention of the Court to the following words :—

“ A meeting of the dayakayas or supporters shall be convened and after the matter has been inquired into he shall by a vote of the majority be ejected therefrom and another suitable person elected.”)

He was not expelled; he was merely asked to show cause why he should be kept as a member of the Sabha. Then he was asked to resign. He was willing to resign, and therefore he resigned.

10 Q. Where is the provision in the deed under which a member can be expelled ?

A. Section 13 of P1 has the words “ asking him to resign ”. This member was not expelled, but he was asked to resign.

(Witness reads out Section 13 of P1.)

(Witness next reads out the minutes of meeting of the Sabha held on 21st January, 1929.)

Action was taken under section 13 of P1. Several letters were written to him, but we received no reply.

Q. But he did not resign ?

20 A. We did not get any reply from him to our several letters, and we construed his silence to be his willingness to resign.

This took place in 1929.

(Witness reads out the first two lines of the psasage sidlined in the minutes of the meeting held on 21st January, 1929.)

There are the words “ the period in which he should have been sent away ”. There is also the word “ askireema ” which means “ he should be asked to resign ”.

Q. That is to give him a chance ?

A. The word “ askireema ” means “ to be sent away ”.

30 The “ period ” referred to lapsed and therefore another person had to be appointed.

Q. And accordingly he was written to informing him that he was no longer a member ?

A. Yes.

Q. At the same meeting it was mentioned that another man was to be elected ?

A. That is not mentioned here in the minutes.

Q. Is it deed (P1) which you say mentions what should be done to a member who does not pay subscriptions ?

A. Yes.

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(Mr. Wikramanayake reads out clause three of the deed (P1). I say that it was under Section 13 of the deed (P1) that that meeting acted in this respect.

(Witness reads out the last line of page 101 and a few lines on the next page of minutes 2D12N—dated 20th May, 1935.) In place of Mr. Piyadasa it was proposed by Mr. W. H. W. Perera that Mr. Malalasekera be appointed in his place. I do not know whether Mr. Piyadasa was expelled, nor do I know whether he had failed to pay subscriptions.

Q. Not that he had done anything to warrant his expulsion ? 10

A. Nothing is mentioned in these minutes.

Mr. Malalasekera functioned as a member thereafter, and even now he is a member. He is, and has been attending meetings regularly. This happened in 1935.

I have told the Court that election of members to the Sabha was done at a general meeting of the dayakayas.

(Shown minutes 2D12N.) These are the minutes of a meeting of the members of the Vidyadhara Sabha and not of a general meeting, and it is at this meeting that Malalasekera was appointed.

(Shown minutes 2D29J of a meeting of the Sabha held on 5th 20 February, 1934)—(Mr. Wikramanayake reads out the names of the members who were present.) Charles Dias had sent his resignation and that was accepted at this meeting. There is also the mention here “to inquire from Mr. M. Piyadasa whether he is willing to be elected a member of the Vidyadhara Sabha”.

(Shown the next minutes 2D29K—dated 4th March.) These are not the minutes of a meeting of the Vidyadhara Sabha; these are the minutes of a maha sabha; that is a general meeting; that is how it is mentioned here in the original minutes.

(Mr. Wikramanayake reads out the names of members who were 30 present at that meeting.)

Maha Sabha of dayakayas meet only to elect a member. But matters such as settling of gas company's bill, etc. are dealt with by the Vidyadhara Sabha, not by the Maha Sabha. M. Piyadasa's letter was placed before the meeting. That is he had sent a letter consenting to be elected a member, and accordingly his name was proposed and seconded. And the business of the Sabha followed after that; for instance, the item “the engineer and bass were requested to attend the next meeting”, and other similar items were taken up.

Q. At this meeting only a few members of the Sabha were present, 40 and a lot of business was done by the Vidyadhara Sabha ?

A. Yes.

Q. And after that the matter of placing the letter of Piyadasa was taken up ?

A. Yes.

(Shown minutes 2D29N.) According to these minutes, only five members of the Sabha were present. I know that Mr. D. C. Senanayake died on 7th July, 1931.

(Shown minutes 2D12I dated 3rd October, 1931—page 50.) These are the minutes of a meeting of the Maha Sabha. This meeting took place three months after the death of Mr. D. C. Senanayake.
10 And Mr. D. S. Senanayake was appointed in his place.

(Shown minutes 2D29E—dated 4th September, 1933.) These are the minutes of the Karaka Sabha.

Q. What is that Karaka Sabha ?

A. That is a sub-committee appointed by the Vidyadhara Sabha. That Karaka Sabha deals with several subjects vastly different from each other. At that meeting five members were present. That was not a quorum. According to the minutes, K. D. Perera's resignation was accepted at this meeting, and the election of a new member in his place was also considered at this meeting.

20 (Shown minutes 2D29C—dated 12.5.33.) These are the minutes of a meeting of the Vidyadhara Sabha. Seven members were present including Rev. Ratnasara. That meeting accepted the resignation of Rev. Ratnasara on the ground that "he is unable to find sufficient time". That was done at a meeting with a bare quorum. Ratnasara resigned on 12th June, 1933.

(Shown minutes of 14.10.1933.) Minutes show that Byron Seneviratne was elected a member. I do not know in whose place he was elected.

30 (Shown minutes 2D29D of 23rd August, 1933.) On the 12th of June, 1933, Ratnasara resigned and on the 21st of August, 1933, that is two months later, it was decided to hold a meeting on 14th October, 1933. "It was decided to write to Mr. Byron Seneviratne asking whether he would accept the appointment." At the meeting at which Byron Seneviratne was elected there were only four members of the Sabha present.

Mr. Byron Seneviratne resigned at a meeting held on 30th May, 1934.

Q. Byron Seneviratne had a little trouble with the Sabha ?

(Witness reads out minutes 2D29(O) and answers "Yes" to the
40 above question.)

(Shown minutes 2D29P—dated 11th June, 1934.) There are the words "draft reply in regard to the acceptance of his resignation".

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Continued

Q. Two minutes just before that it says that Byron Seneviratne had published certain letters in the press ?

A. The minutes show that somebody was elected “ to go and discuss the matter with Byron Seneviratne ”.

Minutes 2D29P dated 11th June, 1934, show that it was resolved to send a letter accepting his resignation.

Minutes of 7th February, 1935, show that in his place Meedeniya Adigar had been elected. These minutes also show that only five people and “ several others ” were present.

(Shown minutes 2D12E—dated 1st November, 1938.) 10

I was present at this meeting. These minutes show that Kularatne had resigned, and Rajah Hewavitarne appointed in his place.

I was a frequent visitor to these premises. It was in 1910 that I started to visit these premises. Today it is a place of worship, and even in 1910 it was a place of worship. When I came to know this place members of the public used to go there for worship, and they used to go and make offerings of money, etc. I used to go when Rev. Sri Sumangala was alive. I do not know who Sri Sumangala's pupils were. After the death of Rev. Sri Sumangala, Rev. Nanessara functioned in his place. Even from the time of Sumangala the person 20 who functioned as Kruthyadhikara was Rev. Pemananda, and when Rev. Nanessara took control after the death of Rev. Sumangala, Rev. Pemananda continued to function as Kruthyadhikara. Pemananda died in 1943, and up to the time of his death he functioned as Kruthyadhikara.

I became a member of the Sabha in 1925. Prior to that I cannot say how the Sabha functioned. At that time Ratanasara was the principal of the Pirivena. Pemananda was attending to his work at that time.

Q. Were meals supplied to resident priests at that time, that is 30 after you became a member of the Sabha ?

A. I know that the staff was supplied with meals.

Q. The preparation of meals was a matter for the Kruthyadhikara ?

A. I think it was so, but I do not know exactly.

I do not know personally who attended to these matters.

There were some coconut trees ; I spoke about that before. I also said that I saw the accounts of the Sabha showing the produce of those coconut trees. It may be that they were the functions of the Kruthyadhikara. 40

At the time I went to these premises first I heard that Rev. Jinaratana was in the Gangaramaya Temple at Hunupitiya. In 1922 I was not a member of the Vidyadhara Sabha.

Q. At that time did you come to know of any commotion in connection with the Maligakanda Temple ?

A. I cannot remember.

Rev. Naneswara died in 1932. I do not know whether there was any collection from the public in order to meet the funeral expenses of Nanessara. I did not make any contribution for such a fund.

Q. You said that you used to visit these premises from 1910 ?

A. Yes.

Q. Can't you remember that Nanessara's body was kept there 10 and people used to go and pay their respect ?

A. I cannot remember that.

Q. And the people who went there to pay respects dropped money to a box that was kept there for the purpose of meeting the funeral expenses.

A. I did not notice people dropping money to a box.

Q. Do you know that there was some trouble about the collection of money for the funeral expenses.

A. I think I read a newspaper article to that effect.

Q. Were there not a number of meetings in the Pirivena premises 20 in connection with the moneys collected ?

A. I do not know that.

Q. Do you know that in 1922 Rev. Jinaratana came to Maligakanda from the Hunupitiya Temple and took residence there ?

A. I have heard of that.

Q. Did you see Jinaratana coming to these premises ?

A. Very rarely.

I used to go to these premises frequently, and that in the evenings. I went to see Dr. Hewavitarne. I was assisting him in some work there. Dr. Hewavitarne died in 1929, and after his death my visits 30 were not so frequent. When I go there I used to have chats with the priests there. It was always in the evenings that I went there. On my usual visits I did not meet Jinaratana ; but on festival days I saw him there. I did not make any inquiries to know what the trouble was.

I know the room that was occupied by Rev. Sri Sumangala. After his death Rev. Nanessara occupied that room. After that Rev. Kukulnape Devarakkhitha occupied that room ; and after that Rev. Morontuduwe Dhammananda occupied it.

Q. One room was never occupied by two priests, and especially 40 that room that was occupied by Sumangala ?

No. 34
Proceedings
before the
District Court
5.9.50—
Continued

Evidence of
Mudaliyar E. A.
Abayasekara
Cross-
examination—
Continued

No. 34
 Proceedings
 before the
 District Court
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Evidence of
 Mudaliyar E. A.
 Abayasekara
 Cross-
 examination—
Continued

A. I remember at that time the whole thing was one hall. Rev. Morontuduwe was on one side, and Rev. Kukulnape was on the other side. I am not quite certain about this.

Q. Do you deny that there was an extension of the building that was occupied by Sumangala and Nanessara ?

A. I do not know whether there was any extension.

Q. Do you deny that there was an extension of the building that was occupied by Kukulnape ?

A. I do not know that.

Q. Neither Ratanasara nor Piyaratana occupied that room ? 10

A. I cannot say that.

I know that in 1933 a trouble arose over the charging of fees for electric lights.

Q. Do you know that Rev. Dhammananda drew attention of the Sabha about the impropriety of charging fees from the priests for electric lights ?

A. Yes.

Q. He also suggested to the Sabha with regard to the ways and means of finding the money to meet that expense without charging it to the priests ? 20

A. I am not sure about that.

He merely suggested that that fee should not be a charge on the priests. I was a member of the Sabha at that time. It is correct to say that there was public agitation in regard to this matter.

Q. Do you suggest that the 1st defendant did not suggest various ways and means of collecting the money for that purpose ?

A. I know that he made certain suggestions.

Q. He even said that he would collect the money himself ?

A. Yes.

Q. The Sabha did not agree with his suggestion and continued 30 to charge that fee from the priests ?

A. The Sabha appointed a sub-committee, and it was after that sub-committee made their report that the 1st defendant made that suggestion.

Q. I put it to you that you are very well conversant with what happened as far as the Sabha is concerned in regard to this matter ?

(No answer.)

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

Adjourned for lunch.

D.C. 2882/Land.
(After lunch.)

5th September, 1950.

No. 34
Proceedings
before the
District Court
5.9.50—
Continued

Mudaliyar E. A. ABAYASEKARA. Recalled. Affirmed.

Cross-examination—(Contd.).

I told the Court that prior to this dispute I was not aware whether anybody claimed to be the Viharadhipathi of this temple.

Evidence of
Mudaliyar E. A.
Abayasekara
Cross-
examination—
Continued

Q. What do you mean by “ prior to this dispute ” ? Prior to what year ?

A. About 1942. Prior to that I had not even heard of anybody
10 claiming to be the Viharadhipathi.

I said I knew Jinaratana. I had not heard of him being referred to as the Viharadhipathi. I had heard of Rev. Jinaratana being the chief pupil of Hikkaduwe Sri Sumangala.

Q. Rev. Jinaratana was appointed the Nayaka of the nine Korales?

A. May have been.

Q. Why do you say “ may have been ” ? You know he was appointed ?

A. Yes. He was appointed the Nayaka priest.

Q. You attended the functions ? There were two functions ?

20 A. I did not go. I went to the 80th anniversary or something like that.

I did not go to Hunupitiya at the time he was appointed the Nayaka of the nine Korales of Colombo. I know Mr. Rajah Hewavitarne. I did not go to the Malwatta Vihare at Kandy on the occasion of his being appointed Nayaka. I do not know whether any members of the Sabha attended the functions connected with the granting to him of the Nayakaship of the nine Korales.

Q. Was it usual for the Sabha to take part in celebrations of that nature ? Were any priests connected with the Maligakanda
30 temple present ?

A. I have never been attending any functions of that nature.

Q. Are you given to lapses of memory ?

A. Anything which I am connected with I may remember. I have not been treated for any mental trouble.

Q. Never been ? At Nilammahara ? By that priest ?

A. I used to take treatment from the Nilammahara priest, but not for mental lapses.

No. 34
 Proceedings
 before the
 District Court
 5.9.50—
Continued

Evidence of
 Mudaliyar E. A.
 Abayasekara
 Cross-
 examination—
Continued

Q. You know there was a stage at which there was a tussle going on as to whether classes should be given to the 1st defendant or not—classes at the Pirivena ?

A. I was not aware of a tussle.

I myself made an application to the High Priest Ratanasara to give the 1st defendant priest classes, because 1st defendant told me he was enjoying the hospitality of the Vidyadhara Sabha but was doing no work, which he thought was not fair. The students also told me he could teach, so I went to Kahawe Ratanasara and told him to allow 1st defendant to teach in the Pirivena. I also brought 10 this matter up before the Sabha. I cannot say whether there are any minutes to this effect in the Sabha.

(Shown 2D11 :

That was signed by me among others. It was signed by 10 out of 13 members of the Vidyadhara Sabha. 10 out of 13 members addressed this document to Baddegama Piyaratana asking him to give classes to the 1st defendant. It is dated 16.12.1940.)

I know that some time before that, in 1940, Sorata was Vice-Principal.

Q. He had obtained a deed from Rev. Pemananda in respect of 20 another temple ?

A. Recently I heard of that.

Q. Was it not the fact that it was brought to the notice of all the members of the Vidyadhara Sabha ?

A. It was not brought to my notice.

Q. Do you know that the plaintiff had in respect to the 1st defendant said that it could not be done without Sorata's consent ?

A. There is no reply to this letter.

Q. Do the minutes of the Sabha say that no reply could be given without Soratha's consent ? The reply to that letter dated 16.12.40 ? 30

A. (No answer.)

(Mr. Wikramanayake says that the minute of 20.1.42 bears a reference to the letter in which this was mentioned. It is marked 2D12T.)

It refers to a letter of 17.1.42.

Q. I am not asking you whether there was any reply to the letter sent in December, 1940. 1st defendant has on 7th January written to the Sabha saying that the principal states that nothing can be done without Sorata's consent. Is that there ?

A. No.

Q. Let us have the letter of 7th January marked 1D47.
(Witness hands it to Mr. Wikramanayake.)

Q. In the second paragraph itself the present Principal's statement is given, that nothing can be done without Sorata's consent. He has written to the Sabha that the plaintiff told him that ?

A. Yes.

Q. He also writes to the Sabha that he has mentioned that same statement in a letter of 13.5.41 ?

A. No.

10 Q. Will you read the next paragraph to that which you just read. (Witness reads aloud.)

He does say " I mentioned it in my letter of 13th May." That letter of 13th May was a letter sent to the Sabha. If his statement is incorrect, then the Sabha would be in a position to state it was not so. The Sabha was investigating this matter also.

Q. Did the Sabha get a denial of this from the plaintiff ? Did the Sabha find out from him whether he had made this statement or not ?

A. I do not know. He may have been present or not.

20 Q. The 1st defendant has from May, 1941, been telling the Sabha " This is what the plaintiff said : ' Without Sorata's consent nothing can be done ' " ?

A. It was not discussed at the meeting as far as I can remember. Those letters are not circulated among members.

Q. You never knew that the plaintiff was not prepared to do things without Sorata's consent ?

A. I did not think.

Q. You did not think what ? Do you know or do you not know ?
30 Did you know that the Principal had taken up the position that he could not do things without Sorata's consent ?

A. No.

Q. Did not the members of the Sabha get upset that Sorata had got a deed from Pemananda ?

A. They did not.

Q. Is it not because of the fact that Sorata had got a deed from Pemananda that this letter 2D11 was sent signed by ten members of the Sabha ?

A. I do not know.

No. 34
Proceedings
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5.9.50—
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Evidence of
Mudaliyar E. A.
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 Proceedings
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Continued

Evidence of
 Mudaliyar E. A.
 Abayasekara
 Cross-
 examination—
Continued

Q. Is it not the fact that 2D11 was prepared by Mr. Rajah Hewavitarne and given by him to Francis Gunaratne to be taken round and collect signatures ?

A. I do not know.

I know Francis Gunaratne. He was the Manager of the Maha Bodhi Society.

Q. Who was running the Maha Bodhi Society ?

A. The members of the Vidyadhara Sabha.

Q. Not Mr. Rajah Hewavitarne ?

A. He was the Secretary.

10

I do not know that the whole Trust was brought into Court.

Q. You were functioning as a member of the Vidyadhara Sabha and you do not know any of these matters at all ?

A. I know what happened in the Vidyadhara Sabha.

Q. You do not know what happened in respect of the Anagarika Dhammapala Trust ?

A. I know that a Trustee was appointed by Government in the persons of the Public Trustee and the Minister of Finance. I do not know that Mr. J. R. Jayawardene was appointed Trustee in his personal capacity long before he became the Minister of Finance. I do not know that he was appointed as Secretary of the Trust in the District Court of Colombo, with the Public Trustee as President. I read the newspapers but I never knew about that.

Q. Did you not know that Francis Gunaratne was just a henchman of Rajah Hewavitarne, running errands for him and attending to his affairs ?

A. I did not know.

This letter was not brought to me by Francis Gunaratne.

Q. I am putting it to you that those signatures were collected at the instance of Mr. Rajah Hewavitarne ?

30

A. 1st defendant told me that the same situation still existed and he is still enjoying the hospitality of the temple and that he should do some service. That was some years before the death of Ratana-sara. Every time he met me he used to mention that. The 1st defendant told me that Mr. W. H. W. Perera was a very enthusiastic member of the Sabha.

Q. He never mentioned that Sorata had got a deed from Pemananda ?

A. We rarely met. Only at the meetings we met.

At the meetings this matter did not crop up.

40

Q. You produced a number of accounts in your examination-in-chief. What was that for? Why did you produce the accounts? What did you want to prove by producing the accounts? You are a defendant in this case? You came into the witness box and produced certain accounts? They were put to you not by Counsel for plaintiff but by Counsel for yourself?

A. Yes.

I am represented by Counsel here.

(To Court :

10 Q. Do you know why the accounts were put to you?

A. I thought the accounts were asked for.)

The Trustees kept these accounts. They were kept by the Treasurer. I never scrutinised those accounts myself. The accounts had to be audited by an auditor appointed by the Vidyadhara Sabha.

Q. Will you show me a single account audited by an auditor?

A. They were audited by a member.

I do not know for what months these accounts were kept.

These accounts audited by a member were put before the meeting of the Vidyadhara Sabha.

20 Q. Under the deeds which the other defendants and the plaintiff were relying on, the accounts had to be published how often?

A. Once in three months.

(Shown deed 5431, marked 1D16 and P24, Paragraph 10 :

These accounts were published once in three months.

Q. They were to be signed by the Secretary and published in two public newspapers?

A. I saw it in one public newspaper.

That was on one or two occasions. The accounts I have produced are half-yearly and some of them annual accounts.)

30 Q. Look at the letter of 21.3.41.

(Mr. Wikramanayake marks as 1D53 copy of the letter of 21.3.41.) That letter is in connection with the question of giving classes. I spoke of the loss of these certificates. The first thing that happened was that certificates were sent addressed to the Principal of the Vidyadhara Sabha with a letter dated 15.3.46 signed by myself, E. A. Abayasekara, Secretary of the Oriental Studies Society.

(Mr. Wikramanayake marks that letter as 1D54.)

Then I got a prompt reply to that letter from 1st defendant. He states that some of the students to whom certificates have been
40 issued have left the Island or are living in other parts of the Island.

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Proceedings
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5.9.50—
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Evidence of
Mudaliyar E. A.
Abayasekara
Cross-
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No. 34
 Proceedings
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 District Court
 5.9.50—
Continued

Evidence of
 Mudaliyar E.A.
 Abayasekara
 Cross-
 examination—
Continued

Q. That was a letter you got before you did anything further? You received a letter stating 1st defendant had received the certificate but could not distribute them? Did you write to him as Secretary of the Society?

A. I wrote to the Principal of the Vidyadhara Sabha.

Q. Did you as Secretary of the Society receive a letter from the 1st defendant?

A. The Director of Education received it.

Q. Was it addressed to the Secretary of the Society?

A. I did not see the letter and I cannot say. 10

Q. Did you see the letter?

A. I saw several letters which he had addressed to the Director of Education.

Q. Did you see 1st defendant's letter stating "I will distribute the certificates as soon as possible"?

A. I have now ceased to be the Secretary of that Society.

Q. You brought into Court and produced some of the letters which had been written by 1st defendant? A letter which was produced today? You produced a letter written by you as Secretary of this Society? Are you telling the Court that you cannot remember 20 the things that happened in 1946 in connection with this correspondence?

A. I can remember.

Q. Do you remember the fact that letters were sent by the Society and that the 1st defendant wrote to you, E. A. Abeysekara, as Secretary of this Society, saying "I have received the certificates and I will distribute them"?

A. That was one of the letters.

After that he had sent several other letters. I admit having received that letter as Secretary of this Society. I cannot remember 30 that the letter sent by him was sent under registered cover to the Secretary of the Society.

Q. As Secretary of the Society were letters brought to you for acceptance?

A. If I am not there they are not brought.

Q. After that letter was sent you sent no reply to that letter at once, and 1st defendant sent you a further letter to the Hon. Secretary of the Society drawing attention to the fact that he had written to you about the distribution of the certificates? He said

he was distributing them and he asked you to write to the persons who were entitled to them to call, so that he would expedite the delivery ?

A. I may have received such a letter.

Q. The point I am making is this : That when you started the investigation of the lost letter and certificates, you knew well enough he had taken them claiming to be the Principal and had asked for your help in distributing them ?

A. (No answer.)

10 (To Court :

Q. Before you took any steps had you got to know that 1st defendant was claiming to be the Principal ?

A. He wrote to me to say he was the Principal. We told him there is no such record in our office, and that he was not the Principal.

Q. Did you know the fact that he had received the certificates ?

A. He wrote a letter to me.)

He did not reply till we wrote two letters to him.

Q. Then it is after two letters to that effect were written that you wrote—not you—that correspondence at the start was between
20 the Secretary and 1st defendant ?

A. A letter was sent to the 1st defendant signed by Dr. Ian Sandeman, Director of Education and President of the Society.

Q. The letter was to this effect: "You are requested to send me immediately . . . and return the above certificates referred to in your letter dated the 8th instant." That was drawn up by you and signed by Dr. Sandeman ?

A. No.

(Shown 1D55 :

Q. Dr. Sandeman signed as President of the Oriental studies
30 Society ?

A. He drafted the letter.

Q. In Sinhalese ?

A. In English.

Q. He has written in Sinhalese ?

A. (No answer.)

That letter makes reference to the letter by 1st defendant of an earlier date—of the 8th May written to me, the Secretary of the Society.

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Proceedings
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District Court
5.9.50—
Continued

Evidence of
Mudaliyar E.A.
Abayasekara
Cross-
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Continued

No. 34
 Proceedings
 before the
 District Court
 5.9.50—
Continued

Evidence of
 Mudaliyar E.A.
 Abayasekara
 Cross-
 examination—
Continued

Q. I am putting it to you that the letter of the 8th May was the second letter written to you in this connection ?

A. It is quite possible.)

Q. Thereafter, in spite of the fact that you had been informed by 1st defendant that he had claimed to be the Principal and had taken those certificates and was distributing them, you caused an investigation to be made on the basis that the parcel had been illegally intercepted by somebody ?

A. No.

Q. This was done in August 1946 ? This was done after this ? 10
 You instituted investigations after the 1st defendant had informed you that he had taken the certificates ? 1st defendant got the certificates, he wrote to you that he had taken the certificates and was distributing them. You and the Society said " Please send them back in the blue sealed cover." He did not send them back. When he did not send them back you instituted investigations on the basis that the letter had been intercepted illegally ?

A. It is quite possible.

Q. Knowing that they had been taken over by the 1st defendant on this particular claim ? 20

A. Yes.

Q. Have you got a letter written by him to Dr. Sandeman on 5.9.46 ?

A. It must be in the office.

Q. In this matter was Dr. Sandeman acting as Director of Education or as President of the Society ?

A. As both.

Q. Both as Director of Education and as President of the Society in regard to these certificates ?

A. They were issued for the Oriental Studies Society. They 30
 were issued by the Society to the students of the Pirivena through the Principal.

Q. Then the Society had a right to go into this question ?

A. The Director also had the right. The Principal was under him.

Q. Was this examination held by the Education Department ?

A. Yes.

The Society prepares the syllabus for the examination. The examination is conducted by the Education Department.

Q. Is the supervision of the examination by the Department ?

A. The payment of the examiners is by the Department.
The examination is the examination of the Society.

Q. Who issues the certificates ? Are these public examination certificates or what are they ?

A. They are quasi-Government examinations.

(To Court :

The Examinations Branch of the Education Department holds this examination.)

10 The papers are set by examiners appointed by the Director of Education in his capacity both as Director and as President. The Director of Education was also the President of the Society. There was a rule empowering the Director of Education to conduct the examination. So he conducts it. Those certificates were issued by the Education Office. I sent them out as Secretary of the Society. I sent them from the Education Office.

(Shown a letter :

Q. What did you sign that as from the Oriental Studies Society ?

A. I signed as E. A. Abayasekara, Secretary of the Oriental
20 Studies Society.

Q. You were a Government servant ?

A. The Translator of the Education Department functions as the ex-officio Secretary of this Society.

I was then acting as Secretary of the Society. And thereafter the correspondence went on between me as the Secretary of the Society and with Dr. Sandeman as President of the Society.)

Q. Did you see the further correspondence between 1st defendant and Dr. Sandeman ? You know that the 1st defendant wrote to Dr. Sandeman : " It is not for you to decide as to which of us is
30 Principal as this matter is pending in a Court of Law " ?

A. (No answer.)

(Shown deed No. 1295, P2 :

This is the deed by which the property was dedicated to the Sangha.

Q. At page four, the last but one paragraph, read the correspondence in Sinhalese ?

(Witness reads in Sinhalese.)

It gives the Sangha the right to remove and substitute a Pari-
venadhipathi with the approval of the Sangha Sabha. That Sangha
40 Sabha is the Sabha of the priests.

No. 34

Proceedings
before the
District Court
5.9.50—
Continued

Evidence of
Mudaliyar E. A.
Abayasekara
Cross-
examination—
Continued

No. 34
 Proceedings
 before the
 District Court
 5.9.50—
Continued

Evidence of
 Mudaliyar E. A.
 Abayasekara
 Cross-
 examination—
Continued

Evidence of
 Mudaliyar
 E. A. Abaya-
 sekara
 Re-
 examination

Q. Was the Sangha Sabha's approval sought in any way ?

A. They were called to the Ordination of priests.

The whole staff were present.)

Q. Do the minutes anywhere show that the approval of the Sangha Sabha was obtained ?

A. No.

I said that the staff of the Sangha Sabha comprises all the priests at the Pirivena. When I say "priests" I am referring to all the priests mentioned in the minutes.

Re-examination.

10

These certificates I was questioned about as relating to the examinations held by this Oriental Studies Society were sent in 1946. At that time the plaintiff was regarded as the Principal of this Vidyodaya Pirivena. He had already been functioning as such for some years. So that the letter which was addressed by me to the Principal of the Vidyodaya Pirivena was addressed to the plaintiff.

Q. Whose name was registered at that time in 1946 in the files of the Education Department as Principal of the Pirivena ?

A. Baddegama Piyaratana.

Grants were paid to the Principal. Baddegama Piyaratana 20 signed the vouchers. That was done from the time he was appointed Principal, from 1936. At no time were grants paid to the 1st defendant as Principal of the Pirivena.

Q. Prior to this dispute, till 1946, had any grant been paid to Morontuduwe Dhammananda ?

A. We wrote a letter saying that the grant should not be paid to the present Principal.

I cannot remember how many years ago that was. I was asked whether this Maligakanda Pirivena was a place of worship.

Q. Buddhists worship what is known as the Triple Gem ?

30

A. By that is meant the Buddha, Dhamma and the Sangha. The Sangha, the priesthood itself, was an object of worship.

Q. Would it be correct to say that quite apart from where priests reside, would the Pirivena be correctly referred to as a place of worship for Buddhists ?

A. Yes.

But it is the property called the temple where priests reside. There is a Vihare at Maligakanda. That is meant for student priests and other students also. Buddhists from outside would not be prevented from going to worship there. This Rev. Pemananda I was 40 questioned about was the Kruthi Adhikari.

Q. Do you know under whom he functioned ?

A. Under the Principal. Rev. Jinaratana was not consulted by the Sabha in connection with anything done regarding the Pirivena from the time I came to know things. He was never consulted in anything regarding the management as far as I know.

Q. As a very prominent place of oriental learning where Buddhist priests reside, did Nayaka priests visit the place from various parts of Ceylon ?

A. Yes.

10 I have no particular cause to remember any particular Nayaka visiting this place.

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

(Mr. Herat wants to know whether Mr. Wikramanayake objects to putting in the newspapers already marked without calling somebody from the respective newspapers to produce them.

Mr. Wikramanayake says he does not want these newspaper representatives to be called, but these newspapers already marked can be read in evidence. This is only as proof that these newspapers
20 were published.

Mr. Herat closes his case reading in evidence P1 to P39. Mr. Kottegoda closes his case reading in evidence 2D1 to 2D12 and 2D12A, 2D12Y, 2D13, 2D20A to Z, 2D29 1 to 8, 2D30 to 2D34, and 2D35 to 2D46, with the right to put in some other documents.)

Mr. Wikramanayake asks 1st defendant to stay out of Court. As 1st defendant is within earshot it is useless to send him out. Mr. Wikramanayake calls him back into Court.

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

30 Mr. Wikramanayake calls :—

DEVUNDERA VACHISSARA. Affirmed.

I was robed at the Gangaramaya Viharasthana at Hunupitiya. I was robed by Devundera Jinaratana, the Nayaka Priest, and the Adhipathi of the Vidyodaya Pirivena. I was a pupil at the Vidyodaya Pirivena myself. After my course of studies I was a tutor at the Pirivena.

Q. Until very recently ?

A. From 1928 up to recently.

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Proceedings
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5.9.50—
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Evidence of
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Abayasekara
Re-
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Evidence of
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Vachissara
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Evidence of
 Devundera
 Vachissara
 Examination—
Continued

My ordaining tutors were the two priests who robed me and Kahawe Ratanasara and Hikkaduwe Pemananda, the Kruthi Adhikari of the Vidyodaya Pirivena. I was robed in 1916. I was ordained in 1923. I said I was a teacher at the Pirivena too from 1928, I now reside at the Gangaramaya temple where I was robed. When I was a tutor at the Pirivena I was residing in the Pirivena itself. Having been robed and ordained by Jinaratana I knew him very well. He is still alive at the Gangaramaya temple at Hunupitiya. He is now about 96 years old.

Q. He is also rather feeble and is unable to get about ? 10

A. He is bed-ridden.

Q. You did not know Hikkaduwe Sri Sumangala at all ?

A. I did not see him.

The Vidyodaya Pirivena stands on a fairly large tract of land. Apart from the Pirivena that block of land contains other buildings. There is the Viharage and the Bomaluwa and all the other various things you find in a temple. So far as I know it, this place has been a place of worship. The Public have been in the habit of worshipping in this place. They also make offerings there. Charity boxes for the offerings are also there. There is a sort of an altar or a high place. 20 Charity boxes are there and collections have been regularly made from the time I knew this temple. I am also a Nayaka Priest of the Nayaka of Colombo.

(Further hearing tomorrow).

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

5.9.50.

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 Proceedings
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Evidence of
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No. 35

Proceedings before the District Court

D.C. 2882/Land.

6th September, 1950. 30

DEVUNDERA VACHISSARA. Recalled. Affirmed.

I said I have been residing in these premises since 1917. According to the rules adopted by the Code every priest who belongs to the Paramparawa of the Adhipathi has the right of residence in the temple. In these premises there were some priests who belonged to the Paramparawa of Hikkaduwe Sri Sumangala residing there. There

were priests who did not belong to the Paramparawa but who were tutors in this Pirivena. There were no priests who were neither tutors there nor belonged to the Paramparawa of Hikkaduwe Sri Sumangala. I remember Lelwela Sri Niwasa. He was of the Paramparawa of Hikkaduwe Sri Sumangala, and also his pupil. He was not a tutor in this Pirivena. He resided in a room in that temple.

Q. Where did he get his meals from ?

A. Very often he used to get alms and sometimes the Dayakayas used to supply his meals in this temple. He had his residence in this temple till the date of his death. I know Rev. Hikkaduwe Upatissa.

Q. Who was his tutor ?

A. One of his tutors was Hikkaduwe Sri Sumangala.

Q. Was he a tutor in this Pirivena ?

A. He was not a teacher in the Pirivena.

He resided in a room at the Maligakanda Pirivena. He died in this temple itself. His cremation took place from the Maligakanda Temple. The funeral expenses were met by the Dayakayas of that temple. There were tutors here who did not belong to this Paramparawa. There have been Parivenadhpathis also here who did not belong to this Paramparawa. Kahawe Ratanasara was one of them.

Q. We have already heard in evidence from Baddegama Piyaratana that it was not unusual for gifts to be made by grateful pupils to the Principal ?

A. That is so.

In that way, gifts were also given to Rev. Nanissara.

Q. After Rev. Nanissara's death where did those gifts remain ?

A. In that Viharasthana.

Q. When Rev. Kahawe Ratanasara died what happened to the gifts that were given to him ?

A. After his death his pupils divided them among themselves.

Q. And were they left in these premises or taken away ?

A. They were removed from here.

Baddegama Piyaratana had also received gifts in his time.

Q. Where are those gifts ?

A. I do not know what has happened to them or whether he has done anything to them.

Q. Are they at Maligakanda temple ?

A. I have heard that something . . .

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Continued

Q. You do not know yourself ?

A. No.

Q. When you were at the Maligakanda premises where was Rev. Jinaratana ? From 1917 ?

A. He was at the Gangaramaya Viharasthana.

Q. To whom has the Gangaramaya Viharasthana been dedicated ? Who was the first Adhipathi of Gangaramaya ?

A. It was dedicated to the Sangha.

Q. Who was the predecessor of your tutor Jinaratana at the Gangaramaya temple ? 10

(Mr. Herat objects to this question. I allow it.)

A. Hikkaduwe Sri Sumangala priest, who was his tutor. Jinaratana resided at Hunupitiya.

Q. Who functioned as Kruthi Adhikari at the Maligakanda premises ?

A. From 1917 Pemananda was the Kruthi Adhikari.

I know by what right Pemananda was functioning as Kruthi Adhikari from 1917. It was on appointment and with the approval of Sri Jinaratana of Gangaramaya Temple.

Q. Can you give us any instances where Pemananda, before he 20 acted, did anything within his functions as Kruthi Adhikari without consulting Rev. Jinaratana ?

A. All important functions in Maligakanda such as Pinkamas were always done after Pemananda visited Gangaramaya temple at Hunupitiya ; and with his approval and permission those things were done.

Q. Can you give us any particular instance where you were present when Pemananda consulted Rev. Jinaratana ?

A. I can.

Q. Tell us. 30

A. On one occasion when they wanted to have a seven days' Pinkama at Maligakanda temple Pemananda asked Rev. Jinaratana to lend the " Ath Dath " from the library. Then Pemananda went with the dayakayas and said he could give it with the consent of Jinaratana. So he told the dayakayas ' let us go to Hunupitiya ' and went there and got the permission.

I was present at the time.

Q. Present where ?

A. At Hunupitiya.

That was a Saturday, on which day I generally was at the temple and the request was made in my presence. Rev. Pemananda was in charge of the library at the Maligakanda premises.

Q. Where was Pemananda's room in relation to the library ?

A. In the storey below the library in the same building.

Q. We have it from Baddegama Piyaratana that Jinaratana used to visit the Maligakanda temple premises and used to go towards the library buildings ?

A. Yes. It was so.

10 *Q.* Why did Jinaratana go towards the library buildings ?

A. Because the Kruthi Adhikari Pemananda was living in the bottom storey of this place he had to go to discuss matters regarding the Pirivena.

Q. How long did Pemananda function as Kruthi Adhikari ?

A. I do not know how long he was there before 1917, but after 1917 he functioned as Kruthi Adhikari up to 1940.

Q. Did he cease functioning after 1940 ?

A. He fell ill.

Q. And then who functioned thereafter ?

20 *A.* I performed those duties.

Q. On whose behalf ?

A. On behalf of the Hunupitiya Nayake priest.

Q. Had Pemananda ceased to be Kruthi Adhikari or were you merely assisting him ?

A. I was assisting him.

And he functioned as Kruthi Adhikari till the date of his death.

Q. Thereafter, who has been the Kruthi Adhikari of that place ? After Pemananda's death ?

A. I have been Kruthi Adhikari.

30 My appointment is also from Rev. Jinaratana. After this dispute arose a request was made to me to hand over the keys.

(Shown 1D37 :

This is a letter I received from certain members of the Vidyadhara Sabha requesting me to hand over the keys. I did not hand over the keys. The only person who was entitled to ask me to hand over the keys was the Nayaka priest.)

Q. How did the keys come to you ?

A. Hikkaduwe Pemananda first fell ill and went to hospital and he handed the keys to me before he went.

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In these Maligakanda premises a large number of people come to worship on Poya days. They come by hundreds. Pinkamas are very often held in this place. The Kruthi Adhikari, Pemananda, was the person who attended to all matters of that nature.

Q. You remember a little trouble in the year 1922 ?

A. (No answer.)

Sri Nanissara died in November, 1922. He lay in state in the room occupied by himself at these premises. Crowds of people came there to pay their last respects to him.

Q. Was the collection of money brought to this cremation ? 10

A. Yes.

There was a collection for the cremation.

Q. How was the collection made ?

A. The members of the Vidyadhara Sabha had put up notices in different places to collect money for the cremation.

Q. Were there till boxes kept there ?

A. I cannot remember whether till boxes were there, but there were notices asking those who wished to contribute money.

After the cremation there were questions by the public as to what happened to the funds. On that occasion meetings were held 20 in the Maligakanda premises.

Q. There was a meeting presided over by whom ?

A. By the late Mr. F. R. Senananayake.

Q. At the time of Sri Nanissara's death where was Jinaratana residing ?

A. Jinaratana was residing at Hunupitiya, but after the death of this priest he was residing at Maligakanda. When this trouble arose he was residing at Maligakanda. He resided there for about 1½ or 2 months, but he used to visit Hunupitiya. He left the place after the trouble had blown over and went to Hunupitiya. Sri 30 Nanissara had functioned as the Parivenadhipathi of this Pirivena. After his death Kahawe Ratanasara was appointed Parivenadhipathi of this Pirivena.

Q. Was anybody consulted before Kahawe Ratanasara was appointed Parivenadhipathi ?

A. Yes.

Q. Who was consulted before and by whom ?

A. Several days before the appointment, Proctor Jacob Munasinghe went to Hunupitiya and asked the Nayaka priest whether if he was appointed Kruthi Adhikari he would have any objection. 40

Thereafter Kahawe Ratanasara was appointed Parivenadhipathi by the Vidyadhara Sabha.

Q. And he functioned as what ?

A. He was given the keys of the Pirivena and was doing the work of the Principal.

Q. Who was the manager of the temple premises ?

A. Hikkaduwe Pemananda, the Kruthi Adhikari, attended to matters of the temple.

Q. There was a little trouble in 1933 ?

10 *A.* I cannot remember the dates.

Q. The trouble that arose over the charging of fees for the electricity consumed and boarding fees ?

A. Yes.

Shortly, it was that Rev. Morontuduwe Dhammananda intimated to the Sabha that it was not proper to charge fees from the clerical students or to make any charge. There was a commotion. There was a resolution in the Sabha that each occupant of the room must pay at the rate of Re. 1/- per head for electricity and taxes.

Q. 1st defendant Morontuduwe Dhammananda then intimated
20 to them that it was wrong to collect fees in that manner ?

A. He said it was not right because it had never been done before, even during the time of Sri Sumangala and that it would only lead to the destruction of the Pirivena. Ultimately, when the Sabha did not change its views the 1st defendant priest threatened to go on a fast. He only intimated he was going to fast. When he published his intimation of the fact that he was going to fast there was a stir caused by crowds round about the temple. Large crowds gathered.

Q. How was the matter settled ?

30 *A.* Two Maha Nayaka priests of Malwatta and Asgiriya came down and said they would stop the levying of fees and asked the 1st defendant not to fast.

The decision of the Malwatta and Asgiriya High Priests was published in the Press. In 1936 was the appointment of the present plaintiff as Parivenadhipathi. He was appointed by the Vidyadhara Sabha.

Q. Was Rev. Jinaratana consulted in the matter at all ?

A. No. Not to my knowledge.

Q. And after Baddegama Piyaratana was appointed Parivenadhipathi, who functioned as Kruthi Adhikari ?

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Continued

A. Hikkaduwe Pemananda continued to function as Kruthi Adhikari.

Q. What were Baddegama Piyaratna's functions ?

A. A sort of Principal of the Pirivena.

Meals were supplied to priests in that place, and cooking was done at that time. Through the Vidyadhara Sabha the priests were given alms.

Q. Who attended to the matter of the distribution and seeing that the priests were given their meals ?

A. Hikkaduwe Pemananda.

10

Q. Who attended after Baddegama Piyaratana was appointed Principal to all matters pertaining to Pinkamas and any religious matters ?

A. Hikkaduwe Pemananda continued to be the Kruthi Adhikari under Jinaratana.

I remember the time Jinaratana was given a very high honour by the Malwatta Chapter.

Q. I am not referring to the occasion when he was made Upadhyaaya, but when he was made Nayakaya of the nine Korales. The actual appointing of him as Nayakaya of the nine Korales was done at 20 Malwatta ?

A. Yes.

After the appointment there was a presentation of the reading of the act of appointment.

Q. That was at Malwatta ?

A. Both at Malwatta and in Colombo.

To Malwatta the Principal and a good many members of the staff of the Vidyodaya Pirivena went. I went up myself. The Parivenadhipathi at the time was Baddegama Piyaratana. All of us went there when the act of appointment was read. The act of appointment referred to Jinaratana among other things as Viharadhipathi of the Gangaramaya temple and the Viharadhipathi of the Maligakanda Pirivena. I say that Baddegama Piyaratana was also present at the ceremony. I cannot remember whether there were members of the Vidyadhara Sabha who had gone up. After that function at Malwatta there was a function at Hunupitiya, a reception to him. The priests from Malwatta also came down to receive him here. The act of appointment was read out again. That is the custom for members of the Malwatta Karaka Sabha to come down and re-read it. That custom was observed here as well. On that 40 occasion I was present here at Hunupitiya. There were members of the Vidyadhara Sabha present here at Hunupitiya.

Q. Who were they ?

A. Mudaliyar Abayasekara, Mr. Rajah Hewavitarne ; I cannot remember well, but I think Mr. W. H. W. Perera was there ; also Mudaliyar Ratnatunga. At that time Mudaliyar Ratnatunga was not a member of the Vidyadhara Sabha.

That warrant was read out again when they were present. After the appointment of Baddegama Piyaratana as Parivenadhipathi, Sri Jinaratana continued to visit the Maligakanda premises occasionally. I have said that he came there to see Pemananda.

10 Q. Why did he come there to see Pemananda ?

A. Sometimes to find out particulars of what was going on in the Viharasthana.

I know the 1st defendant priest Rev. Morontuduwe Dhammananda. First of all Morontuduwe Dhammananda was in the Kotte Nikaya but he was a pupil of the Maligakanda Pirivena. I remember the time that this 1st defendant Nayaka priest was robed into the Malwatta Chapter. I know both the robing as well as the ordination. I was at the time in the Maligakanda Temple. He had prior to that day been a priest of the Kotte Nikaya. During the time he was a
20 pupil of Kahawe Ratanasara, the 1st defendant was a student of the Vidyodaya Pirivena. It is true that he was a very brilliant student of the Vidyodaya Pirivena. He won most of the prizes there, including the Siamese Prize.

Q. Why did he give up the Kotte Nikaya, and join the Malwatta Siamese Sect ?

A. Rev. Nanissara had a pupil called Mapalagama Chandrajothi. When he died Nanissara wanted an intelligent pupil worthy of Mapalagama, and so he requested the 1st defendant to join him. That is why Nanissara got the 1st defendant to give up his former
30 robes and got him robed and ordained in the Malwatta sect.

(Adjourned for lunch.)

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

6.9.50.

D.C. 2882/L.

6.9.50.

After Lunch.

DEVUNDERA VACHISSARA. Recalled. Affirmed.

Examination-in-Chief—(Contd.).

I remember the 1st defendant entering Hospital in 1934 or so.
40 After that I did not see him teaching in the Pirivena for some time.

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Evidence of
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Some time later he asked that he be given a class again ; but a class was not given to him.

I am aware of the deed that was written by Rev. Pemananda in favour of Rev. Soratha. I have seen a copy of that deed myself.

The 1st defendant had been appointed High Priest of Sri Pada, and with regard to that appointment also there was a dispute. The claimant against him was Urapola Ratanajoti. This Urapola Ratanajoti was expelled from the Maha Sangha Sabha, but the Registrar-General did not cut his name off from the Register. There was an application for mandamus by one priest and that application was refused. The Registrar-General was not willing to issue the mandamus. Thereafter the entire Karaka Sabha of 17 members teemed up together and applied for it ; but they did not succeed. If they succeeded the 1st defendant was the only contestant for the Nayakaship of Sri Padasthanaya.

Q. Do you think that Sri Padasthanaya Nayakaship was a source of income for the benefit of the Pirivena ?

A. I have heard that during the time of Sri Sumangala it was so.

Q. At that time was the Sabha more favourable to the 1st defendant ?

A. Yes. That was so.

It was at that time that this deed was written by Rev. Pemananda in favour of Rev. Scratha. I have said that I saw a copy of that deed. I am aware personally that some of the members of the Sabha were personally against it. I know that after that deed was written there was another deed written ; that deed was with regard to this Maligakanda Vihare. That deed was executed by Rev. Jinaratana in favour of the 1st defendant.

(Shown deed 1D56.) This is the original deed written in favour of Morontuduwe Dhammananda Nayaka Thero.

I have told the Court that meals were provided at this institute for the tutors and the members of the Paramparawa of Sri Sumangala.

Q. These priests had their meals either in the dansalawa or in their own rooms.

A. The tutors and the members of the Paramparawa had their meals in the dansalawa, but the pupils had their meals in their rooms.

After the institution of this action meals were not continued to be served to the 1st defendant. That was stopped. With regard to the other tutors the Sabha paid each one of them Rs. 30/- per mensem instead of supplying meals to them.

There has been publication of honours given to Rev. Jinaratana. I produce, marked 1D57, a copy of the newspaper "Lakminipahana" dated 30th of June, 1917, in which such a publication appears.

(Mr. Herath wants this paper proved.)

Mr. Wikramanayake says this is proved.)

It was a registered paper. I have read this paper myself. It is not in print today. I think that the publication of this paper ceased somewhere in 1927. I am not quite certain of that date.

(Counsel reads out the relevant article in the paper.)

10 I also produce a copy of the "Sinhala Bauddhaya" dated 21st March, 1936—marked 1D58. It is a registered paper.

Cross-examination by Mr. Herath.

I was robed first by Rev. Devundara Jinaratana, and later by Rev. Sri Naneswara. I am the senior pupil of Rev. Jinaratana. The 1st defendant is senior to me by age, but he is junior to me by robing.

By reason of this deed (1D56) dated June, 1941, Jinaratana gave over to the 1st defendant his rights in this Maligakanda Pirivena. And under deed 1D57 I am to succeed him in the event of the 1st defendant dying or surrendering his rights. So that we two have 20 claims in the rights of Jinaratana in the Maligakanda Pirivena.

I know the Nagaharamaya Temple. That is the temple which Rev. Hikkaduwe Pemananda gave over to Soratha. Soratha claimed that temple against a priest by name Pannananda, and there was a civil case in Galle in connection with that matter. Soratha succeeded in the District Court, and he obtained an order of ejectment against Pannananda. There was an appeal, and the decision of the District Court was upheld; and Pannananda was ejected. I was also interested in that case.

Q. You got a deed from Rev. Jinaratana for that temple?

30 A. Not a deed, but a writing.

That is similar to the document 1D26, but it is not a notarial document. But it is a document by which Jinaratana gave his rights to me to the Nagaharamaya Temple.

I know Rev. Wanaratana. I did instruct him not to give possession to that priest Pannananda.

(Shown a document dated 10th April, 1950.) This is my signature. This is a letter written by me to Pannananda. (Witness reads out this document.)

(Mr. Herath marks that letter as P40.)

40 In this letter I am asking Pannananda to deliver possession to Wanaratana on my behalf.

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I can speak about the Maligakanda Pirivena only from 1917. I know that this Pirivena is a very well-known institution, where Buddhist learning is imparted to a large number of pupils. Priests as well as laymen are taught there. About 400 priest pupils are being taught there.

Q. As a matter of fact, some of them are from foreign lands, such as China and Japan ?

A. Not now.

I know that there were such pupils from India before, but now there are no such pupils. I came to know about this Pirivena only 10 after 1917. I cannot remember whether there were priests from Burma. There were a large number of rooms both for the tutorial staff and the pupils. There was also one room for the visitors. There was also a large number of resident priests there. Apart from the acolytes there were no laymen resident there.

Q. If there is accommodation available a priest pupil is given accommodation for the purpose of studying ?

A. Yes. The members of the paramparawa of Sumangala are given accommodation.

Priests who come from temples all over the Island are allowed to 20 reside there till they finish their course of studies.

Q. There is no restriction whatsoever that residence is confined to the tutorial staff and the Paramparawa of Sumangala ?

A. There is no such restriction, but whenever priest pupils come there they reside there, and those of the Paramparawa of Sri Sumangala also reside there.

Q. There is no rule whereby only the tutors and members of the Paramparawa of Sumangala can reside there, and the others are not allowed to reside there ?

A. May I know who the " others " are ?

30

Q. This right to reside there is not restricted to the Staff and those who claim to be the members of the paramparawa of Sumangala ?

A. There is no such restriction. Any priest pupil can reside there, till his course of studies is over.

Q. Parivenadhipathi of the Pirivena has the control to give residence to any priest to reside there, if there is accommodation available ?

A. The Parivenadhipathi has no right to give residence to anybody. Permission has to be obtained from the Kruthyadhikara.

Q. He acts under the Parivenadhipathy of the Pirivena ?

40

A. No.

I do not know whether Rev. Pemanande was appointed by Rev. Sri Sumangala as the Kruthyadhikara.

Q. Do you know who appointed him as Kruthyadhikara ?

A. I do not know who appointed him as Kruthyadhikara, but I know that he had been Kruthyadhikara from 1917, and that he functioned as such till the time of his death.

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I spoke about an incident in which certain elephant tusks were concerned. I say that I was present at the Gangaramaya Temple at Hunupitiya at the time Pemananda came there to see Jinaratana about these tusks. That is how, I say, that I happened to know about this incident in regard to elephant tusks. Pemananda is dead, and
10 Jinaratana is not giving evidence in this case.

Evidence of
Devundera
Vachissara
Cross-
examination—
Continued

Q. About the same incident you said that some dayakayas came and asked Pemananda to lend the tusks ?

A. That is the same incident.

The dayakayas came to see Pemananda and asked for the tusks, and Pemananda came with the dayakayas to Jinaratana at the Hunupitiya Temple. The dayakayas made that request first at the Maligakanda Temple. I was present on that occasion also, and that took place on the same day. Going to Hunupitiya of Pemananda and the dayakayas was a short time after the request was made at Maligakanda by the dayakayas, and that on the same day.
20

Q. You say you were present at the same crucial moments on the same day, both at Maligakanda and Hunupitiya.

A. Sometimes I visit that place about two or three times a day. I know Jacob Moonesinghe, and I know that he came to see Jinaratana at the Gangaramaya Temple : that is to consult about Ratanasara's appointment.

Q. Nobody else accompanied Jacob Moonesinghe at that time ?

A. He was the Secretary, and as Secretary he came alone.

At that time I was at Hunupitiya.

30 Q. And curiously enough Mr. Moonesinghe also happened to be there ?

A. I cannot help it.

Q. The people who can verify your statements are either dead or not available to give evidence ?

A. What am I to do ?

Q. On either of those two occasions nobody else was present besides yourself and those persons who are dead ?

A. I cannot remember now who and who were present then, but I can only remember that this man Jacob Moonesinghe was present,
40 and I knew that he was the Secretary of the Sabha at that time. I do not remember whether any other dayakaya or members of the Sabha were present with Mr. Moonesinghe.

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Q. At the time when that request for the tusks was made who were the dayakayas who came ?

A. I cannot remember that ; but what I can remember is that a Sabha or delegation of dayakayas came.

Q. They are the people who frequently come and visit this Pirivena and to whom the tusks can be lent ?

A. I cannot say that. People are in the habit of coming and asking for these things, and on that occasion they came and asked for the tusks. I cannot say in particular who and who came on that occasion. 10

Q. Rev. Pemananda died suddenly in 1942 ?

A. Not suddenly.

I know that he died in the hospital.

Q. In the early hours of the morning, or late in the night ?

A. He died at about 11 o'clock in the night.

Q. He had two pupils of his—one Soratha and one yourself—present at the Pirivena at that time ?

A. On the day of his death Soratha was not in that temple.

Even I was not there at that time. I was at the Hunupitiya Temple at that time. 20

Q. You got the information and you hurried to the Maligakanda Pirivena ?

A. I did not go to the Maligakanda Pirivena, but Mr. Rajah Hewavitarne came to Hunupitiya in a car and gave me the information.

I cannot say whether Wimaladharma also came. He may have come, but I cannot remember. We went straight to the hospital.

Q. Ultimately you came to the Maligakande Temple ?

A. After all the arrangements had been made Mr. Rajah Hewavitarne and I came to the Maligakanda Temple.

I cannot remember whether Mr. W. D. Hewavitarne came. He 30
 may have come to the hospital. I have said that Pemananda died at 11 o'clock in the night at the hospital. Pemananda had a room in Maligakanda Temple.

Q. And that room was then opened by Mr. Rajah Hewavitarne or somebody else the following day ?

A. I cannot give a direct reply, but I can explain the whole matter. Before Mr. Rajah Hewavitarne came, Mr. Francis Gooneratne came and informed me of the death of Pemananda, and he also gave some other information about the room in the Pirivena. Then I went with these two gentlemen to the hospital. Then Mr. Rajah 40

Hewavitarne came and said, " We must buy a coffin and take the body away." He suggested that we take the body to the Hunupitiya Temple. Then I said " What?" Then Mr. Francis Gooneratne said something to Mr. Hewavitarne. Before they removed the body I went to the Maligakanda Temple with Mr. Rajah Hewavitarne and the door was open. The body was kept in Pemananda's own room, and it was taken away later.

Q. Was Mr. W. D. Hewavitarne there at the time the room of Pemananda was open ?

10 *A.* I cannot remember that.

At that time Soratha had gone to Hikkaduwa.

Q. When the room was open was the Principal (the plaintiff) there ?

A. No. He had not come.

Q. Then did anybody suggest that an inventory be made of the things that were in the room ?

A. That is, after the cremation that was done.

That was done on the next day. The Principal said that if there is anything belonging to the Sabha they must be taken away. I said
20 that there is nothing belonging to the Sabha, and I opened all the almirahs and shewed him. No inventory was taken, because there was nothing belonging to the Vidyadhara Sabha. Only some leaflet was there and he took it away, and that too did not belong to the Sabha, but I did not object to his taking it away.

Q. Pemananda had been in hospital on an earlier occasion also ?

A. Yes.

Then he came back, and then he again went to the hospital, and on the second occasion he died in the hospital.

Q. How long before he died did he enter the hospital for the
30 second time ?

A. I do not think it was more than four days.

Q. He suddenly became ill and was taken to the hospital ?

A. He went to Hikkaduwa and he returned from there ill.

What actually happened was Pemananda was taken to Hikkaduwa by Scratha to get a deed executed, but that journey made him sick and on his return he was ill and was taken to the hospital. In fact, he would have died on the way if not for the fact that I obtained the services of an expert physician who was close by.

Q. He was suddenly removed to the hospital ?

40 *A.* When he was getting very bad he was removed to the hospital.

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Q. In fact, he was hurriedly taken from the Maligakanda to the hospital on the day of his return ?

A. He was not taken on the same day. He was taken on the following day.

Q. Any way his case was serious and therefore he was removed to the hospital ?

A. Yes.

It was I who opened his room in order to arrange for the keeping of his body.

Q. Pemananda as Kruthyadhikara had various keys of the various 10 buildings with him ?

A. Yes, but the keys had been given to me. Some of those keys were kept in the drawer and some were with me.

Those keys were given to me by him before he went to the hospital on the first occasion.

Q. Ever since that day those keys were with you ?

A. I was not keeping the keys with me always, but they were in my charge.

(Court inquires from the Counsel whether this is the witness who is supposed to have had the keys and was referred to in the evidence 20 of an earlier witness ; the Counsel says that is so, but the name is spelt differently.)

The keys were kept not at Hunupitiya, but at Maligakanda, I was living in the down floor and Pemananda was living in the upper floor of the same building. The keys of the library were also attached to those same keys.

Q. Did you give the library keys to the 1st defendant ?

A. No.

The important books were sent away for reasons of security. That was done at the beginning of 1942. At that time Pemananda 30 was in the Maligakanda Pirivena. Even from that time the keys were in my charge, but they were kept in the room of Pemananda. And whenever I required them I went and took them.

Q. After Pemananda's death, according to you, you had the keys with you ?

A. Yes.

I did not give the library keys, from among the keys given to me by Pemananda to the 1st defendant. But whenever the 1st defendant wanted to get something from the library I gave those keys. The keys were not given to the Vidyadhara Sabha when they 40

wanted them. In fact, the library is still locked. When the trouble started at this Temple I handed the keys to the 1st defendant. Now the keys are with the 1st defendant.

Q. Since when have the keys been with the 1st defendant ?

A. I think since 1944.

Q. So since 1944 you had given the keys to the 1st defendant ?

A. Even before that.

Q. So for the last seven years or so the keys were with the 1st defendant ?

10 A. After the death of Pemananda, the keys are with him.

Q. Anyway the keys had been with the 1st defendant for the last six or seven years ?

A. I think from 1943 the keys are with him.

And the library is locked. The pupils of the Pirivena cannot use the library unless the permission is obtained from the 1st defendant. They have no access to the library unless the 1st defendant permits it.

I myself have ceased to reside in the Maligakanda Pirivena from 1943. I was a teacher at the Maligakanda Pirivena. In 1943 I was teaching in this Pirivena.

20 Q. After 1943 you ceased to be a teacher in that Pirivena ?

A. Yes, but although I stopped I used to go to this Pirivena from time to time.

Q. Were you suspended from functioning as a teacher there ?

(No answer.)

(Court :

Q. Who stopped you from teaching there ?

A. No one stopped me. All that I can say is I stopped on my own, because I was not entrusted with "panthy" (classes).

What I mean is I did not go there to take charge of classes.

30 Pemananda died in March, 1942, I think. That is in the year of the air raid.

Q. At that time were you teaching in this Pirivena ?

A. Yes. Even after the air raid I was teaching. During the raid pupils went here and there and classes were started at different places outstation. I was given the charge of the classes at Kosgalla. I taught there for 3½ months. Then I came back to the Maligakanda Pirivena. But at that time no teaching was done in the Pirivena. I came back to the Pirivena in January, 1943. It is from that time that I ceased to be a teacher there. Thereafter I did not go there, and

40 they also did not give me a "panthy".)

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Q. Why did you not go there ?

A. I am not willing to answer that question straightaway lest I will have to give a long story.

(Court points out to the witness that he may come out with his story, but that he cannot come out with what other people say.)

Witness : The Principal sent a message to me and I went to see him. He then took me apart and admonished me, and that admonition is thus : “ Look here, you are pupil here ; and you are also a teacher here. You are at the same time a relation of mine. There is a writing here in this almirah. If you keep the keys with you you might not be allowed to teach. I have a document in this almirah and I am not going to show you that document. Please give over the keys ; otherwise I will even break open the almirah and then take the keys. If a case is instituted this D. S. Senanayake will give evidence ; two ministers will give evidence, and I will lose the case. So don't be foolish ; give up the keys.”

Then I thought that they would not give me the classes, and I kept away.)

Q. So the complaint was that you were, rightly or wrongly, withholding the keys of the library and the other building ? 20

A. At that time what he said was that I was withholding the keys.

Q. In other words, he made you understand that you had committed a wrong by keeping the keys ?

A. He did not say that I had committed a wrong, but he only asked me for the keys.

Q. According to you, what he said was that it was wrong on your part to keep the keys ?

A. He did not say all that. He merely asked me for the keys.

Q. And because you did not give the keys you were not allowed to teach in the Pirivena ? 30

(Mr. Wikramanayake objects to this question being put to the witness.)

The Principal did not tell me at any time that he was stopping me because I was not going to give the keys. But since that incident I ceased to teach there.

(Questioned by Mr. Kottegoda.)

Q. Do you know the time when there were certain books lost by the Librarian ?

A. Yes. But those books I think were found later.

Q. Out of those 13 " Three Pitakas " one was lost ?

A. Yes.

And the matter was referred to the Vidyadhara Sabha.

Q. And the Librarian promised to replace that book ?

A. He may have promised.

(Shown minutes 2D29—page 27.) This is dated 1924.

Q. Do you remember the incident in which the assistant of Pemananda had been abused, and which came up for consideration before the Vidyadhara Sabha ?

10 A. No. I do not know anything about that.

(Shown minutes 2D59—page 59.)

It is recorded here that Weliwitiye Soratha was appointed by the Vidyadhara Sabha to help Hikkaduwe Pemananda looking after the library.

(Counsel reads out those minutes.)

In 1925 the Parivenadhipathi was Ratanasara.

Q. On his recommendation, at that time, Rev. Soratha was appointed to assist the librarian ?

A. I do not know that.

20 Nor do I know about a charge brought against the 1st defendant by Kukulnape Devarakkhitha. I did not attend the meeting of the Vidyadhara Sabha on 24th January, 1930.

(Shown minutes P38—page 43 of 2D12.) My name appears in these minutes, as a teacher of the Pirivena.

Q. Is the record correct, and were you present at that meeting ?

A. My name is there, but I do not know whether I actually attended the meeting.

When priests attend meetings their names are mentioned in order ; first the Parivenadhipathi, next the Vice-Principal, next the 30 teachers.

(Shown P38—last paragraph.) I cannot remember whether I was present at this meeting although my name appears in these minutes. I do not remember that meeting.

Q. Do you remember the Vidyadhara Sabha met to make an inquiry with regard to a complaint made by Kukulnape Deva-rakkhitha ?

A. I know there was some trouble, but I do not know whether I attended the meeting of the Sabha ; nor do I remember whether any inquiry was held in that connection.

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I have seen the handwriting of Kukulnape Devarakkhitha.

(Shown a letter.) Yes. This is Kukulnape's handwriting and the signature is his signature.

(At this stage Mr. Kottegoda wants to mark a letter alleged to have been written to the Sabha by Kukulnape.)

Mr. Wikramanayake objects to this document going in.

Mr. Kottegoda states that this is a letter with regard to an assault on a priest, which was witnessed by Kukulnape.)

ORDER

I rule out this document.

10

(Intld.) V. S. J.,
A.D.J.

I do not remember what took place in that connection.

Q. Do you know the fact that the 1st defendant assaulted a pupil priest of Kukulnape Devarakkhitha ?

A. No. I do not usually keep in mind facts about assaults.

Q. Do you remember that the 1st defendant came and asked pardon over an incident that took place at that time ?

A. I was not present and I cannot recollect these things. Sometimes although my name is there I may not have been present at the 20 meeting.

Q. Do you say that this record is incorrect ?

A. No. I do not say that.

At that time Mr. Moonesinghe may have been the Secretary of the Sabha. I cannot remember whether I was present at the meeting held at Maligakanda on 10th July, 1933. I very seldom attend meetings of the Sabha. I used to be present at meetings occasionally.

Q. In 1933 these minutes show you were present and that there was the question of levying of lights and rates was considered ?

A. I would not have been there in 1924 at a meeting as I was 30 still a student at that time.

Q. I am asking you about a meeting in 1933 ?

A. But you showed just now a record of 1924.

I may or may not have attended meetings in 1933.

I remember the time when Hikkaduwe Pemananda first went to the Hospital.

Q. He gave you the keys ?

A. He gave me the keys before he went to the hospital.

This question about the keys came up before the Vidyadhara Sabha.

Q. Then do you remember an inquiry made with regard to a letter written to the Vidyadhara Sabha asking you to hand over the keys ?

A. No.

In October, 1942, the Vidyadhara Sabha wrote to me a letter asking me to hand over the keys. But I did not hand over the keys.

Q. And since 1943 you are not resident at the Pirivena ?

10 *A.* Yes. But occasionally I visit the Pirivena.

I have got my room and my books and other things are there.

I remember the Sri Sumangala Memorial Hall. It is in charge of the 1st defendant now.

Q. He is running a school there now ?

A. I know there is a school there, but I do not know what kind of a school that is.

Q. Do you remember the dispute with regard to the Sri Padaasthanaya ?

A. I do not know.

20 I know that at a meeting at Kiriella in 1934 the 1st defendant was appointed the High Priest at Sri Padaasthanaya by the priests of the Sabaragamuwa Province. Beyond that I do not know anything.

I am not aware whether the 1st defendant when he was living at a temple at Kiriella, fell ill in 1934. That dispute with regard to the Sri Padaasthanaya is still going on. I remember the action brought by Ratnajothi to have the deeds removed. I also remember about the fact that Ratnajothi's name had been removed from the register. All that was in respect of the Nayakaship of Adam's Peak. Ratnajothi was the rival claimant.

30 I know that the 1st defendant owned some property in Campbell Place, Borella. But I do not know from whom he bought that property. I do not know whether in 1945 he sold that property. 1st defendant is a co-pupil of mine, but he is a junior by robing.

I know Jinaratana is a very old priest. He may be about 96 years of age. He is very feeble, and I look after him.

Q. I put it to you that Jinaratana would sign any deed at your request ?

A. I cannot say that. I have never asked him to sign any deed.

Q. At the time he signed the deed in favour of the 1st defendant
40 he was well over 85 ? That is in 1941 ?

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A. That may be so.

Q. You as his pupil are in control of Jinaratana now ?

A. I do not control him. He controls us.

Q. When did you get the other document with regard to the Sri Nagaharamaya Temple ?

A. I think in 1942 ; that is after the death of Pemananda.

Q. Has he got any other temple ?

A. He has all the temples that belonged to Sumangala, if there are any such temples. For instance, the Tilakaramaya Temple belonged to him.

10

Q. Do you say that Vidyadhara Sabha has no right to appoint the Principal of the Vidyodaya Pirivena ?

A. No.

Q. Do you challenge the rights by which the Sabha has appointed Kahawe Ratanasara ?

A. No.

Q. Do you challenge the action of the Sabha in appointing the present Parivenadhipathi who is the plaintiff ?

A. No.

When Hikkaduwe Sri Sumangala was alive he was in charge of 20 all the buildings enclosed by the wall in Maligakanda. It was all incorporated in one.

Q. And it was about early in the century that the new buildings in Maligakanda came into existence as Vidyodaya Pirivena ?

A. I do not know that, except by hearsay.

I know Francis Panditharatne.

Q. He was a pupil of the Pirivena for a long time, that is from 1905 ?

A. So I was told.

Q. After Naneswara, Ratanasara was in charge of all the buildings 30 in the Maligakanda premises ?

A. With regard to the Pirivena only.

Sumangala Hall was put up by him.

I may have seen the accounts of the Vidyadhara Sabha with regard to the collection and income from these premises which were published from time to time. I cannot remember exactly. The accounts of the Sabha from about 1925 may have been produced in this case, but about that I am not sure.

Q. Those accounts from that time up to now speak out about the income from the trees in the temple premises ?

A. The produce of the trees in that premises was never taken by the Sabha. The Sabha must have shown the figures of other income, such as the grant from the Government, etc. But the income of the land was never given to the Sabha. Charity box collections went to the Sabha. A charity box was kept near about the Bomaluwa, and there was another near about the dagoba.

Q. And there were certain lands that were granted to this
10 place ?

A. So I have heard.

Q. In Anuradhapura and Ratnapura ?

A. Yes.

Q. And the income from all of them was taken by the Vidyadhara Sabha for the maintenance of the priests and pupils in this Pirivena ?

A. The income that was taken by the Vidyadhara Sabha was the income connected with the Pirivena.

Q. The Sabha was also in charge of the dagoba and bomaluwa,
20 etc. ?

A. Yes. When repairs are to be effected to these buildings the Sabha attended to them. But that is the work of dayaka Sabha. That is not done with the permission of the Pirivena. Usually it is done with the knowledge of the Kruthyadhikara.

Q. Have you any documents to show that they were not done under the direction of the Pirivena ?

A. No.

Those charity boxes are not there now.

Q. They ceased to be there after the dispute ?

A. Not only the charity boxes ceased to be there after the
30 dispute, but the alms was also stopped.

Q. When letters are addressed to the Principal who opens them ?

A. If they are addressed to the Principal they are opened by
him.

Q. If somebody else opens those letters ?

A. Then that is wrong.

As a tutor I was under the control and direction of the Principal.

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Q. At the time when the dispute arose who was in occupation of the dansalawa ?

A. It was closed and the keys are with the 1st defendant. After the trouble arose the pupils were not given meals ; but a rupee was paid to each one of them for a day.

Q. Before that some of the priests used to take their meals in the dansalawa ?

A. Almost all the tutors except the Principal used to take meals in that hall.

Q. And the 1st defendant will not permit any of the pupils to use this hall ?

A. Yes.

Q. That dansalawa is meant for the pupils of the Pirivena ?

A. It is meant for all the priests, tutors, pupils and others. I know that the Vidyadhara Sabha appointed the plaintiff as the Parivenadhipathi of this place. That was done in 1936.

Q. And from that time he was in charge of all the buildings in these premises ?

A. No.

Q. What were the buildings that he was not in charge in these Maligakanda premises ?

A. There was not a single building in his charge. Only he has the key of the room that he was using.

The keys are in charge of the Kruthyadhikara.

Q. And he is the person who manages the work of the Principal of the Pirivena ?

A. No.

Q. Your position is that he manages on behalf of Rev. Jinaratana ?

A. Yes.

30

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

Further hearing tomorrow.

(Intld.) V. S. J.,

A.D.J.

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(Same appearances as before.)

DEVUNDARA VACHISSARA. Recalled. Re-affirmed.

Cross-examination—(Contd.).

Evidence of
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 Continued

On the last date I have told the Court that Rev. Pemananda managed on behalf of Rev. Jinaratana.

10 *Q.* Have you got any letter written by Pemananda or Jinaratana to show that that is so ?

A. There are no writings, but usually these priests allot such and such a work to such and such a person.

Q. You are aware that from the start of the Vidyodaya Pirivena the Vidyadhara Sabha has been in control of these premises ?

A. With regard to the teaching in the Pirivena the Sabha had the control and also with regard to the improvements of the buildings they did it with the help of the dayakayas.

Q. And in the accounts of the Sabha are shown the income from the tills ?

20 *A.* Yes. They took the collection of the till boxes.

Q. And the accounts also show that the Sabha had been attending to the repairs to dagoba, shrine-room, malasanaya, and so on ?

A. Probably they must have done it.

Q. You have been in the Pirivena for a long time up to 1943 ?

A. Yes.

Q. You also told the Court that you attended the meetings of the Sabha ?

30 *A.* It is not customary for the priests to attend the Sabha meetings unless they are invited to do so when very important matters are taken up.

We go to the meetings when we are sent for.

Q. Can you mention any instance where Rev. Devundara Jinaratana came and instructed the Sabha to do things ?

A. He was not a tutor of that Pirivena and therefore he was not invited.

Q. Or with regard to the repairs to the Dagoba, shrine room etc.?

A. All those things were allotted to Pemananda, and he used to look after those things. If there were repairs to be done it was he who attended to them.

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I have no documents to prove that.

I gave up classes from 1943. I did not thereafter apply to the Sabha to be given classes ; nor did I apply to the Parivenadhipathi to be given classes. I am aware that the 1st defendant ceased taking classes from 1943.

I was also a witness in the case with regard to the Sri Nagaharamaya Temple. I also claim to be a pupil of Rev. Naneswara and Rev. Ratanasara. It is correct to say that the date of my ordination is June, 1923. At that time Naneswara was dead.

Q. What was the year in which you made your declaration for 10 the registration ?

A. I believe in 1942.

Q. That was about the time when there were disputes at the Pirivena ?

A. During that time also there were troubles.

Troubles have been existing even before that. In 1942 I gave the names of five priests as my tutors presenting me for ordination.

Q. Are you also aware that after these disputes arose the 1st defendant started a rival Pirivena in these premises ?

A. Yes. He started a rival Pirivena. 20

Q. Are you also aware of the fact that at that time the Malwatta Chapter took notice of it ?

A. May be so.

Q. And the Malwatta Chapter asked him to cease that rival Pirivena until that dispute was settled ?

A. I do not know that.

Q. Are you also one of those people who claim rights in this Pirivena ?

A. I have got a right.

Q. And you are also vitally interested in the decision of this 30 Court in regard to this case ?

A. There is no wonder about it.

(To Court :

I know the 2nd, 3rd and 5th to 13th defendants in this case. They are prominent Buddhists.

Q. Do you know the deed of 1873 where 13 people got together and executed a deed to form a Society in order to conduct a Pirivena ?

A. I know that there is a deed.

If these people want they can work for the Pirivena and improve it. I know that they are responsible people, and people of consequence. They can take the responsibility of this Pirivena.)

Re-examination.

At the very start of the cross-examination I was asked yesterday about a letter that I wrote to Rev. Wanaratana. That was with regard to the possession of Nagaharamaya Temple. I took possession of that temple and placed Wanaratana in charge there. There was an action and that action was instituted by Rev. Soratha against
10 Pannananda. That temple originally belonged to Rev. Hikkaduwe Sri Sumangala.

Q. Is Pannananda of the same paramparawa ?

A. No. He is not.

Q. Did Pannananda ever say that he has rights to that temple ?

A. No.

Q. Did he set up a right to be entitled to succeed to Jinaratana ?

A. Yes.

On the issue of Jinaratana's seniority of pupilage both the District
20 Court and the Supreme Court held that Jinaratana was the senior pupil of Hikkaduwe Sri Sumangala.

Q. Before you placed Wanaratana in charge of that temple and asked him not to give Pannananda possession, did you seek legal advice ?

A. Yes.

As a matter of fact, that letter was written by me on legal advice.

(Counsel reads out that letter.)

I exercised my rights in that connection. I used to visit there occasionally, and it is I who gave permission to Wanaratana to live
30 there. On the day on which the Fiscal came there on behalf of the plaintiff in that case some rowdies, having taken toddy, came with Police Constables and frightened that priest and threatened him and then drove him out of the premises.

In the cross-examination I was also questioned as to how I happened to be present at two instances—one when Jacob Mccone-singhe went to the Hunupitiya Temple and one when Pemananda went with some dayakayas to see Jinaratana.

Q. Were those the only two instances that you were present at Hunupitiya Temple whenever those people went there ?

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A. No. On several occasions I have been there when Pemananda came to discuss matters with Jinaratana.

In fact, I have been there when very important matters were discussed there.

I was also asked whether it was not possible for any one to take books from the library at Maligakanda without the permission of the 1st defendant.

Q. Are there any books there that can be used by anybody ?

A. Now there is not a single book.

During the time of the raid in 1942 all the books were taken away 10 for a place of safety. They were handed over to Mr. Wimaladharm Hewavitarne.

Q. Who handed them over to Mr. Hewavitarne ?

A. The 1st defendant.

I was also present at that time.

Q. Were those books that were taken away by Mr. Wimaladharm Hewavitarne brought back to the Maligakanda premises ?

A. I do not know about that.

(At this stage, witness says that he has made a mistake in saying that it was the 1st defendant who handed the books to Mr. Wimaladharm Hewavitarne. He says it was Rev. Pemananda who handed the books over to Mr. Hewavitarne and not the 1st defendant.)

I was present at the time when the books were handed over to Mr. Hewavitarne by Rev. Pemananda. Up to the time I ceased my residence at the Maligakande premises those books had not been brought back to those premises. Till this case was instituted those books were not brought back.

Q. Is there any substance in the allegation that the 1st defendant is preventing others from taking books from the library ?

A. No.

30

Q. Apart from the books any other things were taken away for the purpose of safety during the war ?

A. Not to my knowledge.

I was also questioned yesterday about the right of the Sabha to appoint the Principal of the Pirivena ; and I said that I did not question the right of the Sabha to appoint a Principal.

I know what a dayaka sabha is.

Q. Is there, as far as you are aware, a dayaka sabha in this Pansala ?

A. Almost every pansala has a dayaka sabha.

The functions of the dayaka sabha are to upkeep the buildings, to attend to the repairs to the buildings, and so on.

Q. Do they control the temple or anything pertaining to the place of worship ?

A. No.

Q. Does the Viharadhipathi consult the dayaka sabha regarding 10 matters concerning the Pansala ?

A. With regard to the Vihare they are consulted.

That is because it is the dayakayas who have dedicated the temple to the priesthood, and their assistance has to be sought for the establishing and maintaining the pansala. I say that it is a matter of policy to consult the dayakayas, as it is the dayakayas who dedicate temples. But the dayakayas have no rights. They can make requests.

Q. So far as the Maligakanda Temple is concerned in what capacity does the Vidyadhara Sabha function ?

20 A. In the same way as the dayaka sabhas in other temples do. That is so even in the case of teaching.

I know that Rev. Hikkaduwe Sri Sumangala was a person who took great pains over the imparting of education to pupils. I also belong to the paramparawa of Sri Sumangala. Being a member of that paramparawa I naturally expect this Pirivena to prosper. As long as the Pirivena flourishes nobody would object to any suitable person being appointed the Principal of this Pirivena.

Q. Were the functions of the Parivenadhipathi the same as those of the Viharadhipathi ?

30 A. No.

The Parivenadhipathi cannot appoint a Viharadhipathy.

With regard to this Sumangala Hall I know that subscriptions were collected from the general public. The public contributed to that fund in the same way as they would contribute to any other fund.

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

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Evidence of
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 Examination

SRI DEELANANDA ANUNAYAKA. Affirmed.

I am 74 years of age. I have been an Upasampada priest for the last 54 years. From 1907 I have been a member of the Karaka Sabha in the Malwatta Chapter. That is an Executive Committee. Malwatta Chapter is a body consisting of 20 priests, and that is commonly called Karaka Sabha. The Maha Nayaka Priest of the Malwatta Chapter is an ex-officio member and he is the President of that Karaka Sabha. There are also two Anunayakas. Altogether there are 20 members in that Karaka Sabha.

Q. Who appoints the Maha Nayaka and the Anunayaka ? 10

A. The Karaka Sabha.

The Karaka Sabha is appointed by the Maha Nayaka. Excluding the Maha Nayaka there are 19 other members, and they appoint the Maha Nayake. Only in case of a vacancy that the Maha Nayaka is appointed. The first Maha Nayaka was appointed long ago by the King.

The Malwatta Chapter belongs to the Siamese Sect. The highest tribunal in the Siamese Sect is the Malwatta Chapter. In all there are about 9,000 or 10,000 priests belonging to the Siamese Sect.

Asgiriya is also a Siamese Sect. In that also there is a Chapter. 20 There is also another sect called Kotte Nikaya. That is similar to the Siamese Sect.

Every priest of the Siamese Sect of the Malwatta Branch has to go to Malwatta for his ordination. That is the only place where they can go and get ordination. The Malwatta Karaka Sabha maintains a register of all the priests in that Sect.

I have said that I have been a member of the Malwatta Karaka Sabha from 1907. I have been the Assistant Secretary of that Karaka Sabha from 1910. I have been the Secretary of the Karaka Sabha for about 20 years ; I cannot remember in what year I was appointed 30 the Secretary of that Sabha. At present I am the Anunayake of the Malwatta Chapter, and I have been such for the last five years.

I am fairly well-known as a scholar and as a student of the Vinaya. As early as 1910, when Sir Anton Bertram, the then Chief Justice, wanted expert evidence with regard to the " Vinaya Law " I was the first witness called to give evidence. On that occasion seven experts were called, and I was one of them. Rev. Naneswara of the Maligakanda Temple was also one of them. Even after 1910 I have been able to continue my studies.

I am also the Principal of a Pirivena. That is the Sasthralankara 40 Pirivena. I knew Rev. Hikkaduwe Sri Sumangala very well. On many occasions I have been to the Vidyodaya Pirivena. I used to meet Sri Sumangala there very often. I also know Rev. Sri Naneswara very well.

I know the Maligakanda premises. That is a temple. It is commonly called Vihare because there are statues. A Vihare is also known as a Pansala. Vihare is a place where there are statues. This temple at Maligakanda is also known as Pansala. A place where the priests live is also called Pansala. And the whole place is called Pansala. The main things that are found in every temple are the Viharage, the Bomaluwa, the Dagoba, and so on. The priests also should reside there. All these things are found in the Maligakanda premises. I know that the Maligakanda premises is a place of public
10 worship, where the Buddhist laity has a right to go and worship.

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Q. So far as the Malwatta Chapter is concerned what do you consider that place to be ?

A. I consider it to be a Viharasthanaya ; and there is a Pirivena also there.

The Viharasthanaya belongs to the priesthood, and the Viharadhipathi is in control of it. That belongs to the Malwatta Nikaya.

Q. What is a Pirivena ?

A. It is a place where teaching is done.

And in Pirivenas teaching is imparted to priests mainly. Piri-
20 venas are found in several places ; in several pansalas there are Pirivenas. Usually Pirivenas are associated with pansalas.

Q. In most Pirivenas the Viharadhipathi is the person in charge of the Pirivena also ?

A. Yes.

Q. Are you aware of Pirivenas where the Viharadhipathi is different from the Parivenadhipathi ?

A. I know of several such Pirivenas.

In Malwatta itself there is a Parivenadhipathi as well as a Viharadhipathi. Viharadhipathi is the Maha Nayake of the Mal-
30 watta Chapter. There is the Sangaraja Pirivena, and there is the Uposatharamaya which is a temple which is under the control of the Viharadhipathi who is the Maha Nayaka of the Malwatta Chapter. The Principal of the Sangaraja Pirivena at present is Amunugama Vipasse. The Maha Nayaka, who is also the Viharadhipathi of the Uposatharamaya, is Rev. Sebitha. Formerly it was Pahamune Sumangala. The previous Parivenadhipathi of the Sangaraja Pirivena was Amunugama Vipasse. He was appointed the Paravenadhipathi about two years before the death of Pahamune. Prior to
40 Vipassi the Parivenadhipathi of that Pirivena was Panditha Medanka. He was appointed the Parivenadhipathi by Pahamune Sumangala, with the approval of the Sabha. There is also another place where the Parivenadhipathi is different from the Viharadhipathi ; that is

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Ratmalane Parama Dhamma Cetiya Pirivena and the Temple. Rev. Pachissara is the Viharadhipathi there, and there is a different person as Parvienadhipathi. That is one of the oldest Pirivenas in the Island. There are also other similar cases. It is not always necessary that the Viharadhipathi should be the Parivenadhipathi, and *vice versa*. The function of the Viharadhipathi are attending to the improvements to the temple, protection of the statues and similar things belonging to the temple; to look after the pinkamas with the assistance of the dayakayas, to arrange the piriths and so on. The Parivenadhipathi has only to see to the teaching and administering 10 the College.

Q. What is a Kruthyadhikara ?

A. He is a person who actually attends to the management of the place.

He acts on behalf of the Viharadhipathi. It sometimes happens that a Viharadhipathi of one temple may be the Viharadhipathi of several other temples, and he can function as Viharadhipathi with the assistance of a Kruthyadhikara.

I remember the time when the 1st defendant first threatened to fast, and I also remember the publication in regard to that. That is 20 the 1st defendant published his intention to fast.

Q. What was that about ?

A. There was a certain suggestion made by the Vidyadhara Sabha to collect payments from the pupil priests for the charges of lights that are used in the rooms occupied by the pupil priests. The 1st defendant objected to this charge on the priests.

And in the course of the dispute that arose there were also some Magistrate's Court cases where certain priests were charged. It is in connection with that that the 1st defendant threatened to fast; and he published that fact in the newspapers. When that was 30 published there was an uproar by the Buddhist laity.

Q. Then did the High Priests in Kandy take any action to stop that ?

A. The High Priests of Malwatta and Asgiriya came and told the 1st defendant "don't fast; it is against our religion," and they promised to look into the matter.

I did not come on that occasion.

Q. What was your function in the Malwatta Karaka Sabha at that time ?

A. I was the Secretary of the Sabha then. 40

Q. Was the decision of the High Priests published in the newspapers ?

A. Yes.

I produce, marked 1D48, a copy of the "Dinamina" dated 10th August, 1943, which contains the publication that was sent later by the two High Priests of Malwatta and Asgiriya in connection with that matter.

After that the High Priests went back to Kandy.

Q. And from Kandy what did they do ?

A. They wrote letters to the Principal of the Vidhyadara Pirivena and the 1st defendant asking them to come to the Dalada
10 Maligawa Temple for a discussion in regard to that matter.

It is after that that this publication was published in the newspapers. It is only the 1st defendant who came to Kandy in compliance with that request.

Q. Do you know how Maligakanda Temple came to be dedicated ?

A. I have heard it from Pahamune Sri Sumangala Maha Nayaka.

Q. How did Pahamune Sri Sumangala happen to discuss that matter with you ?

A. In compliance with the request to come to Dalada Maligawa
20 Temple for the inquiry only the 1st defendant came ; and on the following day the two High Priests and four other members of the Karaka Sabha met to inquire into the matter.

This Karaka Sabha is different from the Karaka Sabha of the Malwatta Chapter. It is a Sabha consisting of four members—two from the Malwatta Chapter and two from the Asgiriya Chapter.

So they met at the Malwatta Chapter Pansala. I was also asked by the Chief Priests of Malwatta to come there for the meeting, and I went. At that meeting it was considered that it was not at all regular, according to the Dhamma for laymen to charge fees in a place
30 where pupil priests are studying. Accordingly the meeting decided to stop that.

Q. From any place where pupil study ?

A. From a place like this Vidyodaya Pirivena.

And they accordingly decided to stop that.

Q. At that time was there any dispute arising with regard to the appointment of Viharadhipathi ?

A. Yes. Both questions were discussed ; one about the charge for lights and one about the appointment of Viharadhipathy.

Q. At that time was this dispute in existence ?

40 A. Yes.

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Q. In what form ?

A. There was a dispute between two sects of priests about the appointment of Viharadhipathi.

I cannot remember when that dispute started. A few days after the dispute about the charge for the electric lights came, this dispute came.

Q. Are you sure about that ?

A. I am speaking from my memory.

I say that there was a discussion about the charge for the lights. So at that meeting Rev. Pahamune spoke about the dedication of 10 this temple.

Q. Was Rev. Pahamune an ordained priest prior to 1873 ?

A. I cannot say that unless I see the records.

Q. His ordination is in the " Lekammitiya " ?

A. Yes.

(Mr. Herath objects to this.

According to the evidence already recorded section 32, subsection 14, does not apply, because I do not think that this is a matter of public or general interest ; and also according to the witness some controversy seems to have arisen with regard to this claim at that 20 time. I rule out this.

(Intld.) V. S. J.,
A.D.J.)

Q. When did the 1st defendant's claims to the Viharadhipathi-ship come up ?

A. I do not remember the exact year, but it came up a long time ago.

Q. At the time that the dispute with regard to the charges for electric lights was going on, what was the matter that was raised in question ? In other words, for what reason did the 1st defendant 30 publish that he was going to fast ?

A. This property belongs to the priests, and it is not proper to give rights to a layman. Layman cannot have a right for that, and it is against our religion. Therefore, we must object to that.

Q. Do you remember the first time that this case came up before it went up in appeal ?

A. I have heard of that.

I did not come here to give evidence in that instance.

Q. Did you stay in the same premises as Pahamune Sumangala ?

A. I was living in Malwatta ; he was not at Malwatta ; he was in the Uposatharamaya Temple.

Q. Do you know that Pahamune came for the trial on the first occasion before the case went up in appeal ?

A. I do not know that.

Q. How is a temple dedicated for the Sangha ?

A. A Pali stanza is read out, and it is then dedicated to the priests.

(Witness recites that stanza.)

10 That stanza means this : “ This is dedicated for the use and benefit of all the priests who come from all the four corners of the globe.”

Q. If you want to dedicate a temple to the priests of a particular sect ?

A. Then the name of that particular sect is mentioned, and the same stanza is recited.

In short, this stanza means “ I give this ”.

(In answer to Court, witness repeats the meaning of the stanza as follows : —“ I give this to those priests who are assembled here and to all those priests from all four corners of the globe who are not present here.”)

Only a few priests will be present. It is impossible for all the priests of the Sangha to be present. The least is five priests who will be present on the occasion. They must be Upasampada Priests.

Q. After that is it customary to do something to show that dedication ?

A. The priests who receive the dedication appoint a person to manage it.

30 Q. Is there anything done by the person dedicating to show that it has been dedicated ?

A. A writing, either a deed or an informal writing, is given to show that the property has been dedicated.

The dedication precedes the writing ; that is the customary thing.

Q. You said that there was a meeting of the two High Priests of Malwatta and Asgiriya Chapters and the leading members of the two Karaka Sabhas of those Chapters ?

A. Yes.

Q. Was any decision arrived at that meeting ?

40 A. It was decided that “ we must stop the charging for the electric lights and that it must be published in the newspapers ”.

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Evidence of
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Q. Why did the persons who were present there decide to stop the charging for lights? What was the reason that prompted them to decide to stop that charge on the priests?

A. Because it was agreed that it was against the Vinaya for a layman to charge any fee from a place which is dedicated to the priests.

Q. The members of the Sangha Sabha who met on that occasion were satisfied that this belonged to the Sangha?

A. Yes.

Q. What was it that satisfied the meeting that this was a 10 Sangheeka property?

A. Because there was Rev. Pahamune who was also present at the meeting, and he said that this place was dedicated. That was said by him to those present at that meeting, and therefore they decided accordingly.

(Mr. Herath objects to this part of the evidence.)

Q. That meeting decided that it was a Sangheeka property in view of the statement made by Pahamune Sumangala?

A. Yes.

(This question is not objected to by Mr. Herath.)

20

(Shown a certified copy of the "Lekammitiya" regarding the ordination of Pahamune Sumangala.) This is dated Saka Era 1792. (Witness says that the Saka Era today is 1862, but that he is not quite sure about it till he refers to an almanac. Mr. Herath says that if 79 is added to the Saka Era the Christian Era can be got.)

I have been a member of the Malwatta Karaka Sabha since 1907.

Q. From that time, can you tell us whom your Karaka Sabha recognized as the Vihiradhipathy of the Maligakanda Temple?

A. Hikkaduwe Sri Sumangala was recognized as the Viharadhi-30 pathi of this premises by our Karaka Sabha.

After his death Rev. Jinaratana was recognized as the Viharadhipathi of this temple.

Q. After the death of Sri Sumangala who was recognized as the Parivenadhipathy in these premises?

A. Rev. Naneswara.

It is true that Naneswara gave up his robes, and he was re-robed and re-ordained. His re-robing and re-ordaining was done at Malwatta.

Q. To be re-robed and to be re-ordained from where was he brought ?

A. From a rubber estate at Mirigama.

At that time he was living in a bungalow belonging to Dr. Hewavitarne. He was brought to Malwatta Chapter from there.

Q. Did he come ready to put on the robes again ?

A. When he was in the rubber estate at Mirigama others went and induced him to come to the Malwatta Chapter, and when he came to Malwatta he was explained, and then he agreed in Malwatta to be re-robed and re-ordained ; and then he was re-robed.

Prior to that he held a number of ranks. For instance, he was a Nayaka of the Sabaragamuwa Province. He was also functioning as the Parivenadhipathi of the Maligakanda Pirivena. He was also an " Upaddiyaya " for which title a priest must have 10 years of ordination.

Q. On his being re-robed and re-ordained was he re-invested with any ranks ?

A. At the time of the second ordination he was given back all those previous ranks he had had.

Those ranks that were given back, for instance, were the Nayakaship of the Sabaragamuwa Province and the Parivenadhipathiship of the Vidyodaya Pirivena. Then he was brought back to Maligakanda by the Maha Nayaka Priest.

It is the Malwatta Chapter that gives the Nayakaships ; and it is that Chapter which appointed Jinaratana as Nayaka of the Nine Korales. When a person is given a Nayakaship like that the appointment is made at the Malwatta Chapter.

Q. And after such appointment is given is there the reading or the handing over the " Athakaradasiya " (Act of Appointment) ?

A. Yes. That is first read out at the assembly before it is handed over.

Q. On the occasion of the appointment of Rev. Jinaratana as Nayaka of the Nine Korales, and when the Act of Appointment was read out and handed over to him, did the priests from the Maligakanda turn up ?

A. Several of the tutors from that temple were present. Rev. Baddegama Piyaratana, the plaintiff, was also present on that occasion.

After the presentation of the Act of Appointment to Rev. Jinaratana at the Malwatta Chapter there was a reception for him at the Hunupitiya Temple. At such a reception it is customary for some one from the Malwatta Chapter to come down and read the Act of Appointment over again.

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Q. Who came down from Malwatta on that occasion ?

A. Four or five priests including myself came.

Q. Who presided at the Hunupitiya reception ?

A. If I remember aright it was I who took the chair.

Q. Can you remember who were present at the Hunupitiya Temple on that occasion ?

A. I remember there were many important persons present.

Q. Can you remember whether the members of the Vidyadhara Sabha were present ?

A. No. I cannot remember that.

10

(Shown 1D16.) This is the Act of Appointment that was handed over to him. It is not signed by Jinaratana. This is a printed document ; there are several blanks to be filled in, for instance the name and the ranks of the person, etc. Most of the ink in this document has faded away, and therefore it is very difficult to read some of the writing.

Q. Can you say from this document whether Rev. Jinaratana had been described by his name and rank ?

A. Some of the letters in the document are not decipherable and therefore I cannot read it.

20

Q. Did you see this document at the time it was written ?

A. It was I who got it written ; it was done under my direction.

Q. Can you tell us how Jinaratana was described in that ?

A. As Adhipathi of such and such temples.

Q. Which temples ?

A. As Adhipathi of Vidyodaya Pirivena and Hunupitiya Temple. (Shown a certified copy of a record of the District Court, Galle in D.C. case No. L/786—marked 1D61.)

(This refers to the minutes of a meeting of the Karaka Sabha at Malwatta.)

30

(Witness reads out 1D61.)

(Next Counsel reads out the minutes giving out those present.) The description that was contained in the Act of Appointment was the same as the description that is contained in these minutes.

I know Rev. Vachissara. He is in the Gangaramaya Temple at Hunupitiya. He is a pupil of Rev. Devundara Jinaratana.

Q. Was he present at the reception at Hunupitiya on that day ?

A. He was living in that temple at that time.

Q. Has a Viharadhipathi the right to appoint from among his pupils one of them to function as Viharadhipathi ?

A. Yes.

Q. Has Jinaratana appointed any one ?

A. Yes, by a deed.

Q. And has the Malwatta Chapter recognised that appointed ?

A. Yes.

The Malwatta Chapter has the right to appoint a Viharadhipathi to a temple where there is no Viharadhipathi, that is in a temple that
10 belongs to the Siamese Sect.

Q. Has the Malwatta Chapter appointed anybody to the Viharadhipathship of Delgamuwe Raja Maha Vihare by an Act of Appointment ?

A. Yes, but not by a printed Act of Appointment but by a document written by hand.

(Shown 1D62.)

This is the Original Act of Appointment whereby the 1st defendant was appointed by the Malwatta Chapter to be the Viharadhipathi of the Delgamuwe Raja Maha Vihare. The date given is 8th June,
20 1942.

(Counsel reads out 1D62.)

I remember the attempt made to settle the present dispute before it came to Court. I received a summons in this case from the plaintiff and I attended Court. I was in Court for two days. I find it very difficult to get about. But inspite of that I am here.

Q. When you came down were you examined by anybody ?

A. Proctor Abhayanayake questioned me.

I was here for two days ; and on the second day I found it very difficult to move about ; on that day Proctor Abhayanayake was in Court
30 and I met him and told him that I had been here for two days and that I was unable to move about. I told him, "if you want my evidence, please have it recorded and allow me to go instead of keeping me here." As a matter of fact, he examined me before that. He told me that according to Mr. R. L. Pereira my evidence would not be required, that I would not be called to give evidence. So I went away. It is later that I was summoned from the defendant's side.

(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

Adjourned for Lunch.

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D.C. 2882/Land.
 (After Lunch).

7th September, 1950

H. SRI DEELANANDA. *Affirmed.*

Examination-in-Chief—(Contd.).

Evidence of
 H. Sri Deela-
 nanda
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Continued

In the present dispute before the Court a stage came at which the matter was likely to come into Court. At that stage the High Priest of both Malwatta and Asgiriya intervened and there was a conference here in Colombo at which the high priests of Malwatta and Asgiriya, the plaintiff and the 1st defendant among others were present and the High priests of Malwatta and Asgiriya tried to effect 10 a settlement. A settlement was, in point of fact, actually arrived at. A settlement was drawn up and signed by both the plaintiff and the 1st defendant among others.

(Shown P37 and 1D45 :

This is one of the originals of the terms of settlement that were arrived at.

(Mr. Wikramanayake reads the translation of statement.)

Q. What happened as a result ? Did this settlement go through in the end ? Was it given effect to ?

A. No.

20

Q. How did it come about that it was not given effect to ?

A. I forwarded this to the Vidyadhara Sabha in order to include what is written in this in the form of a deed and to get a deed executed, but they did not agree. It was forwarded to Mr. C. W. W. Kannan-gara, who was a Minister at the time and a member of the Sabha. A deed had to be drafted to give effect to this.

Q. Was a draft of a deed sent to the Malwatta Mahanayaka ?

A. The Vidyadhara Sabha made a draft of a new statement and a copy of that was sent.

Q. Was that deed in terms of the settlement that had been 30 effected between these parties ?

A. Yes.

Q. Why was it rejected ?

A. There were serious matters against the laws of the Vinaya.

Q. In addition to the terms of this settlement other matters were included in that deed ?

A. Not a single one of those was included. Instead, some other matters were included.

The Malwatta Mahanayaka did not want to sign that deed as the settlement he had brought about. Thereafter the plaintiff filed this action. When the plaintiff filed this action the 1st defendant wrote to the Malwatta Chapter setting out his position and explaining why he had to come into Court. That was by a letter sent to the Chapter by 1st defendant on 14.10.1943. I have got the original of that letter, but I have not brought it. It might be with the other papers.

(Mr. Wikramanayake wants to produce a copy of the letter by 10 1st defendant to the Maha Sangha Sabha on 14.10.43.

Mr. Herat objects to this. I uphold the objection.)

Q. Now we get to the matter of the pupillage of Rev. Sri Jinaratana ?

A. The present Saka Era is 1872.

I was asked the Christian year corresponding to that era. I have brought the almanac to find out. The Saka Era 1872 would be the year 1870. Under the new Ordinance No. 19 of 1931 declarations have to be forwarded by priests and their Upasampadas and to be registered by the Registrar-General. Rev. Sri Jinaratana on 23.1.32
20 sent a declaration, which has already been produced and marked P5. In that declaration he mentions himself as being a pupil, by robing and ordination, of Hikkaduwe Sri Sumangala. He has given the date of his robing and ordination as May, 1878. There has been a deed by Hikkaduwe Sri Sumangala to Mabotuwana Siddhartha, a pupil of his, dated 31.5.1879. On the strength of that it has been scught to contend that Jinaratana is not a pupil of Hikkaduwe Sri Sumangala. I gave evidence in the case in Galle about the Nalagastheniya Temple. In that case these two documents—that deed and that declaration—
30 pupil of Hikkaduwe Sri Sumangala was raised. Sri Jinaratana at that time was able to go down to Court and give evidence. I know he gave evidence. Rev. Pahamune Sri Sumangala also gave evidence on this question. After that case was over and decided, Rev. Jinaratana wrote to the Mahanayaka requesting that an alteration be made in that deed. I produce marked 1D63 a certified copy of the extract from the same register of the Registrar-General showing that an alteration has been made in the declaration of Sri Jinaratana by altering the year 1878 to 1879. Under the Orinance, the only person who has got a right to make an alteration in the register is the Malwatte
40 Mahanayaka. The authority in this instance was delegated to the Registrar-General by the Mahanayaka of Malwatta. The document says that.

Q. How did the Mahanayaka come to make that request ?

A. On a request in writing from Rev. Jinaratana that due to an oversight he has put the wrong year and he made the amendment.

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Evidence of
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(Shown a certified copy of the letter the witness sent :

Q. Can the originals of these letters be produced ?

(Mr. Wikramanayake wants to produce this document and Mr. Herat objects.

Order :

The originals must be produced as these are not public documents.

(Intld.) V. S. J.,
A.D.J.)

I have issued a certified copy.

Q. When Rev. Jinaratana's request came to the Mahanayaka 10 what were your functions in the Karaka Sabha at the time ?

A. When Rambukwela Sobhita was the Mahanayaka I was the Anunayake and the Secretary.

When the letter of Jinaratana came, on which the Mahanayaka got the declaration altered, I was aware of what had taken place in the Galle case. This application was made after the decision of the Court of Appeal also in that case.

Q. And did the decision of the Court and the acceptance of the evidence there influence the Mahanayaka in making this alteration ?

A. Yes. 20

I am familiar with the handwriting of Rev. Hikkaduwe Sri Sumangala.

(Shown 1D43 : That is in the handwriting of Hikkaduwe Sri Sumangala.)

(Shown 1D44 : The portion in the middle page is in the handwriting of Hikkaduwe Sri Sumangala. This is a letter sent by Sri Sumangala, Chief High Priest and Viharadhipathi of the Vidyodaya Pirivena, to somebody in Siam in order to ask the condition of Buddhism in that country.)

(Shown 1D64, the page initialled by the Court dated 10.7.35 : 30 That is in the handwriting of Rev. Sri Sumangala.

Q. This is a book that was produced in the Galle case ?

A. I cannot remember exactly.

(Mr. Wikramanayake marks that page as 1D64A. Mr. Herat objects. I think that any entries made by Hikkaduwe Sri Sumangala with regard to Jinaratana in the diary that he has kept are relevant under Section 32 (ii), but the whole book cannot be put in. It may be that he kept the diary in which he entered private matters as well as business matters. Only the business matters can be put in. There is evidence that Jinaratana was the pupil of Sri Sumangala and, as 40

such, Sri Sumangala who was the Viharadhipathi of some temple, though perhaps not of this Pirivena, would be recording matters with regard to his pupils. This page is marked, but not the whole book.

A.D.J.)

(Shown another page of the book, witness says it is in the handwriting of Hikkaduwe Sri Sumangala. Witness reads out.

Mr. Herat objects to this also. I overrule the objection. Mr. Wikramanayake marks that as 1D65.)

So that he installed Jinaratana in February, 1885, and gave him 10 money.

(Shown another document :

This is in the handwriting of Hikkaduwe Sri Sumangala.)

(Shown an envelope :

Q. In whose handwriting is the address on that envelope ?

A. That is also Sri Sumangala's handwriting. That letter is addressed to Mabotuwana Siddhartha at the Nalagastheniya Temple in Hikkaduwa.)

(Shown a letter, witness reads it to himself.

Mr. Wikramanayake marks that as 1D66. Mr. Herat objects. 20 Mr. Wikramanayake states it is a letter written by Hikkaduwe Sri Sumangala to Mabotuwana Siddhartha, the transferee on that second deed, and it relates to the transfer on that second deed, Hikkaduwe Sri Sumangala being the transferee on the first deed. Mr. Wikramanayake states he wants to prove the position taken up by Hikkaduwe Sri Sumangala in his discussions with Mabotuwana Siddhartha with regard to his rights on that deed. Mr. Wikramanayake says he wants to prove the attitude taken up by Hikkaduwe Sri Sumangala with regard to the transfer of the land in the first instance to Mabotuwana Siddhartha. Mr. Wikramanayake says he wants to put it in under 30 Section 14 as showing the state of mind of Hikkaduwe Sri Sumangala in regard to the deed of 1884.

Order :

I rule out this document. This is a letter written in reference to a deed of 1884. The letter itself is not dated, and the original transaction where he was given this Pirivena took place in 1883 ; so it could not be said that it was a statement made at or about the time that earlier transaction took place. Secondly, Sri Sumangala had accepted that deed of 1873 on certain conditions appearing in the deed itself. If this is allowed to be put in it would tend to vary 40 those conditions. Thirdly, I am not sure whether Sri Sumangala's state of mind is relevant at all.

(Intld.) V. S. J.,
A.D.J.)

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(Shown 1D32 : This is a letter signed by the Mahanayakas of Malwatta and Asgiriya.)

(Shown 1D33 : I identify the signatures here of Sri Sumangala and Mullegama Sri Jinaratana.)

(Shown 1D34 : This is also signed by Mahamuni Sri Sumangala.)

(Shown 1D35 : Here also I identify the signature of Mahamuni Sri Sumangala.)

(Shown another document :

I can identify here the signature of Mahamuni Sri Sumangala. That is sent by him as Mahanayaka of the Malwatta Chapter to one 10 of the priests who is under his jurisdiction. It is in reply to a request by the 1st defendant to certain information from the register of the Malwatta Chapter.)

(Mr. Wikramanayake reads the translation.)

I was in charge of the register myself as Lekam.

Q. Is the ordination of Sri Jinaratana himself in that Lekama ?

A. Yes. It is not in the "Puskola Lekama". That is a different register.

In those days some priests' names have not been there, but I remember he was ordained by Hikkaduwe Nayaka Thero. 20

(Mr. Wikramanayake marks that document as 1D66.)

I am conversant with the Vinaya law. When a property is dedicated to the Sangha it is not possible for laymen to retain any right of control thereof.

Q. Is there to your knowledge any rule in the Vinaya which makes it possible for a dedication to be made, leaving a right of control in the laity ?

A. Not to my knowledge.

Once a thing is dedicated no layman can have any right of control. To make a dedication, reserving a right of control would be 30 contrary to the Vinaya. I know that there are some things that have got to be done by a Sangha Sabha.

Q. When something has got to be done, what constitutes a Sangha Sabha ?

A. Is it at the time a land is dedicated ?

Q. When a Sangha Sabha has got to make a decision on anything like that, how is the Sangha Sabha formed ? In the Sangha Sabha ?

A. In a temple where there are many priests all the priests must join, otherwise with their consent only five priests.

Q. What is a Sangha Sabha ?

A. If in a temple there are many priests, all who go will form the Sangha Sabha or at least five of them with the consent of the others.

Q. Consider a Sangha Sabha in respect of a temple or an Avasa ?

(*To Court :*

Q. Are there any other Sangha Sabhas ?

A. Whenever there is anything to be done by a Sangha Sabha there are five priests who can get together. If somebody wants to dedicate something to the temple there must be five priests of that
10 sect whether they belong to that temple or any other temple.

Q. If, for instance, somebody wants to give a motor car as Sanghika property to the priest what happens ?

A. If there are five priests from the Siamese Sect he can give it to whatever members of the Sangha Sabha are present. They need not be from the same temple. There should be five priests of the same sect but not of the same temple.

Q. If five priests of five sects get together, that would not be a Sangha Sabha for a dedication ?

A. That is not according to the Vinaya.)

20 *Q.* Why ? Suppose it is made Sanghika to the entire priesthood from the four quarters of the globe ?

A. (No answer.)

Q. Where something has to be done with the consent of the Sangha Sabha, in such a case how do you constitute a Sangha Sabha to get the consent ?

A. If the matters are concerned with particular Nikayas, there should be priests who will form each separate Nikaya.

30 *Q.* Suppose I have to do something with the consent of the Sangha Sabha and I know that some priests may like it and some others may not like it, I go and pick out five particular priests who will like it and they constitute a Sangha Sabha and I have got their permission ? Would that be the consent of the Sangha Sabha ?

A. Yes. It can be accepted.

Q. Even if the other priests were not informed that this action was going to take place ?

A. Even then if five priests consent it is possible.

Q. Here the Vidyadhara Sabha in terms of the deed had to appoint a principal with the consent of the Sangha Sabha, and how were they to get the consent of the Sangha Sabha ?

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A. From the priests who are not residing in the temple there and the priests who are not in the Pirivena.

Q. The plaintiff priest told the Court that it was possible for a dedication to be made subject to conditions with regard to control. Do you agree with that ?

A. That is wrong.

Q. Is there any authority for that proposition from the Vinaya ?

A. There is nothing in the Vinaya or anywhere which says you can make a dedication to the Sangha.

I know the 1st defendant. I was present at his robing. That was 10 the robing at Malwatta. He was robed and ordained on the same day at Malwatta.

Q. How did he come to be robed at Malwatta ?

A. Originally he was a priest under the Kotte Nikaya. The Nanissara priest wanted him as a pupil of his. So the Nanissara priest got him there, had him disrobed and had him re-robed before the Mahanayaka. When he was there he disrobed and immediately re-robed with the name of Sri Nanissara and Sri Jinaratana.

Q. I will put you on passage from the Vinaya. Incidentally the "Vinayalankara" is a commentary by a Burmese priest. Is 20 there any difference between the Vinaya as understood in Burma and in Ceylon ?

A. No.

The "Vinayalankara" is accepted among the priesthood as an authority in matters of the Vinaya. The Vinayalankara was one of the authorities I relied on when I gave evidence about the next birth about 40 years ago.

(Shown a passage at page 336 side-lined.)

Q. There is the word Vismajjitva Dinnassa. What does that mean ?

30

A. It means a dedication for all time.

Q. That passage does not indicate or connote that it is possible to give a dedication retaining any right of control ?

A. No.)

I know the story of the Bhikkus who quarrelled.

Q. What happened in the case of the quarrelling Bhikkus when they came back to Jethawanaramaya ? Does that story of what happened in relation to those Bhikkus indicate that any layman had

a right of control over the temple? Does that story show that any layman has any right to exercise any control over a temple?

A. No.

(At this stage Mr. Kottegoda wants to cross-examine witness and after that Mr. Herat will do so. Mr. Wikramanayake has no objection.)

Cross-examined by Mr. Kottegoda.

Q. Do you remember about 1934 there was a dispute between Urapola Ratnajothi and the 1st defendant with regard to the Sri-
10 padasthana?

A. No.

Q. Urapola Ratnajothi claimed to have been elected by the Bhikkus resident in Ratanapura on 14.2.1934 at Pelmadulla?

A. He did not tell us but it was published in the newspapers. 1st defendant claimed to have been elected at a meeting held on 18.2.1934 at Kiriella. I was then the Assistant Secretary of the Karaka Sabha.

Q. And the High Priest of Malwatta brought an action against the Registrar-General to have the name of Urapola Ratnajothi removed
20 from the register? That was an application made by the High Priest of Malwatta to the Supreme Court? On the ground that the Mahanayaka High Priest had on 26.5.35 expelled Urapola Ratnajothi from the priesthood?

A. Yes.

I do not know that the Mahanayaka Thero of the Malwatta Chapter made an application to the Supreme Court to direct the Registrar-General to remove the name of Urapola Ratnajothi from the register of Bhikkus.

Q. Do you know whether the 17 members of the Malwatta
30 Chapter made a similar application to get that name out?

A. That also I do not know.

I am a member of the Karaka Sabha.

Q. During the period these applications were made?

A. I was a member.

Q. You were not aware?

A. I do not remember at all.

Q. You never remember at all the dispute between the 1st defendant and Urapola Ratnajothi with regard to the Sripadasthana?

A. There was no trouble at all between the two.

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I know that an action had been filed by one Mr. D. C. Wijewardene against the Public Trustee to have himself declared as the trustee of Sripadasthana.

Q. And he claimed to have been appointed trustee by the 1st defendant ?

A. Yes.

The Public Trustee is resisting that claim. Now I am aware that after Sri Sumangala several other Principals have been appointed to the Maligakanda Pirivena.

Q. The Malwatta Chapter had no hand in those appointments ? 10

A. Yes.

Q. And no priest from Malwatta ever came to this place to settle any dispute before 1933 ?

A. There were no disputes before that time.

Q. And 1st defendant intimated to you in the Malwatta Chapter that there was an illegal levy made at this Pirivena ?

A. He did not, but it was published in the papers.

Q. And is it owing to the publication in the papers that the Malwatta Chapter took action ?

A. Over that there was very great displeasure among the 20 general public and that is why the Malwatta Chapter intervened.

It was also published in the newspapers that the general public were clamouring about it. That matter was not referred to the Malwatta Chapter for their decision.

Q. Who informed the Malwatta Chapter ?

A. No one personally informed them but we read in the papers about this question and we also heard that there was a great clamour among the general public about this matter. Therefore the Malwatta Chapter intervened in the matter.

The Principal of the Temple did not ask the Malwatta Chapter 30 to intervene in this matter.

Q. What was the article the Malwatta Chapter published ?

A. That publication is a request by the High Priest of Malwatta to the Vidyadhara Sabha not to charge this levy. That was against the Vinaya and therefore he requested them to remove these taxes. The Malwatta Chapter never assumed the right to decide disputes that arose in this Pirivena premises.

Q. And until the 1st defendant got a deed from Devundera Jinaratana the Malwatta Chapter never interfered in the actions of the Vidyodaya Pirivena ?

A. There is nothing about it.

Nobody ever consulted the Malwatta Chapter about the appointment of Parivenadhipathi in these premises.

Q. Or in any matter connected with this institution ?

A. No one else interfered.

(Further hearing tomorrow.)

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

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D. C. 2882/Land.

8th September, 1950.

H. SRI DEELANANDA. Recalled. Affirmed.

Cross-examination by Mr. Kottegoda—(*Contd.*).

On the last day I said that nobody ever consulted the Malwatta Chapter about the appointment of the Parivenadhipathi of these premises. The Malwatta Chapter had nothing to do with the Pirivena premises. This Pirivena also belongs to the Malwatta Nikaya.

(*To Court* :

20 Hikkaduwe Sri Sumangala was a priest of our Nikaya and his Sisyanusisya Paramparawa pupils would also be subject to the same discipline.

Q. Does the Chapter have any control of the property of these temples or only of the priests who belong to your Nikaya ?

A. At the very start of the Pirivena two of our Malwatta High Priests attended the ceremony and it was to the Sangha that the property was dedicated in their presence and therefore all the premises and the Pirivena come under the Malwatta Nikaya.)

30 Q. Are you aware that these premises have been given by a deed by Lansage Andiris Perera on one part ?

A. I had seen that deed.

(Shown P2 :

This deed says Andiris Perera on one part and 16 other gentlemen on the second part and Hikkaduwe Sri Sumangala on the third part, and the second paragraph says that the property on the deed is for the purpose of teaching Buddhism and imparting

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knowledge both to the Bhikkus and laymen in this educational institution. In the last paragraph but one it says that the party on the first part and the party on the second part, that is, Andiris Perera and the 15 other gentlemen have dedicated this land and the buildings thereon to Hikkaduwe Sri Sumangala.

Q. And it also says that after him the property should go to the priest who succeeds him as the Principal of the Pirivena ?

A. (No answer.)

Q. Read the last but one paragraph. (Witness reads.)

Q. Before you come to the last but one paragraph certain conditions are recited in that deed ?

A. Yes.

Q. Then the paragraph says " the said party on the third part on behalf of himself and on behalf of his successors . . . doth hereby accept the said property as Sanghika property subject to the covenants, rules, etc. aforesaid " ?

A. Yes.

Q. That is the deed by which the property had been dedicated to Sri Sumangala and his successors ?

A. Might be. I have not read the whole deed.)

20

(Shown P1 :

Q. Are you aware that in the year 1873 thirteen gentlemen formed themselves into an association ? You said you have seen the deed ?

A. I have seen the deed, but I cannot remember the contents. I had only seen the printed copy similar to this.

Q. You were aware of this deed ?

A. I am aware that there is a deed like that.

Q. And that the Vidyadhara Sabha is supporting a Pirivena in the premises belonging to Lansage Andiris Perera ?

30

A. I cannot say whether this Pirivena is built on that particular spot given by Andiris Perera or away from it.)

The first Principal of that Pirivena was the Very Rev. Hikkaduwe Sri Sumangala. I know that during the time that Hikkaduwe Sri Sumangala officiated in these premises he had two Vice-principals of the Vidyodaya Pirivena. They were Rev. Heiyantuduwe Devamitta and Sri Nanissara. Devamitta was the senior Vice-Principal.

Q. But on the death of the Ven. Hikkaduwe Sri Sumangala, Rev. Nanissara succeeded to the office of Sri Sumangala? To the right of Sri Sumangala in these premises Rev. Mahagoda Nanissara succeeded him?

(Mr. Wikramanayake objects to the way the question is put.)

Q. Do you admit that Rev. Nanissara succeeded to the right of Parivenadhipathi of Sri Sumangala at this Pirivena?

A. Yes.

Q. Rev. Nanissara was a pupil of Sri Sumangala himself?

10 *A.* Yes. He was a pupil of two priests, Sri Sumangala as well as another priest.

Q. And at the time that Rev. Nanissara was Principal do you know that he had three other Rev. gentlemen as Vice-Principals officiating in these premises? I will give you their names: Heiyantuduwe Devamitta, Kahawe Ratanasara and V. Devarakkhita?

A. At the same time that Nanissara was appointed as the Parivenadhipathi of the Pirivena the other priest Heiyantuduwe Devamitta was appointed Director of Studies.

(*To Court :*

20 *Q.* By whom was that appointment made?

A. With the consent of the Sangha Sabha at that time he was appointed by the Vidyadhara Sabha. I said that all these appointments of the Vidyadhara Sabha were with the consent of the Sangha Sabha. The appointments were made in that manner. I know it as a fact and I know it personally.)

Q. And during Kahawe Ratanasara's time there were two Vice-Principals, Rev. Welivitiya and Baddegama Piyaratana?

A. After the death of Nanissara, Kahawe Ratanasara became Principal. He had been Vice-Principal before that.

30 *Q.* And when Kahawe Ratanasara died, Rev. Baddegama Piyaratana was the only Vice-Principal alive?

A. Panditha Sorata was also Assistant Principal at that time.

Q. I am instructed that Sorata came later?

A. No.

Q. When Baddegama became Principal there was appointed Kukulnape Devarakkhita as Vice-Principal?

A. What about Sorata.

Q. Sorata came after that?

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A. I do not know that, but I know that both these priests were Vice-Principals at one time.

Rev. Kukunape Devarakkhita died about four or five years ago, and in his place *Rev. Kalukundayawe Pannasekara* was appointed. All these appointments were made with the consent of the Sangha Sabha.

Q. Have you got any letters written to prove that ?

A. The appointment of the Principal is made with the approval of the Sangha Sabha. After that the Principal appoints his own Vice-Principal.

Q. They did not take the consent of the Malwatta Chapter for the appointment of Vice-Principal ?

A. The Malwatta Nikaya was not consulted because that is the duty of the Principal of the Pirivena.

Q. You are aware that certain documents of appointment have been produced from the Vidyadhara Sabha ?

A. I do not know that.

Q. You are not aware of the various actions of the Vidyadhara Sabha with regard to these premises ?

A. I do not know.

I have no letters written by the Vidyadhara Sabha to our Sangha Sabha.

Q. That is because the Vidyadhara Sabha did not consult the Sangha Sabha at Kandy with regard to this Pirivena ?

A. After that trouble they have consulted the Malwatta Chapter on a number of questions. Even members have gone there and spoken to them.

Mr. Kannangara came personally and told the Sabha if we try to settle this matter by ourselves it will lead to the destruction of the Vidyadhara Sabha. Please somehow or other interfere and settle this matter.

30

Q. When did that take place ?

A. It was after that at Dematagoda a meeting was held. I personally came and got the parties together and got that settlement signed.

At that meeting *Mr. Kannangara* was present and a document was brought and signed stating the facts about a settlement. At that meeting that signed document was handed over to *Mr. Kannangara* and it was said "at your request we have settled this matter and have got this document signed. Please send it to the Vidyadhara Sabha." One of the terms of that settlement was that 1st defendant should cancel the deed in his favour.

(Shown P37 :

This is the first condition that appeared in that document.

Q. Will you please read that? (Witness reads.)

A. That is not the only term of settlement. In the second paragraph there is a more important term of settlement.

Q. The second one is with regard to the 1st defendant. You are aware that 1st defendant had been a tutor at this Pirivena for a long time?

A. Yes.

10 *Q.* And that he ceased to teach about the year 1933?

A. I cannot remember the year.

I am not aware that 1st defendant had made several applications to the Vidyadhara Sabha and the plaintiff. Baddegama Piyaratana asking that he be given classes in this Pirivena. Neither am I aware that he never made any application with regard to that to Devundera Jinaratana.

Q. If, according to you, Jinaratana was the Viharadhipathi and the Pirivena came under him, Baddegama Piyaratana should apply to Devundera Jinaratana?

20 (Mr. Wikramanayake objects.)

Q. In the Vidyodaya Pirivena, I put it to you, the Pirivena came first?

A. No.

Q. Your Malwatta Temple was in existence for a long time?

A. From the time of King Tissa.

Q. And the Pirivena came very recently—about 40 or 50 years ago?

A. (No answer.)

Q. When did this Sangharaja Pirivena come into existence?

30 *A.* Even before I went to Malwatta Vihare.

But the temple came into existence before the Pirivena.

Q. According to the Vinaya, a priest cannot hold property personally?

A. Especially for one priest.

Q. He can accept a gift in favour of himself and his successors in office?

A. He can accept it if his name is mentioned and it says "this priest as well as other priests of him who come after him".

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Q. And if a priest accepts under certain conditions like that given after him to his successors, he is bound by those conditions ?

A. That is the Sisyanusisya Paramparawa.

Q. It goes in a certain line because he accepts in trust ? Under the Vinaya there is no Sisyanusisya Paramparawa mentioned ?

A. Why not ?

In the Vinayalankara you get the Sisyanusisya Paramparawa.

Q. The Vinayalankara is a Burmese commentary on the Palimuktha Vinischaya ?

A. Not only on the Vinaya in Burma. 10

It is written by a Burmese priest. The Vinayalankara is a commentary on certain difficult passages in the Palimuktha Vinischaya.

Q. You have already told us of a kind of gift in which is used the words " Visvathgath . . . Dinnasa ".

Q. There the two words Visvathgath and Dinnasa both indicate the meaning " having given " and " given " ?

A. Not having given.

The meaning is that it is a gift for all time.

Q. The two words having the same meaning are used " Visvath- 20 gath " and " Dinnasa " ?

A. Visvathgath means " everlasting " and Dinnasa means " given ".

Q. That is with reference to a gift over which nobody has any right of control ? Nobody can have any control after that gift is given in that manner ? Except priests ?

A. A layman or the other Dayakayas cannot give. Only the priests can.

Q. If there is any donation on certain conditions the priests also can accept it ? If those are not against him ? 30

A. In the whole of the Vinaya nothing can be given with the right of conditions.

Q. You remember the Aramaya built by Anatha Pindika during Lord Buddha's time ?

A. I have read of it.

Q. About the time there were the priests who were quarrelling with regard to some precept laid down ? The priests were in two camps with regard to some matter ?

A. With whom ?

Q. The priests ?

A. There was some dispute about the use of water in the tin.

Q. And Anatha Pindika went and asked the Buddha whether these priests could come back ? About the coming of the priests into the Avasa built by him ?

A. All the priests had left that place and gone to some other place. They quarrelled and went away.

When they came back with Lord Buddha to Jethawanaramaya Anatha Pindika asked permission from Lord Buddha to stop the
10 priests who started the quarrel. Then Lord Buddha said " they are very holy people. They have quarrelled over a very slight thing and they are coming here to make peace. Do not stop them."

Q. You told us that Rev. Mahagoda Sri Sumangala was the Nayaka priest at the time when this dispute arose in 1943 ?

A. He was the Mahanayake. I was the Secretary.

(Shown a document :

That is my name. This is my signature. That is an extract from my Lekama.

(Mr. Wikramanayake objects to this, and Mr. Kottegoda with-
20 draws it.)

(Mr. Kottegoda moves to produce a certified copy of the Lekam-
mittiya. Mr. Wikramanayake objects.

I uphold the objection. Previously, when Mr. Wikramanayake wanted to produce a certified copy from the records kept in the Malwatta Chapter it was objected to and I upheld the objection. This is not a public document.

A.D.J.)

In 1942 when the priests came to settle this dispute I was aware that 1st defendant was claiming certain rights from Devundera Jina-
30 ratana. And when the Nayakaship was given to Rev. Jinaratana the document was read in this Gangaramaya Temple. Those ceremonies did not take place at Vidyodaya Pirivena.

Q. As far as you know, Rev. Jinaratana had already been resident at Gangaramaya temple, Hunupitiya ?

A. Not from the beginning ; but from the time he was sent there by Sri Sumangala he went and lived there.

Cross-examined by Mr. Herat.

Q. You were robed about 1895 ?

A. Even before that.

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I was ordained in 1897. A priest is not ordained within two years of his robing.

Q. Roughly, you were robed about 1894 or 1895? In 1910 you gave evidence saying that you were robed 25 years ago? That will bring us to about 1885?

A. If it is 1885 it is correct.

I may have become a Samanera about 1885.

Q. So that, what happened at Maligakanda in 1873 you are not personally aware of? How this Maligakanda Pirivena came into existence in 1873 you are not personally aware of? From your own 10 personal knowledge?

A. I do not know, but what I know is what I heard from Sri Sumangala.

Except from what I heard from others I know nothing of how this Maligakanda premises originated.

Q. Therefore, whether there was a dedication or not you are personally not aware from your personal knowledge?

A. I have told you that I have personally heard from Sri Sumangala, but personally I have not seen or have not come there.

The late Rev. Pahamune died about five years ago.

20

Q. He was about 80 years old when he died?

A. He was 92.

The ordination certificate of Rev. Pahamune produced by me shows that he was ordained an Upasampada priest about 1870 or 1871.

Q. He must have been about 20 years old at that time?

A. At what time?

It is at the age of 20 years that a priest is ordained. He was a priest from Pahamune in the Kurunegala district.

Q. And he came to Malwatta for ordination and went back to 30 his own village?

A. On the day he was ordained he went to his own village. He did not go to his village but went to the Thorana Pansala. His ordaining tutor was the priest of the Thorana Vihare and after that he went back to his ordaining tutor at Thorana.

Q. He remained there with his tutor at the tutor's temple for some time?

A. He was there not for a short time but was always there, and used to stay in the Malwatta temple also.

Even at that time he was a very educated priest and was very good at Bana preaching. Whenever the Mahanayaka of Malwatta preached Bana he wanted him ; so that Pahamune spent a good deal of his time at Malwatta.

Q. When did he become a member of the Karaka Sabha ? How many years after his ordination ?

A. I cannot say how many years before his ordination, but about 10 or 15 years before I joined the Karaka Sabha he was a member. I joined in 1907.

10 *Q.* So, about 10 years before that Pahamune became a member of the Karaka Sabha ? Roughly about 10 years before ?

A. I do not know the exact time, but it was during the time of Hippola Mahanayaka.

Q. That would be about 1895 ? When Pahamune became a member of the Karaka Sabha ?

A. I cannot say exactly. It might have been about that time.

Q. That was the first appointment where he got some prominence ?

A. That was when he became Karmachari at Malwatta.

20 *Q.* That was before he became a member of the Karaka Sabha.

Q. How long before that ? Roughly ?

A. What is the use of guessing ?

Q. Then, about 10 years before you became a member of the Karaka Sabha he was a member ?

A. Yes.

After a priest is ordained he must pass a certain number of years to be appointed a Karmachari.

Q. But according to the date of that document he became a Karmachari before two years ?

30 *A.* It was after that that he became a member of the Karaka Sabha.

Q. Pahamune became a member of the Karaka Sabha about how many years after he became an Upasampada priest ?

A. One can become a Karmachari after five years, but the full period is 10 years.

A priest is appointed on trial for five years and he gets confirmed after 10 years.

Q. When he became a Karamachari would be the first time he became a priest of some importance ?

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A. He was prominent even before that.

But he held no office or rank before that.

Q. You defined a Vihare as a place where there were sacred statues ?

A. That is wrong. I was asked what was a Viharage and I answered that the Viharage was a building where the statue of Buddha is.

Q. A Pansala originally was a place where the priests reside ? The land where the priests reside ?

A. It cannot be explained so easily as that. A Pansala is ¹⁰ composed of several things. All those things together constitute a Pansala.

A Vihare is a place where priests live, and a pansala is a place where there are images.

Q. In other words, the words Pansala and Vihare have interchanged ? They mean the same thing today ?

A. Not only now but even from the time of Lord Buddha, Pansala, Vihare and Avasa were one and the same thing.

Q. The term Avasa originally meant a garden—a pleasure garden ? 20

A. It must be preceded by a priest's name.

Q. What was the original meaning of the word Avasa ?

A. When the priest comes from his travels and takes rest, that resting place is called an Avasa. It means a place of rest where he stops his panting. It means a resort.

Q. Originally it did not mean a place of rest or a resort irrespective of priests ? It only meant a garden ? The ordinary grammatical meaning ? Not the sort of associated meaning ?

A. I cannot understand and I have not heard that it does not mean a place of rest for laymen. 30

Q. I agree with you that the term Avasa is not used except to indicate a place connected with the priesthood ? But before the Buddha's time did it not indicate an ordinary pleasure garden ?

A. No.

A Pirivena is a school where Buddhist priests teach.

Q. You can have a Vihare as such without any teaching going on there ? A place where priests reside and people come for worship ? There can be a vihare as such without any Pirivena ?

A. Yes.

Q. Similarly, there can be a Pirivena without a Vihare ? If it is a place where priests impart teaching ?

A. A Vihare means a place where pupils worship.

Q. There can be a Pirivena without a Vihare ?

A. Vihare means a place where students and pupils and the pupils who come to take lessons worship.

Q. Apart from the problem raised as to where the Buddhist priests who teach and the scholars who come to learn worship, you can have a Pirivena without a Vihare ? If not for that difficulty, one
10 can put up a building for a school and teach as it is taught in the Pirivena, and that will be a Pirivena ?

A. If it is a Pirivena without a Vihare, that would be a place where those priests reside. He must be in a separate building, but he can teach and come back to reside somewhere else.

A building where priests teach and impart their knowledge to scholars can be called a Vihare, although there is no preaching at all. It is necessary where the priests teach for there to be some place where they can worship and where the scholars can worship.

Q. Where the priests impart learning it is desirable that they
20 have a place where they can worship and where their pupils also can worship ? In fact it is the usual thing ?

A. When the priests reside, then it is called a pirivena belonging to the Vihare.

Q. My further question to you is this : Is it usual in a place where priests are imparting knowledge to pupils that provision should be made for worship—that there should also be provision made for them to have their religious worship ?

A. Yes. It is very good.

Q. And as you said, wherever priests reside there must be a
30 place of worship in the immediate neighbourhood ? You said that priests must teach in a place associated with a place of worship ?

A. Yes.

So that if there is a Pirivena and the teachers and pupils are given to reside there, there is all the more reason for a place of worship to be present at the same spot.

Q. And if it is a place of worship, normally every pious Buddhist would be allowed to come there and perform his religious duties ? No religious body would prevent any pious Buddhist from coming there ?

40 A. No.

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Sometimes, where there is a Vihare existing, a Pirivena is subsequently established.

Q. In fact, with the exception of the present Vidyodaya Pirivena premises, in no other pirivena in Ceylon has that been the case ?

(Mr. Wikramanayakē objects.)

I was Principal in the Sastralankara Pirivena. That came into existence in 1919.

Q. And it was due to your eminence in learning that it was founded ? You founded it ?

A. Yes. 10

Q. You founded it in the premises of the Vihare at the Kadu-gannawa temple ?

A. On the land belonging to the Vihare.

Q. Which Vihare ?

A. Haramitigalage Vihare.

I established my Vihare on a land belonging to the Haramitigala temple, of which I was the Viharadhipathi. And because I was the Viharadhipathi and eminent in learning, I was also the first Parivenadhipathi. Nobody appointed me. I put up a Pirivena and I am conducting it. 20

Q. Similarly this Sangharaja Pirivena came into existence ? The Uposatharamaya Vihare was already in existence when the Sangharaja temple was founded ?

A. I do not understand.

Q. Where is this Sangharaja Pirivena situated ?

A. At present it is at . . . Originally it was at Malwatta. Today it has come to be known as the Pusparamaya temple.

Q. Heiyantuduwe Devarakkhita went from the Vidyodaya Pirivena to be the Principal of this Sangharaja Pirivena when it was in the Malwatta premises ? 30

A. No.

Before he became a tutor at Vidyodaya Pirivena he was taken to Sangharaja Pirivena, and he was the Principal of the Sangharaja Pirivena when it was carried on at the Malwatta premises. There too the Pirivena came into existence long after the Vihare was there.

Q. For example, the Doranagoda temple in the low-country where Rev. Ratnajothi was at one time there ?

A. It is in the Veyangoda district.

There too the Pirivena was founded after the Vihare at Doranagoda. I mentioned about the Paramadhamma Pirivena at Ratmalana where the famous Walane Siddhartha founded a Pirivena. Walane Siddhartha was Hikkaduwe Siddhartha's tutor.

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Q. The Paramadhamma Chetiya was founded long after the temple was built ?

A. I know the time that Morontuduwe Dhammananda was at Ratmalana teaching there. Before that I cannot tell you about this Vihare.

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10 *Q.* When a Pirivena is founded in an already existing Vihare, sometimes the Viharadhipathi is also the Parivenadhipathi as in this case at Sastralankara Pirivena ?

A. It is not common everywhere.

Because I was a man of eminence, I as Viharadhipathi became also the Parivenadhipathi.

Q. On other occasions the Viharadhipathi will get another learned priest to be the Parivenadhipathi when the Viharadhipathi founds a Pirivena ?

20 *A.* If the Viharadhipathi finds that he is not learned enough he invites somebody else to be a Parivenadhipathi.

At the instance of the Viharadhipathi somebody else is given that appointment.

Q. Where a Viharadhipathi builds a Vihare, in those cases the Parivenadhipathi is appointed by the Viharadhipathi at his choice ?

A. If in a Vihare the Viharadhipathi establishes a Pirivena he will appoint another priest as Parivenadhipathi if he is not qualified enough to teach.

That Viharadhipathi has the power to appoint the Parivenadhipathi.

30 (*To Court :*

There are Pirivenas where the Viharadhipathi has appointed the Parivenadhipathi. In my Pirivena I am the Parivenadhipathi also.

Q. At the start who used to appoint the Parivenadhipathi ?

A. Originally when the property was made Sanghika the Sangha Sabha, that is the priests who were present, asked Sri Sumangala to be the Viharadhipathi and the Parivenadhipathi. I have so understood it from what other eminent priests have stated.

Nanissara was appointed by the Sabha with the consent of the Sangha.

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Q. Was the plaintiff Baddegama Piyaratana also appointed in that way ?

A. He was appointed by the Vidyadhara Sabha with the consent of the Sangha Sabha.

I have been questioned about the Vinaya and various commentaries on the scriptures.

Q. The Vinaya itself or the Buddhist scriptures do not contemplate things like Nikayas and Sisyanusisya Paramparawa or temporalities ? There is nothing in the scriptures about rights of succession ?

10

A. What is happening now did not happen in ancient times.

Q. Those rules of Sisyanusisya Paramparawa and Gnathi Sisy Paramparawa are all customary rules which have come into existence from the time of King Kirthi Sri ?

A. Sisyanusisya Paramparawa is mentioned in the Vinaya.

Q. Where in the Vinaya is it mentioned ?

A. In the Vinayalankara.

Q. The Vinayalankara is a commentary written by a Burmese monk in comparatively recent times ?

A. That is a commentary on the whole Vinaya.

20

The Vinayalankara is a commentary on the book Palimuktha Vinaya Vinischaya.

Q. The Palimuktha Vinaya Vinischaya is a commentary written in Ceylon on the original Vinaya by a Burmese monk ?

A. In the Pitaka books this is an important fact.

It is a commentary on important passages on the five books of the Vinaya.

Q. And that Burmese monk came over to Ceylon and wrote a commentary on the Palimuktha Vinaya Vinischaya ?

A. Commenting on the facts in that book.

30

Q. So, I put it to you, that the greater authority of the two books would be the Palimuktha Vinaya Vinischaya, especially in our country ?

A. Both are important. One explains the other. So, how can I say one is more important than the other.

The Vinaya dates from the 12th century and is the more ancient.

Q. Did you see anything about the Sisyanusisya Paramparawa in the original Vinaya Pitaka ?

A. At the time of Lord Buddha there was no Sisyanusisya Paramparawa in existence.

Q. Therefore there is nothing much about it in the Vinaya ?

A. There are reference to pupils in the Vinaya Pitaka.

Q. But nothing about this rule of succession, the Sisyanusisya Paramparawa ? No words in the Vinaya ?

A. Nothing with reference to properties.

Q. Today you know that there is this Sisyanusisya Paramparawa by which the office of Viharadhipathi is claimed ?

10 A. Those things are not spoken of in the Vinaya.

Q. As a matter of fact, this customary rule of Paramparawa succession came into force comparatively recently, in the time of King Kirthi Sri ?

A. Even before that. In the time of the Sinhalese kings. The old scripture texts are of no use when it comes to the question of law imposed by the civil courts.

Q. The Vinaya Pitakas are of no value when you come to decide questions of law in Ceylon today ?

A. In the civil courts they take into consideration a lot of
20 passages in the Vinaya and on these questions the decisions of the Court are given.

Q. I put it to you that today questions of pupillary succession and questions of Buddhist temporalities — Properties — are not decided according to these old Vinaya rules ?

A. The modern languages are most of them in line with the Vinaya rules.

Q. Where they are not in line you will admit that the Vinaya rules serve no purpose ?

A. I cannot understand how the present Buddhist ecclesiastical
30 law is different to the rules of the Vinaya.

Q. My question to you is this : With regard to rights of property with regard to control of temples, etc., the Vinaya text is not applied today ? Because the two things are incompatible ? The Vinaya texts contemplate quite a different set of circumstances ?

A. Not as far as I know.

Q. The Vinaya Pitaka does not talk of dedication of immovable property, etc. ? The original scriptures do not talk of deeds of gift ? The Vinaya Pitaka does not deal with questions of donating immovable property to the priesthood ?

40 (Mr. Wikramanayake objects.)

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Q. The Vinaya Pitaka does not deal with donation of immovable property to the priesthood? The Vinaya Pitaka does not deal with donations or dedications of immovable property to the priests?

A. The mode of dedication is given but not about any deeds or writings. By the mode of dedication I mean the stanzas the donor has to repeat.

Q. All that the Vinaya Pitaka contains is various instances where particular pious kings or rich men set apart a deed for the residence of the Buddha or his disciples? Particular instances?

A. Yes.

10

Lord Buddha said, "if you give anything, repeat it in this stanza." The form is a simple form. When Jethawanaramaya was being dedicated Anatha Pindika asked Lord Buddha how he was to dedicate it. Then he was told to give it to the priests who are here, and to all the priests who are absent as well. King Bimbisara dedicated Veluwanaramaya.

Q. The second dedication was this Jethawanaramaya?

A. It was after that, but may not have been the second.

Q. Nowhere is it mentioned expressly in the Vinaya texts that the donor cannot dedicate or gift subject to conditions? There are 20 two systems of pupillary succession in Ceylon today?

A. Yes.

That is the Sisyanusisya Paramparawa and the Gnathi Sisya Paramparawa.

(To Court :

According to Gnathi Sisya Paramparawa he must be not only a pupil but also a relative of the tutor.

Q. How can you find out which system of succession is to be followed in respect of one temple? Sisyanusisya Paramparawa is where the senior pupils succeeds to the tutor?

30

A. Yes.

The second is Gnathi Sisya Paramparawa. In that he must be not only a pupil of the tutor but also a relative.

Q. Take the case of a temple where the Viharadhipathi dies. How are we to know which system is to be followed—the Gnathi or the Sisyanusisya Paramparawa?

A. Where the succession has been not only by the pupil but also by relationship then we follow the Gnathi, otherwise we follow the Sisyanusisya Paramparawa.

Now we go back to the first Viharadhipathi of a temple.

Q. When he dies how are we to know whether it is to go according to Sisyanusisya Paramparawa or Gnathi Paramparawa ?

A. From the Sannas.

The Sannas is where there is dedication by a king. But if an ordinary person dedicates, then it will be also by the act of dedication. So that when he gives the property and makes it Sanghika he can say whether the succession is to be in one way or the other. So that no layman can control the succession at the time of the dedica-
10 tion, although he has given the property as Sanghika. After that, of course, he has no more control.

Q. Supposing a layman makes a property Sanghika and says he reserves the right to appoint the Viharadhipathi, can he do that ?

A. He cannot do that. He can say it is to be followed one way or the other.)

Q. As you answered His Honour, everything depends on the original deed of dedication ?

A. That depends on the original Sannas.

Q. In your experience you must have come across very old
20 documents laying down that the Viharadhipathiship of a particular temple should go to 'A' and then to another priest 'B' and 'C' and so on ? What are called Kathikawas ?

A. I have never seen one document saying it should go to 'A', 'B', or 'C'. I have seen that it was to go according to the Sisyanusisya Paramparawa and the Gnathi Paramparawa.

Q. Take a case like this : Where a property is given or dedicated to a priest 'A'. I am talking of modern times. First the property is given to a priest 'A'. Then the document says it is to go not to 'A's pupil but to Rev. 'B' ? And after Rev. 'B' not to Rev. 'B's
30 pupil but to Rev. 'C' ? Have you in your experience come across either as a witness in civil cases or anywhere such documents ?

A. No. I have not seen such a thing.

Q. I merely asked you about modern documents ?

A. Yes.

Q. Is there apart from the modern document the Mihintale Sannasa where a king gave or dedicated property to a priest where he reserved certain rights of control ?

A. I have heard that the land is dedicated, but the Vihare is not to be maintained. The priest must be fed and the repairs must
40 be attended to. But in doing such things such a property is to be possessed. But the whole property is given to the Vihare.

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I have not read this Mihintale Sannasa, but I have read the other Sannasas. According to my evidence there are various temples scattered all over the Island which owe allegiance to the Mahanayake of the Malwatta College.

Q. With regard to those temples the right of residence is restricted to the Malwatta Siamese Nikaya priests? Is it to the Siamese Nikaya priests of the Malwatta ordination? Can Amarapura priests or Ramagna priests go and stay there?

A. They cannot.

(To Court :

10

Q. Why is that?

A. Because according to the Vinaya they are Nana Sanvasa. They are rights of different disciplines.)

Q. It would be, according to you, an unheard of thing for an Amarapura or a Ramagna priest to reside continually in one of these temples attached to the Malwatta Ordination?

A. No.

Q. Do you know that in this Vidyodaya Pirivena since 1833 there have been pupil priests resident belonging to the Ramagna and Amarapura Nikayas and the Kotte Nikaya without any distinction? 20 The only passport is a desire for learning?

A. They are not residing but come to learn.

Q. I put it to you specifically that apart from attending the Pirivena from outside, have there not been cases of pupil priests resident in the premises who came from other Nikayas besides Malwatta?

A. Not to my knowledge.

Q. How many times have you visited this Vidyodaya Pirivena in your entire life?

A. From the time of the Hikkaduwe Nayaka priest I have been 30 there innumerable times.

Q. I suppose you just came there and had a chat and went away?

A. No. I remained there sometimes for three days.

Q. You never interested yourself as to how the place was carried on, what was done, etc.?

A. I used to talk to the High Priest and the other priests, and tutors and go away.

Q. You are not in a position to deny that there were pupil priests of the other Nikayas resident there ?

A. I deny it.

There are various Pirivenas which are situated in temples owing allegiance to Malwatta. The only pupils permitted to study there are those of my own sect. Even from other Nikayas the pupil priests are taken. In my own Pirivena there are other priests.

Q. Are there residents in your own Pirivena ?

A. Residents from only our Nikaya.

10 *Q.* In fact, in this Vidyodaya Pirivena, not only priests of the Nikayas in our country but even Burmese, Japanese and Indian priests are resident ? Not merely studying but resident ?

A. I know that Japanese and Chinese have been resident there, but I do not know about the Burmese or Indian priests.

Q. In India there are Buddhist monks today ?

A. There are robed priests.

Those are priests who come to Ceylon and are robed and ordained under this sect.

Q. The Japanese and Chinese do not come to be robed in
20 Ceylon ?

A. Some are ordained here, but some have been already ordained.

Our Buddhism is "Heenayana", while the Buddhism of Japan and China is "Mahayana".

Q. But whatever sect they belong to they have been resident and studying in this Pirivena ?

A. I know that they were studying and were robed.

Q. My question to you is that apart from their having any allegiance to your Malwatta Chapter or to any other Malwatta
30 temple, there have been priests resident there—pupil priests belonging to other allegiances ?

A. Not to my knowledge.

(Court adjourned for lunch.)

(Sgd.) V. S. JAYAWICKREMA,

A.D.J.

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After lunch.

H. SRI DEELANANDA. Recalled. Reaffirmed.

Rev. Sri Sumangala was a very great scholar. In fact, he was a world-famous scholar. He was a "shining light" particularly in regard to the Vinaya Rules. Apart from his eminence in learning he was also a very pious priest. It is not at all likely that he would have done anything during his lifetime against the Vinaya Rules.

Q. In the case of a temple where the succession is in accordance with the Sisyanusisya Paramparawa if the Viharadhipathy has been 10 of the Malwatta Upasampada, and if there is a failure in the succession, will the Malwatta Chapter have the right to appoint a Viharadhipathy?

A. Yes.

Q. So that if this Vidyodaya Pirivena is a temple where the Sisyanusisya Paramparawa applies and if it belongs to the Malwatta College, then the Malwatta Chapter has the final control over the appointment of a Viharadhipathy?

A. Yes.

Q. This particular case is of vital importance to the Chapter where you are a Anunayaka? 20

A. Yes.

Q. So that if the 1st defendant's case is upheld it is a "feather in the cap" to the Malwatta Chapter? In other words, is it a victory for the Malwatta Chapter if the 1st defendant wins in this case?

A. As far as the Malwatta Chapter is concerned, it comes to the same who wins because both priests belong to the Malwatta Chapter—that is the defendant as well as the plaintiff in this case.

Q. The plaintiff priest says that the right of succession is not according to the Sisyanusisya Paramparawa so far as this temple is concerned. His position is that the Vidyadhara Sabha has a right to 30 appoint him, and that if tomorrow he is inefficient owing to his want of learning or owing to his age, the Sabha can send him away?

A. The Vidyadhara Sabha can send the Principal away only if he has been appointed by the Sabha alone. But if he is appointed with the approval of the Sangha Sabha, the Vidyadhara Sabha has no power whatsoever to ask him to go.

Q. But the plaintiff's position is that he has been appointed by the Vidyadhara Sabha without the sanction of anybody else. That is his case?

A. But I am not in accord with that.

40

Q. His position is that the Malwatta Chapter has no control over this Vidyodaya Pirivena and its premises ?

A. I do not agree with that either.

Q. The 1st defendant says that this is an ordinary temple, the succession of which goes according to the Sisyanusisya Paramparawa and that it belongs to the Malwatta Ordination and therefore the Malwatta College has control and influence over this temple ? And if his contention is correct, will your College—the Malwatta College—have the power to appoint a Viharadhipathy to this Maligakande
10 Temple ?

A. Yes, provided there is no survivor in that Paramparawa. Under such circumstances our College has the right to appoint any person to be the Viharadhipathy of this temple.

Q. So I put it to you that you are vitally interested in the issues involved in this case ?—you being an Anunayake of that College ?

A. That is so, but I am not at all partial in my attitude as far as this matter is concerned. I am only saying what is in the Dhamma ; what is described in Vinaya.

It is true that the office of Incumbent is a sacred office. It is
20 not a thing that one can buy and sell.

Q. You cannot assign it as you would assign your rights under a contract ?

A. That is so.

Q. It is an office which the office-holder holds during his lifetime, and when he dies it will go according to the Paramparawa ?

A. Yes.

Q. All that the Viharadhipathy can do during his lifetime is that he can select somebody from among his own pupils who will succeed him on his death ?

30 *A.* Yes.

(*Court :*

Q. And that is all that he can do ?

A. He can even give a letter to that effect.

Q. But is that all that a Viharadhipathy can do ?

A. He can also expel anyone who is not suitable to succeed him ; in other words, he has got a right to disinherit any person who would succeed him in that temple.)

So that if he wants he can disinherit or dispel anyone from becoming the Viharadhipathy on his death, in that temple.

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Q. Can a Viharadhipathy select any one from among his own pupils according to his wishes, to succeed him on his death ?

A. Yes.

Q. Can he also do this : that is, if he is ill and infirm can he appoint someone as his delegate to look after his work while he is still alive, for instance a Kruthiadhikara ?

A. Yes.

Q. But so long as he is alive he is the rightful Viharadhipathy : he is the one and only Viharadhipathy ?

A. Yes.

10

Q. From the moment that office is vested in him, on the death of his tutor, until he closes his eyes in this life, he is the only Viharadhipathy ; in other words, from the time any particular priest becomes Viharadhipathy, on the death of his tutor, and until he dies he is the only one and rightful Viharadhipathy ?

A. Yes.

Evidence of
 H. Sri Dhira-
 nanda
 Re-
 examination—

Re-examination.

A Viharadhipathy can appoint only one among his pupils.

A Viharadhipathy while he is alive cannot give up his Viharadhipathyship.

20

Q. Can he appoint anybody else in his place ?

A. He can say " I appoint so and so." That is, if he is unable to carry on his work, he can say " I have handed over my duties to so and so," provided the latter belongs to the same Paramparawa.

I was asked whether the Malwatta Maha Sangha Sabha has a right to settle disputes. The Malwatta Maha Sangha Sabha has a right to settle disputes among its own members.

Q. Has the Malwatta Maha Sangha Sabha a right to settle disputes among its members only, or can it settle disputes among laymen also ?

30

A. In case of the Buddhist laity, if there is a dispute among them the Sangha Sabha can give them advice ; beyond that they can do nothing.

But as far as the members of the Sangha are concerned the Sangha Sabha has a right to settle disputes.

In the cross-examination I was referred to the fact that the High Priests of the Malwatta and Asgiriya attempted to settle this dispute before it came to Court. I was also asked whether there was any incident previously in which the Malwatta Chapter stepped in to

settle the dispute in the Vidyodaya Pirivena. I remember the time that Rev. Naneswara gave up his robes. I have told the Court that Naneswara came to resume the robes on the advice of the Priest of Malwatte.

Q. How did the High Priest of Malwatta come to inquire into the matter ?

A. At the request of Dr. Hewavitarne of the Vidyadhara Sabha the High Priest of Malwatta did it.

I was also questioned as to whether the Malwatta Maha Sangha
10 Sabha was consulted when Parivenadhipathys are appointed.

Q. Under the deed which was shown to you who had the right to appoint a Parivenadhipathy ?

(Witness is shown the original deed No. 1239 (P1)—last paragraph of page 9.)

A. Under this deed the Vidyadhara Sabha has a right to appoint a Parivenadhipathy, with the consent and approval of the Sangha Sabha.

(Witness is asked to read the last 3 lines of page 9 of deed P1 again and to interpret to Court the meaning thereof.) The phrase
20 “ Sangha Sabhawaka anumathaya athuwa ” refers to “ hereafter ”.

(*Court :*

Q. What you say is that ‘ Sangha Sabhawaka anumathaya athuwa ’ qualifies “ path-kara ganeema gana ” ?

A. That means the following :—

සංග සබාවක අනුමත අඤ්ච පන්කර ගැනීම ආදිය ගැන පදවෙනි පක්ෂයට බලේ දුන්නාය.

(“ Sangha Sabhawaka anumatha athuwa path-kara ganeema athiya gana thevani pakshayata balai thunnaya.”

(*Court :* In this phrase there is the word “ gana ”.

Q. Don't you think that the previous thought or the action has
30 been ended ?

A. Yes.

The next words after that word are “ බලේ දුන්නාය ” (“ bala thunnaya ”). Then there is the phrase following “ Sangha Sabhawaka anumatha athuwa . . . ”

Q. Supposing that means that the power was given to them with the approval of the Sangha Sabha, then these people can appoint without another approval of the Sangha Sabha ?

A. Yes.

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Evidence of
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 nanda
 Re-
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 Continued

Court :

Witness says if this means that power has been given with the approval of the Sangha Sabha then the Sabha can appoint without any further approval.

Q. According to Vinaya, is it possible, after obtaining the sanction of the Sangha Sabha to give a person or a body of persons power once and for all to appoint a Parivenadhipathy in the Pirivena, without further approval from time to time ?

A. Sanction from the Sangha Sabha on one occasion is not enough. 10

Q. You say every time an appointment is made the permission of the Sangha Sabha has to be obtained ?

A. Yes. Each time permission has to be obtained from the Sangha Sabha.

(Mr. Herath moves that he be allowed to question the witness once again in view of the fact that this matter has been taken too far.

I allow Mr. Herath to put further questions in regard to this matter.

A.D.J.)

Q. What is meant by “ Sangha Sabha ” ? 20

A. It is a Sabha that is summoned ; that is for the purpose of appointing or dismissing a Principal of the Pirivena.

In the cross-examination I have told the Court that Rev. Baddegama Piyaratana was appointed with the sanction of the Sangha Sabha.

Q. Are you personally aware of that ?

A. I was not present at the Sabha, but I heard about it later.

Q. You have also told the Court in the cross-examination, in answer to the Counsel on the other side, that the two High Priests of Malwatta and Asgiriya were present at the dedication of this 30 temple ?

A. Yes.

Q. Can you give their names ?

(Mr. Herath objects on the grounds that this witness cannot give names, because this part of the evidence of this witness is hearsay evidence.)

There are numerous instances where there are Pirivenas and temples in the very same premises, for instance the Sangharaja Pirivena. But I cannot give any instance where the Pirivena came first and the temple came after the Pirivena. 40

The “ Buddha ”, “ Dhamma ” and “ Sangha ” form the “ Triple Gem ” and they are the objects of worship. The Sangha is also an object of worship. When a priest or Sangha resides that place becomes a place of worship. In an ordinary temple there are the dagoba, the bomaluwa and the buduge ; then there are also the living quarters for the priests. After worshipping in those three places, viz. dagoba, bomaluwa and buduge, people come to these living quarters also and worship. Living quarters is also a place of public worship.

I was asked about the different types of succession, viz. Gnathi
 10 Sisyā Paramparawa and Sisyanusisya Paramparawa, and I said that if any one wants to find their origin he must go to the original rules. In either of these successions it must go from priest to priest, whether under Sisyanusisya Paramparawa or Gnathi Sisyā Paramparawa.

I know the Vidyalankara Pirivena. There the Viharadhipathy and the Parivenadhipathy are the same person, and there are the temple and the Pirivena in the same premises.

Q. Did the lay body there try to appoint the Parivenadhipathy to that Pirivena ?

20 A. No.

The Sisyanusisya Paramparawa is not referred to in the original Vinaya Pitakas. I know what a Senasena Dahapathy is. That is a priest who was appointed to manage a pansala or a Vihare.

(Court :

Q. Or is it to allot different rooms to the different priests in a temple ?

A. That is also done by him.)

Q. What are the other functions of that person ?

A. The whole management in the temple is with that person.

30 (Court :

Q. Does he correspond to the Viharadhipathy ?

A. A Viharadhipathy and Senasena Dahapathy are the same and that is a person appointed by the Priesthood.)

(Court :

Q. Supposing a man were to give a land to a priest and say, “ I will appoint you as the Viharadhipathy and I reserve the right to appoint a Viharadhipathy after that ” ?

A. Such dedications are not accepted.

Q. Supposing a priest accepts such a dedication ?

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A. Then it ceases to be a Sangheeka property.

Q. Then it is still a lay property ?

A. Yes, if the deed has been given with that condition.

In other words, such a deed is a nullity.)

I was questioned about the Viharadhipathy of the Malwatta Chapter. That is a place where the right to appoint a Viharadhipathy is with the Malwatta Chapter itself.

I was also asked questions about the residence of priests. I said that no priest of one sect can reside in the temple quarters of another sect. For instance, a priest of the Amarapura Nikaya cannot reside 10 in a temple belonging to the Siam Nikaya.

Q. Is there any objection for a priest of one sect living in the temple of another sect as a guest, with the permission of the Viharadhipathy ?

A. If the Viharadhipathy likes it he can give the permission to such a priest to live there as a boarder.

I was also asked whether the late Hikkaduwe Sri Sumangala was a very learned person, whether he was very learned in the Vinaya, and whether he would not have done anything contrary to the Vinaya 20 rules.

(At this stage Mr. Wikramanayake moves to put in a letter written by the late Hikkaduwe Sri Sumangala and identified by the witness, and which was earlier sought to be put in evidence but rejected—*vide* page 468 of the evidence. Mr. Wikramanayake argues that this document now becomes admissible because in the cross-examination it has got out that Sumangala was a learned scholar and that he would not have done anything contrary to the Vinaya. Sumangala's attitude towards this deed has been questioned in the cross-examination.

Mr. Herath objects stating that he only cast respect to the learned priest but that he never questioned anything with regard to the 30 deed.

Order

I allow this document to go in now, because Mr. Herath in cross-examining the witness got out that the late Rev. Sri Sumangala would not have done anything that was contrary to the Vinaya rules. I ruled out this document earlier (at page 468 of the evidence), but now the circumstances are different.

(Intld.) V. S. J.,
 A.D.J.)

(Shown a letter which Mr. Wikramanayake marks as 1D67.) I 40 have said that I identify this handwriting.

(Mr. Herath says that he does not want to question this witness although the Court has given him the permission to question the witness.)

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(Sgd.) V. S. JAYAWICKREMA,
A.D.J.

Mr. Wikramanayake closes his case reading in evidence 1D1 to 1D67.

Further hearing on Monday, 11th September.

(Intld.) V. S. J.,
A.D.J.

10

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Proceedings before the District Court
Addresses

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D.C. 2882/Land.

11.9.50.

Same appearances as before.

Both parties agree that there are errors in the typing of the record, and they appear to be obvious. They agree that corrections should be made according to the sense of the particular sentence.

(Intld.) V. S. J.,
A.D.J.

20

No. 39
Judgment of the District Court

No. 39
Judgment of the
District Court
17.10.50

17th October, 1950.

JUDGMENT

On the sixth day of December, 1873, the following thirteen persons entered into a notarial agreement, No. 925, a certified copy of which is produced in this case and marked P1, the object of which was to establish a Pirivena to teach the principles, precepts, etc., of Buddhism chiefly to Buddhist Priests and also to laymen :—

- 30
1. Don Philip de Silva Epa Appuhamy.
 2. Lansage Andiris Perera Appuhamy.
 3. Kalansuriya Aratchige Don Cornelis de Silva Appuhamy.
 4. Gurunnanselage Don Pelis Appuhamy.

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5. Bulathsinalage Cornelis Cooray Appuhamy.
6. Don Thomas Weerakkody Appuhamy.
7. Willora Aratchige Cornelis Perera Appuhamy.
8. Pattiyawattage Hendrick Perera Appuhamy.
9. Simon Silva Appuhamy.
10. Hewavitarnage Don Carolis Appuhamy.
11. Wettasinghage Don Cornelis Silva Appuhamy.
12. Lansage Simon Perera Appuhamy,
 all of Colombo, and
13. Samarasinghe Aratchige Don Haramanis Appuhamy of 10
 Pamankade.

This deed states that a sum of Rs. 6,000/- should be collected for the purpose and that as a Sabha (Society) capable of receiving the said sum was necessary the abovementioned thirteen persons were appointed by people assembled on Maligakandewatte belonging to Lansage Andiris Perera, and the name Vidyadhara Sabha was given to it. By this deed these thirteen persons entered into sixteen covenants which are set out in order in it. It is not convenient to set them out here, but whenever the occasion arises I shall refer to them.

20

By the first they agreed to use the name Vidyadhara Sabha in connection with all matters relating to the purpose for which the Sabha was formed and they made themselves individually responsible for the sum of Rs. 6,000/- or any part thereof. Money appears to have been collected by dayakayas, that is, supporters of the object.

The second is the most important one for the purpose of this action. They agree to purchase a land and erect the necessary buildings as soon as the sum of Rs. 6,000/- was collected, or if a land was to come (words in the translation of the deed, which I presume mean if a land was gifted by someone or obtained otherwise) to erect the 30 buildings and to keep as Principal thereof a learned and virtuous Buddhist Priest to teach the knowledge and precepts of Buddhism, to appoint with his approval other teachers, if such were required from time to time, and to supply such teachers with the four needs (Sivupasaya).

The deed goes on to provide for the collection of subscriptions from the thirteen persons and to do all that was necessary to make the institution a permanent one with or without the help of others if necessary. It also provided that at all times the Sabha should consist of thirteen persons, and that no important action was to be taken by it unless 40 the Sabha at that time had thirteen members. Provision has been made for the election of a member to fill a vacancy caused by death.

One has to be appointed within a month of such death ; a meeting of the remaining twelve and the dayakayas has to be called after advertisement in newspapers, etc., eight days previous to the date of the meeting ; the member or Sabhapathy is to be elected by the majority of those present. For any meeting of the Sabha seven are to form a quorum. There are other provisions, which it is not necessary to refer to at this stage.

There is no one living today who can give direct testimony of what the Sabha did soon after it was established, but there is another
 10 deed, No. 1259 of 9th March, 1876, a certified copy of which has been produced and marked P2, and it gives a record of its activities till that date. It states that the Pirivena had been established and halls built for the purpose on a land called Maligakande in Dematagoda, a land belonging to the first named Lansage Andiris Perera and out of the sum of Rs. 6,000/- only Rs. 2,070/- had been collected. This deed has been executed among three parties, the first party being Lansage Andiris Perera, the second party being the thirteen persons mentioned in P1 including Lansage Andiris Perera but excepting the 9th Simon Silva Appuhamy and the thirteenth Samarasinghe Aratchige Don
 20 Haramanis Appuhamy, and including five others.

Mahaveediyage Don Girigoris
 Rajapakse Kumarannahennelage Johannes Alponsu
 Kahaweguruge Janchi Perera
 Pilo Fernando Wijesekera Aratchy, and
 Don Manuel

and the third party being Ven. Sipkaduwe Sumangala Nayake Thero of Sri Padasthana, who is often referred to in these proceedings as Hikkaduwe Sri Sumangala or Sri Sumangala.

The Pirivena established has been called the Vidyodaya Pirivena
 30 in this deed ; the sixteen persons are described as forming the Vidya-dhara Sabha appointed upon deed 925 of 6.12.1873, P1, and the Ven. Sipkaduwe Sumangala Nayake Thero of Sri Padasthana as the Principal of the Vidyodaya Pirivena, Colombo. The deed also states that this Pirivena has been established on the land called Maligakande, belonging to the party of the first part, by the party of the second part though they were able to collect only Rs. 2,070/-.

The property dealt with on this deed had been valued at that time at Rs. 6,000/-. It states that Lansage Andiris Perera, the party of the first part, with the approval of the party of the second part in
 40 consideration of the sum of Rs. 2,070/- paid to him by the party of the second part and in consideration of his devotion to Buddhism and of merit acquired whereby and for divers other causes has agreed to dedicate the said land and the houses built thereon to the Ven. Sip-

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kaduwe Sumangala Nayake Thero, Principal of the Pirivena and on his demise to the Sangha including the priests who succeed to the office of Principal of the said Pirivena, as Sanghika property, so long as they live in accordance with the Buddhist Doctrine, for the establishment of a Pirivena to impart knowledge both to the Buddhist laymen and to Bhikkus and also to religionists of all countries with no difference in treatment as long as they conduct themselves in good manner and also for the long continuance of such a Pirivena subject always to the protection and orders of the said Vidyadhara Sabha constituted upon the said deed, namely the gentlemen forming the 10 party of the second part and on their death those joining the said Sabha. The deed goes on to say that Ven. Sipkaduwe Sumangala Nayake Thero, Principal of the Vidyodaya Pirivena, as Principal of the said Pirivena and on behalf of the Principals of the said Pirivena who may be appointed on his demise by the said parties of the second part and on their death by those succeeding them has agreed to accept this as a deed of trust subject to all the aforesaid directions, stipulations and conditions, and that Lansage Andiris Perera has accordingly with the approval of the party of the second part given and assigned to the said Ven. Sumangala Nayake Thero, Principal of the Vidyodaya 20 Pirivena and on his demise to the Principals appointed to the Pirivena by the party of the second part and on their death by those succeeding them as and by way of a dedication absolute and irrevocable and as Sanghika property the land and buildings in question.

The land and the buildings are described in the deed as two allotments with separate boundaries and they are as follows :—

All that allotment of land called Maligakande belonging to the said Lansage Andiris Perera upon deed No. 3030 of 15.8.1871 (a certified copy of this deed has been produced and marked P21) situated at Dematagoda and bounded on the North by the land belonging to 30 Thangachchi Pille Meeranatchiya, on the East by the land belonging to Don Lewis Maha Vidane, on the South by the land belonging to Rev. J. D. Palm and on the West by the land belonging to Asan Meera Achchiya, containing within these boundaries as shown in Plan certified by H. D. de Silva, Surveyor, and attached to the deed annexed hereto in extent three square roods forming an arama valued at Rs. 2,500/- together with all the houses built on it and plantations.

And all that allotment of land in Maligakande marked lots 3 and 4 and situated in the village Dematagoda within the Colombo Municipality and bounded on the North by the land said to belong 40 to Sinna Thangachchi, on the East by the land marked 5, on the South by high road and on the West by the land said to belong to Mr. Mackwood and by the land said to belong to Kande Addara Don Lewis Mahavidane, containing within these boundaries an allotment of land in extent three square roods and twenty-four perches, excluding

therefrom an allotment of land in extent five perches gifted to Kande Addara Badalge Maria Nachchire, the remaining whole aramaya together with all the houses built thereon, plantations etc., valued at Rs. 2,500/-.

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This deed gives the power to the said Principal of the Pirivena and the Principals who succeed him on his demise to frame rules regarding the welfare and good conduct of persons receiving education at the Pirivena, and in the event of any student violating such rules the said Principals are empowered to expel such student and refuse
10 re-admission. This deed also gives the Sabha the power to frame rules and regulations for the long continuance of the Pirivena in consultation with the Principal, and authority is also given with the approval of a Sangha Sabha to the Vidyadhara Sabha to do such acts as to remove Principals who transgress such rules and regulations and the appointment of Principals in their places.

In 1884 on the 4th April by deed 2134, a certified copy of which is produced and marked P3, one Simon Perera Dharmagoonewardene transferred for Rs. 2,000/- an allotment of land adjoining the above premises and on its West, called Palm House to Mabotuwana Siddhartha
20 Unnanse, his heirs, executors, administrators, assigns, etc. This portion of land is now included in the present Vidyodaya Pirivena premises, and the Pirivena premises as they now are with all buildings are shown in Plan No. 786 of 10.7.1943, produced by the plaintiff and marked P8.

The Ven. Sri Sumangala died in 1911 and he was succeeded as Principal by Ven. Mahagoda Nanissara Nayake Thero, and on his death he was succeeded by Kahawe Ratnasara as Principal. He died in 1936 and the plaintiff succeeded him. The plaintiff's case is that he and his predecessors after Sri Sumangala were appointed by the
30 Vidyadhara Sabha as constituted on the various occasions when the Principals were appointed. The 1st defendant was at one time a tutor in this Pirivena. The plaintiff says that the 1st defendant is in wrongful and unlawful possession of a portion of the building called Sri Sumangala Hall, shown in Plan P8 denying the plaintiff's title to the same and he prays that he be declared entitled to the same as trustee for a charitable trust and the 1st defendant be ejected therefrom. The 2nd to the 14th defendants were the members of the Vidyadhara Sabha at the time the action was instituted. The 15th to 17th defendants were added in place of some who died and the 15th
40 too died during the pendency of this action. The present members of the Sabha are the 2nd and 3rd and 5th to 13th, 16th and 17th defendants. The 1st defendant says that there is in these premises a temple called the Maligakande Temple, that the Pirivena is a part of it and that he is the lawful Viharadhipathy. In the original plaint the

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plaintiff said that the Principals of the Pirivena were also the Viharadhipathy of the Aramaya and he too was that officer, and that he held the premises in trust for the 2nd to the 14th defendants.

The case came up for trial on 6.11.1944. On that occasion thirty-two issues were framed, the late Mr. Nadarajah, K.C., who appeared for the 1st defendant, moved that three issues of law 19, 20 and 21 be taken up first and argued. This was done, and after argument the Court held with the 1st defendant and dismissed the plaintiff's action with costs. The plaintiff appealed from that order, and on appeal the order was set aside and the case was sent back for trial on the other issues. The plaintiff then had his plaint amended. 10
 According to the amended plaint he says that he holds the property as the Principal of the Pirivena in trust for a charitable purpose, to wit, the establishment and maintenance of a religious educational institution.

The 1st defendant's case is that the premises constitute a Buddhist temple and are Sanghika property ; that Sri Sumangala was the first Viharadhipathy and succession to that office followed the rule of Sisiyanusisya Paramparawa succession. He states that Ven. Jinaratana was the senior pupil of Ven. Sri Sumangala and on his death in 1911 he succeeded to the office and acted as such till very recently 20
 when owing to old age he appointed the 1st defendant, one of his pupils, his successor. He also says that the premises having been dedicated as Sanghika property no laymen can have control over the same and denies the right of the Vidyadhara Sabha to have anything to do in the premises ; he also says that the Pirivena was being carried on as part of the temple and the Principals were appointed with the approval of the Viharadhipathy, the Ven. Jinaratana, after the death of Sri Sumangala. He has no objection to the Sabha functioning and doing their best for the Pirivena but he says it must be under his control and with his approval. He also states that the 30
 Sabha that appointed the plaintiff as Principal was not properly constituted and therefore the appointment of the plaintiff is bad for that reason and also because the approval of the Viharadhipathy, Ven. Jinaratana, had not been obtained.

This trial began on the 15th of May last and was continued on several days. It was not practicable to hear the case from day to day, though such a practice would be a very good change for the better but old practices die hard. On that date the issues framed in 1944 were adopted with a few changes and two more issues were added. There are thirty-four issues in all and some of them have 40
 various parts. The Supreme Court had sent the case back for trial on the issues other than issues 19, 20 and 21, and it was thought at the beginning of this trial that they were not to be considered again at this trial, but at the end of the case Mr. E. G. Wikramanayake

contended that the facts involved in those issues should be considered as the Supreme Court decided them on the assumption that the facts involved in them were true. Mr. Herat for the plaintiff urged that they need not be decided again. I shall refer to this again later on.

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The issues have been framed to cover practically every conceivable point involved in this dispute, and the trial has been long; yet the substance of the whole dispute is whether the institution is a Buddhist temple, as all persons, particularly Buddhists, know what a Buddhist temple is, and if it is so how the office of Viharadhipathy
10 passes when the officiating Viharadhipathy dies or ceases to be a Buddhist priest, or whether it is an educational institution, and whether lay people can manage its affairs even to appoint the chief Buddhist Priest.

Difficulties have arisen in this case owing to the presence of the words "Sangha" and "Sanghika" in the deed 1259, P2, and the presence of an Aramaya in the premises at the time the deed P2 was executed in 1876. It is contended by the 1st defendant that the Aramaya and hence the temple came first and the Pirivena afterwards but the plaintiff's case is that the Pirivena was established first and
20 the Aramaya was an adjunct to it, just like a chapel attached to a college; reference was made to the Chapel attached to St. Thomas' College, Mount Lavinia, as a parallel. Mr. Wikramanayake stressed the existence of the words "Sanghika" and "Sangha" in the deed P2 and contended that the dedication was to the whole Sangha and therefore no lay person was able to control the property thereafter. Both sides or rather the three sides had recourse to the Vinaya Pitakas, but I think the Buddhist priests of Ceylon have left the Vinaya Pitakes far behind them as regards holding of temples and temple property is concerned. Sir Thomas de Sampayo in his judg-
30 ment at page 401, in the case cited by Mr. E. G. Wikramanayake reported in 20 N.L.R. at page 385, quotes two passages from a judgment of Sir Harry Dias reported in 5 S.C.C. at page 121 :—

"These Pitakes . . . contain a large body of rules and regulations with reference to the conduct of the priesthood, succession to ecclesiastical property, and so forth, but the Buddhists of Ceylon have not adopted all these rules, and our Courts have only given effect to such rules as have been adopted in this country";

and again :

40 "It is a mistake to suppose that all the Buddhist law which is to be found in the three Pitakes is in force in this country. They are of no more force than all the Muhammedan Law which is to be found in the Koran."

Sir Thomas de Sampayo goes on to say as follows :—

“ This view is confirmed by the number of departures from the strict Buddhist law and the creation of new precedents. For instance, notwithstanding the rule of absolute poverty, priests generally hold considerable private property, which is at their disposal, and on their death descends to their lay heirs.”

(The descent of private property to lay heirs has been since modified by the Buddhist Temporalities Ordinance of 1931.) He has also mentioned the fact that in the same case, 4 S.C.C. 121, it was held notwithstanding the authority of the Buddhist Scriptures to the contrary that a deed of gift conferring the incumbency on a pupil might be revoked by the grantor and a new appointment made. He goes on to say :—

“ Nor is there any warrant in the books for the distinction between Siamese and the Amarapura sects, and for the incapacity of a priest of one sect to succeed to an incumbency held by a priest of the other sect.”

And in this case the Ven. Haramitigala Dheerananda, the expert on the Vinaya called by the 1st defendant, and Anunayake of the Malwatta Chapter, said in evidence that to compose a Sangha Sabha there must be at least five priests of the same sect. (See his evidence at page 470 in answer to Court.) He went on to say in answer to the question, “ If five priests of five sects get together that would not be a Sangha Sabha for a dedication. It is not in the Vinaya.” This Ven. priest was one of those who gave expert evidence in the case reported in 14 N.L.R. at page 400. I shall refer to the judgment in 20 N.L.R. 385 again when I consider the expert evidence in the case.

Which came first, the Aramaya or the Pirivena? The word Aramaya too presented some difficulty in interpretation. The original meaning of the word might have been a garden pleasing to the eye or some place pleasing to the eye. But from the time of Lord Buddha's residence in Jetawanaramaya the word meant a place where Buddhist priests resided; now it applies to Buddhist temples too where there are not only places of residence for priests but also the Viharage, the Dagoba and the Bomaluwa. Aramaya in this place meant a temple. The Plan P8 shows a Dagoba, a Viharage, and a Bomaluwa among other buildings. At the date of the execution of the deed P2 in 1876 there would have been at least a residence for priests and probably a building where shrines were kept and a small Bo plant. This deed shows that these premises have been dedicated; for what purpose they were dedicated is the question in this case.

There is no living person who was present at this dedication. Ven. Dheerananda said that the Ven. Pahamune, the Mahanayake of the Malwatte Chapter, was present at it and he later stated in connection with some matter of this institution that the property was dedicated

as Sanghika property. Dedication must be done by somebody. The plaintiff's case is that it was done by the Sabha and Lansage Andiris Perera. This is not denied by the 1st defendant and he does not suggest that it was dedicated by some other person. The mere construction of a vihare, a dagoba and planting a Bo tree in a garden will not make that property Sanghika property. This deed P2 shows that the Aramaya mentioned therein stood on the property of Lansage Andiris Perera. In 1873 there was no such Aramaya on it. The deed 925 of 1873, P1, shows that the thirteen persons mentioned in it were
 10 appointed by people assembled on a land called Maligakandewatte belonging to Lansage Andiris Perera. The property mentioned in P2 is also Maligakande. It is not suggested by the defence that Lansage Andiris Perera had two properties of the same name in this locality. The purpose of the meeting and the object of the appointment of the thirteen persons was to establish a Pirivena. Lansage Andiris Perera had purchased the property as two allotments of land in 1871, P21. On P2 he gave it as two allotments of land, the second being the one on which the Aramaya stands. There was no Aramaya in 1871.

20 In 1873 there was no Aramaya on this land. This is shown by the fact that the land where the people assembled and appointed the Vidyadhara Sabha of thirteen persons is described as the land Maligakandewatte of Lansage Andiris Perera. It was an assembly of great importance. They met to establish a Pirivena to teach Buddhism, a Pirivena that was to run down the ages. I think that had there been an Aramaya at that time the assembly would have met in those premises and the fact would have been recorded in the deed of 1873, P1. Mr. Wikramanayake argued, "This pious priest Sumangala was bent on starting a Pirivena; he could not do it alone and therefore
 30 he got a dayaka Sabha to help him to achieve his purpose. This Aramaya came into existence from the earliest times and long before the Pirivena." This is only wishful thinking for the 1st defendant. There is nothing to support this proposition. In 1876 Sri Sumangala was the High Priest of Adam's Peak. Later we find him very highly esteemed as a distinguished scholar. Had there been an Aramaya in Maligakande and had this distinguished and pious priest any connection with that Aramaya and had he then had in mind to establish a Pirivena he would have been very prominently mentioned in the deed of 1873—P1. There is no mention of an Aramaya in that deed, no
 40 mention of this great priest in it; on the other hand, we find in the deed that the thirteen persons contemplated looking for a learned and virtuous Bhikkshu to keep as Principal of the institution. This deed shows that Sri Sumangala was not thought of at the time the people assembled in 1873 to start the Pirivena. 1D19 and 1D20 are very recent documents of 1941. We are dealing with things that took place in 1873 and 1876. In 1884 in Mabotuwana Siddhartha's

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deed P3 the Eastern boundary of the land called Palm House is given as the temple. That deed too was some years after. The Plan 1D1 too is a later document. The deed of 1876, P2, mentions halls and also the Aramaya. This shows that the thirteen people and perhaps others were willing to help had started on their noble work with expedition. The Rs. 6,000/- needed for a land could not be collected and Lansage Andiris Perera gave his land, where these halls and the Aramaya had been constructed. The Pirivena was the object in view. Buildings as required then for it had been constructed. An Aramaya or a small temple with shrine room, dagoba and a Bo plant would 10 not be out of place; on the other hand, one would expect them to come up along with the other buildings as the place was meant to teach Buddhism to Bhikkhus and other people.

In later years the place came to be known as the Vidyodaya Pirivena or the Maligakande Temple. 1D19, 1D20, 1D21. The last is a gift for the purpose of carrying on the Pirivena and not an endowment for the Maligakande Temple. The fact that the place was called the temple does not affect the question as to what came first or whether they came up together and the Aramaya was an adjunct of the Pirivena. Perhaps the majority of people will know 20 the whole place as the Maligakande temple and not as the Vidyodaya Pirivena, but this does not affect the question.

Mr. W. H. W. Perera's evidence that the temple came up thirty years ago was attacked as being not true. There have been many improvements recently to the Aramaya part as well as to the Pirivena part. It is not correct to say that there was no Aramaya till thirty years ago. From this it does not follow that the aramaya came up first and the Pirivena was part of the Aramaya. Ncr does any recognition by the Malwatte Chapter affect the question. Had this institution submitted to this Chapter it would have been a feather in 30 their cap as Mr. Herat described it in his cross-examination of the Anunayaka.

Mention was made in the evidence of other Pirivenas; all of them have been established in existing Buddhist temples or temple premises. This is different. Perhaps seventy-five years hence there might be another case like this in connection with the Buddhist Temple that it is proposed to build in Peradeniya for the use of residents of the Sri Lanka University.

I think that in the circumstances of this case the reasonable conclusion is that the Pirivena came up first or at any rate the Aramaya 40 came up along with it but in either case as an adjunct to the Pirivena. The Pirivena was the thing in this venture of those who met in 1873 in Maligakandewatte, Lansage Andiris Perera's land, and the Ven. Sri Sumangala the distinguished scholar and great priest did not take any part in the earlier beginnings of the institution.

He would not have intruded where he was not wanted. He was a great and learned priest, pious and holy ; he lived to a great old age. In 1876 he was the Mahanayake of Sri Padasthana, that is Adam's Peak, where an impression of Buddha's foot has been left. The thirteen persons were looking for a distinguished and pious priest to be appointed Principal. The deed P2 refers to Sri Sumangala as Principal of the Pirivena. It refers to the deed of 1873, P1. It says that Sri Sumangala was agreeable to accept the dedication as set out in the deed of 1876, P2. This deed too recites certain conditions and
 10 clauses. I find as a certainty that Sri Sumangala was appointed as Principal by the Vidyadhara Sabha and he was certainly the first Principal. This is the answer to the second issue. I also find that the Vidyadhara Sabha founded the Vidyodaya Pirivena as set out in deed P1 of 1873. This is the answer to the first issue. In fact at the end of his address Mr. Wikramanayake admitted that these issues had to be answered in the affirmative but he argued that such admission did not entitle the plaintiff to judgment.

The deed 1259 of 1876, P2, says that the premises in question were dedicated to the Sangha as Sanghika property. What is the effect
 20 of this. As far as Ceylon Common Law is concerned, if a person gives a property by deed to some priest in a temple on behalf of that temple that is sufficient to divest that person and all his lay successors of all title to the same. It vests in the trustee or controlling Viharadhipathy of that temple according to the present Buddhist Temporalities Ordinance of 1931, Cap. 222. That temple or the priest residing therein get the use of that property for ever. The word Sangha and Sanghika are not used in this Ordinance. All that is commonly called Sanghika property is described in this Ordinance as property, movable and immovable, belonging to or appertaining to or appropriated to
 30 the use of any temple . . . and all offerings made for the use of the temple other than pudgalika offerings which are offered for the use of any individual bhikku. All the property so described vests in the trustee or the controlling Viharadhipathy. A temple is defined in this Ordinance as a Vihara, dagoba, dewale, kovila, avasa or any place of Buddhist worship and includes the Dalada Maligawa, the Sri Padasthana and the Atamasthana of Anuradhapura. The controlling Viharadhipathy's dealings with property of a temple are subject to the control and supervision of the Public Trustee, a lay officer appointed by the Government. This is with regard to temples that come within
 40 the provisions of the Ordinance, and all temples unless exempted from the operations of this Ordinance come within it. Those that are wholly exempted can be brought within the provisions of the Trusts Ordinance. Today there is a serious departure from the Vinaya rules and regulations with regard to property of a temple. And the land on which the temple stands is property appertaining to that temple. The Viharadhipathy has been defined in the Buddhist

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Temporalities Ordinance as the Principal Bhikku of a temple other than a dewala or kovila, resident or otherwise. When the management of temple property is vested in the Viharadhipathy under Section 4(2) he is called the controlling Viharadhipathy. Thus we see that today temple property can be controlled by lay people, whatever took place in 1876 in spite of the insistent assertions made by the 1st defendant's witnesses by referring to the Vinaya Pitakas. But of course the priests can come and go or remain in such property. Who is the Viharadhipathy and how he is appointed is another matter.

The office of Viharadhipathy was unknown to the Vinaya. "It 10 makes provision for the appointment of a great number of special officers of Vihares. Among the special officers provided for are those of regulator of lodging places, apportioner of rations, superintendent of building operations, overseer of stores, receiver of robes and many others." 20 *N.L.R. at page 397*. These officers are appointed by resolution of the Sangha. Sir Anton Bertram goes on to say in the same judgment that the officer who in Ceylon decisions and ordinances is referred to as the "incumbent" is of a different nature. This office has led to a great deal of litigation among Buddhist priests. This case is one such instance of it and a deplorable one. This office 20 is one that has been created in Ceylon. The substance of the law as laid down in various judgments of the Supreme Court is that this office, unless there is anything to the contrary in the set of dedication of the temple, descends according to Sisyanusisya Paramparawa; the office descends to the senior pupil of the Viharadhipathy who dies or who ceases to be a Buddhist priest by disrobing himself, and from him to his senior pupil and so on. A priest who has been robed or presented for ordination by another priest is the second priest's pupil, and the priest who robes or presents for ordination is called the tutor. In certain cases the giving of instruction too may make a priest the 30 pupil of another. The act of robing or presenting for ordination can be done by delegation. Seniority depends on the date on which the act of robing or presentation is done, and not on the time for which the pupil in question has been a priest. A very young priest who has been robed before another who has been presented for ordination has a better claim if the date of his robing is anterior to that of the presentation for the ordination of the other. According to this system it is open for the tutor priest to nominate any one of his pupils by robing or otherwise to be his successor, and in this way a younger and unordained priest or any other pupil can be superseded. There 40 is another system of succession called the Gnathi Paramparawa. In this system the successor has in addition to being a pupil as set out above to be related to the tutor. It has been laid down and it is settled law that in the absence of evidence the rule of succession according to Sisyanusisya Paramparawa is to be presumed to be the rule. In the case reported in 2 S.C.C. at page 26 C.J. Phear laid down

the above and also three other principles :—(1) There are exceptional cases in which the succession to temple property is in the appointment of the Government or of private individuals. (2) It is the terms of the original dedication that primarily imposed the rule of succession. (3) In the absence of direct evidence of these terms (of dedication) usage may be looked to and accepted as evidence thereof. These principles were accepted in the Welihinda Temple case reported in 39 N.L.R. 251. Mr. Justice Fernando in that case formulated the principles thus :—

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10 “ The law is that the rule of succession is governed by the terms 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 evidence of usage, then it must be presumed that the Sisyanusisya Paramparawe rule of succession applies unless it can be established that the succession is governed by the Siwuru Paramparawe.”

20 Siwuru Paramparawe is the same as Gnathi Paramparawe.

In this case the terms of the deed P2 are very clear. There is provision for the appointment of a Parivenadhipathy, that is the principal of the Pirivena. He has to be a pious Buddhist priest learned in the doctrine according to the deed of 1873, P1, which is recited in the deed of 1876, P2, and subject to the terms of which Sri Sumangala was given the premises, and subject to which terms Sri Sumangala accepted the premises. But Mr. Wikramanayake argues that there are two offices with regard to these premises, that of Viharadhipathy and that of Parivenadhipathy and the first holder of
30 both was Sri Sumangala, and on his death the office of Viharadhipathy passed according to the rule of Sisyanusisya Paramparawe as there is no term in the deed as to how it had to pass and that the office of Parivenadhipathy passed to the priest appointed by the Sabha with the approval of the Viharadhipathy, who, he contends, has the power to control the appointment of the other inasmuch as the place is Sanghika, by which is meant that the property has been given to the Sangha.

How any property is to be given to the Sangha is set out in the Vinaya. There is a stanza to be repeated three times. There must
40 be five priests at least present, and the property is given to those priests present and those absent, those who will come in the future and who will come from the four corners of the earth. When property is dedicated in this manner to the Sangha according to the Vinaya Pitakes lay people can have no more control over it ; it cannot be alienated. Two instances during the time of Lord Buddha were

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referred to in these proceedings, a dedication by Visaka Upasikawa and another by Pindika. The second was investigated in detail. Pindika purchased a garden and erected houses for Lord Buddha and His disciples to reside in and he invited Him to take up residence. He wanted to give over the property to the Lord. Pindika was asked to repeat the stanza, and the property was dedicated in that way. It is to be noted that the dedication was not in the form that had been done in Ceylon in the past, that is, to a particular priest and his pupils and to the Sangha. The dedication by Pindika was to the Sangha. There was no Viharadhipathy and there was no succession by any rule 10 of pupillary succession. The term ‘Vissagiththa Dinnasa’ had been used, it was stated. By this it is contended that the lay giver and his heirs ceased to have any control whatever to the property ; and also that no other lay persons had any control thereafter. In his evidence the plaintiff stated that property can be given to the Sangha and yet the lay giver can have some control over the same. He referred to the dedication by Pindika too and relied on the commentary Vinayalankara, which is a commentary by a Burmese priest on the commentary by Buddhagosa on the Vinaya Pitakes. Ven. Dheeranda, on the other hand, said in evidence that Pindika was forbidden 20 by the Lord from trying to have control over the Jetavanaramaya which was the property he dedicated.

What happened is as follows :—There was some disagreement with regard to some part of the doctrine between two sects of Lord Buddha’s disciples ; there were frequent arguments among them and Buddha left the place. Pindika and others did not give alms and the disciples too went away. Pindika and other devout followers among the laity finding that they did not have Buddha with them invited him to return. He came back, and with him came his disciples, including those who raised the argument. When they 30 reached the domain of the Prince where Jetavanarama was he, the Prince, wanted to stop the priests who raised the argument from entering his territory. Then Lord Buddha told him that they were all pious priests and that they had come back to see what differences they had and to settle them and asked him to let the priests too come. He let them enter. When they came to Jetavanarama Pindika too wanted to prevent those who raised the argument from entering. He asked Lord Buddha what he was to do. As to what happened next there is difference of opinion between the plaintiff on the one side and the Ven. Dheerananda on the other. The plaintiff 40 said that Buddha asked him to let the priests enter as they had come to settle their differences and that they were good priests, all ; Ven. Dheerananda said that Buddha forbade him from stopping the priests. What really took place was that no reply was given to Pindika for just then Sariuth, one of Lord Buddha’s disciples, asked him how he was to allocate sleeping quarters to the two sets of priests, and that

matter took up Lord Buddha's attention at that time. If the Vinaya is to be accepted in toto the 1st defendant priest has no case. The office of Viharadhipathy and the rule of Sisyanusisya succession do not find any place in it.

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The plaintiff also stated in evidence that a dedication to the Sangha can be given subject to conditions. He referred to a case that took place during the time of a previous Buddha. On that occasion some lay person built a residence for the Buddha and studded the whole place with very precious gems and he had scattered some
10 big ones on the floor. He invited the Buddha to take up residence and wanted to give the place to Him. That Buddha refused to enter or to accept the gift as there were the precious gems lying about the place. That person said he would look after them. Then the Buddha accepted the place and entered. I do not think that this has any application to this case. In Ceylon the Buddhist priests are governed by something quite different to the Vinaya Pitakes as regards Sanghika property.

Mr. Wikramanayake also argued that the system by which succession to the office is governed must be according to custom and
20 usage. He argues the only systems are the two rules of succession. It is true there has been no previous case where it was successfully established there was any other rule, but the two cases in 2 S.C.C. at page 26 and the 39 N.L.R. 251, Welihinda Temple case show that one has to look to the act of dedication. It is true that when a property is dedicated to the Sangha the stanza set out in the Vinaya has to be repeated. It is repeated when property is dedicated subject to the rule of Siwuru succession; the same stanza is repeated when the property is dedicated subject to the other rule. One has to look to
30 the terms of the dedication to see which rule applies. The same stanza is repeated when property is dedicated to the Sangha and say, for instance, the Siamese Sect or the Amrapura Sect or any other Sect are to be primarily benefited but then mention is made of that Sect; the same stanza is repeated when a particular priest and his pupils are the persons to be primarily benefited, but that priest and his pupils are mentioned. To give anything as Sanghika there must be present at least five priests, but which rule of succession is to be followed and the pupils of which of those priests are to succeed depends on what the giver intended. When there is a writing executed
40 about the same time and it is stated how the succession is to go or on what conditions the gift is given as Sanghika then that writing must necessarily be the best evidence of the fact; perhaps it will exclude any oral evidence. In this case there is no oral evidence or other evidence to contradict the deed P2. I find that this property was dedicated according to the terms of the deed P2. It is a document executed about the time of the repetition of the stanza. It has been dedicated as Sanghika property not to establish a temple for worship

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but to establish and maintain a Pirivena to teach the principles, precepts and doctrine of Buddhism to Buddhist priests and lay people of all religions. The deed mentions Sri Sumangala as the person accepting the dedication, and he has accepted it subject to the conditions in the deed P2 and in the deed P1. There is no provision for a Viharadhipathy in this deed. There are no two separate offices of Viharadhipathy and Parivenadhipathy.

Now the Ven. Dheerananda stated in evidence that there could not be any dedication to the Sangha subject to conditions, and that no one would accept such a dedication. Here we find that Sri Suman- 10
 gala has accepted this dedication in the form it appears in P2. On being questioned about this, Dheerananda said that that dedication would not be a Sanghika one. If that is the case then the 1st defendant's whole case falls to the ground ; the property is still lay property subject to a trust. The plaintiff is also a learned scholar. His qualifications to be the Principal of the Pirivena are not attacked. He tried to give instances from the Commentaries where property had been given to the Sangha subject to conditions, *e.g.* where the priests had to keep the place clean and tidy. I do not think that the instance quoted by him would apply to this case. A reprint of the Sannas of 20
 Mihintale was also cited from a book. There there are certain rules the priest residing had to observe. He at least tried to give some instances, but Dheerananda contended himself with what is stated in the Commentaries and gave his interpretation. Sir Thomas de Sampayo's words at the top of page 402 in 20 N.L.R. seem to apply to him. There are many cases on Buddhist Ecclesiastical law reported in our Law Reports. They are practically all of very ancient temples, whose origin is hidden in the dim past, the exception being perhaps the Galle Fort Temple ; there it was held that at the time of that case the temple had not yet been dedicated. It is not known whether it 30
 has since been dedicated. Sir Anton Bertram in the 20 N.L.R. case states that the original grant of the Kelaniya Temple is available. This institution in question is comparatively a recent one, and its act of dedication, the deed P2, is with us. Mr. Herat argued that a mere oral dedication is not sufficient to divest the title of the person, who had title and who dedicated the property orally ; he contended there must be a notarial deed in addition or that the property had been possessed for the prescriptive period by the party or institution to which it was dedicated. This is in accordance with the law laid down by our Courts. Here it is this deed P2 that divested Lansage 40
 Andiris Perera of his title.

It was also contended for the 1st defendant that Sri Sumangala would not have accepted a dedication that was contrary to the Vinaya. He was a very learned priest. On the face of this deed, P2, he had accepted it subject to the terms laid down. I think that

he would have known the gift subject to the terms and its acceptance would be good and valid according to the Vinaya rules applied to Ceylon. To show his state of mind a letter of no date, 1D67, was produced. This was objected to when it was first produced, and the objection was then upheld, but later its acceptance in evidence could not be resisted owing to some questions put for the plaintiff. This letter is in connection with the portion of land called Palm House purchased for Rs. 2,000/- in the name of Siddhartha and his heirs, etc. In this letter Sri Sumangala suggests that Siddhartha should convey
 10 the land so that it might pass to Sri Sumangala's pupillary heirs. The translation is a bit confusing but it seems to me that Sri Sumangala says that it should not be given to the Pirivena in its then state, a college; he suggests if it was going to be given to the Pirivena it should be done after the Pirivena was included in the temple. If Sri Sumangala's state of mind is relevant, then here is his opinion that the Pirivena does not have the character of a temple and the premises are separate from the temple. And the temple presumably is the Aramaya mentioned in the deed P2. Sri Sumangala by any change of mind of his could not have altered the effect of that deed, P2, which
 20 he accepted. Another letter, 1D44 by him was produced. This appears to be in Pali. It is a letter written to Siam. The translator here says that Sri Sumangala described himself as the Viharadhipathy of the Pirivena Vihare. If this translation is correct it is the only instance where he had referred to himself by that title. It is significant that he had not referred to his other titles. In this letter he inquires how the "Sasana" is progressing in that country. Against this there is the case reported in 11 N.L.R. at page 360—a case over the Kelaniya Temple. The original record was called for to see how Sri Sumangala, who was a witness in that case, had described himself.
 30 The description is "the Chief High Priest of Adam's Peak and Principal, Vidyodaya, Pirivena". There are other documents in the case where the description is given as the Principal of the Pirivena and no reference is made to his having been the Viharadhipathy. Even if there were any such descriptions he could not thereby become Viharadhipathy. The Pirivena premises and the aramaya were dedicated on the deed P2 and it provided for the succession of the chief priest of the place, and he is the Parivenadhipathy or the Principal of the Pirivena. It has been held that a priest cannot prescribe to the office of Viharadhipathy.

40 It was also pointed out that during the time Sri Sumangala was the Principal he had appointed Rev. Pemananda to be what is called Kruthiadikari. This is admitted by the plaintiff. According to the duties performed by this priest he appears to have held all the offices of "regulator of lodging places", "apportioner of rations", "superintendent of building operations", "overseer of stores", and others as provided for in the Vinaya, not perhaps "receiver of robes"; (see

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20 N.L.R. at page 397). But he was not appointed by a formal resolution of the Sangha. It was urged that such an officer could be appointed only by a Viharadhipathy, and as he was functioning in that office under Sri Sumangala, the latter was the Viharadhipathy as well. A school Principal can have a manager to do the things that Pemananda did in this case. The Parivenadhipathy could have a manager to look after these things, while he taught the doctrine and maintained discipline in the institution. I do not think that the officer who made this appointment need be a Viharadhipathy.

Pemananda continued in this office even after Sri Sumangala's 10 death till he himself died. It was urged that he did so on being appointed to the office by Ven. Jinaratana, who the 1st defendant says succeeded to the office of Viharadhipathy. The evidence in point that he was so appointed by Jinaratana is hearsay, and it is indirect and vague. After Sri Sumangala there were two Principals before the plaintiff, but it is not stated by the plaintiff that they appointed Pemananda to this office of Kruthiadikari. The plaintiff says that he did not appoint him to the office but Pemananda continued to act in that office. The plaintiff had confined himself to teaching and 20 maintaining discipline. Ven. Jinaratana had visited the Pirivena on several occasions and he had spoken to Pemananda. The 1st defendant's case is that he did so as the Viharadhipathy and he was speaking about the affairs of the Maligakande Temple with his Kruthiadikari. He is said to have gone to Pemananda's room and not walked about the place. The averment that Pemananda was Jinaratana's Kruthiadikari is negated by Pemananda's Deed to Sorata, 1299 of 16.1.1940, produced by the 1st defendant and marked 1D12. Here Pemananda describes himself as the Viharadhipathy of the Pirivena Vihara. Now it was suggested that the plaintiff, 30 Pemananda and Sorata entered into a conspiracy to create a pupillary succession from Pemananda to Sorata for these premises. Why Pemananda should suddenly turn from his alleged overlord Jinaratana is not explained. The plaintiff denied this suggestion. I accept the plaintiff's word that he had nothing to do with this deed. This deed shows that Pemananda was not subject to the control of Jinaratana. It was also urged that on Pemananda's death Vachissara became the Kruthiadikari. He was not appointed by the plaintiff, who was the Principal of the Pirivena at the time. What happened was that Pemananda was taken to hospital when he fell ill, and Vachissara 40 got possession of the keys of the place. He is the priest who says that Pemananda and Jinaratana used to talk about the affairs of the temple. He admits there are no letters or written directions. He is, as I said before, a partisan and his evidence is worth nothing. He has not explained why Pemananda should turn away from Jinaratana and call himself the Viharadhipathy of the Pirivena Vihara in the deed 1D12. It was suggested that Jinaratana stayed in the Pirivena when

there was some trouble over the accounts of money collected for the funeral of a priest in 1923, and Jinaratana stayed there to allay trouble and also when the 1st defendant went on a fast. On the occasion of the fast Ven. Pahamune Sri Sumangala (he too has the same name, but the town from where he came is different to that of the first Principal) and another priest came from Malwatta. They have set down what they did in writing. That was in 1933 when Ratanasara was the Principal. Those two priests had stated that the property was Sanghika. For all Sanghika property the 1st defendant says
10 there must always be a Viharadhipathy. It is indeed strange that if Jinaratana was the Viharadhipathy of this place he was not taken into the discussions by the two priests from Malwatta and that his name was omitted in that document. I hold that Jinaratana was never the Viharadhipathy of the Vidyodaya Pirivena and the attached aramaya and he never officiated as such.

The presence of the words "sangha" and "sanghika" in the deed P2 can only entitle any Buddhist priest to receive his education in these premises and if there is room to remain in the halls of residence for the sole purpose of receiving education. These words did not
20 bring this dedication within the rules of pupillary succession. It is not in every Sanghika property that there is a temple. Sometimes property is gifted as Sanghika property for the maintenance of priests of a particular temple. In such cases the donors want to provide for the physical needs of the priests. This dedication has been made to provide for the educational needs of priests and laymen, priests primarily. The evidence is that only priests reside in the premises.

There is the matter of the portion of land called Palm House purchased in the name of Siddhartha in 1884 on deed 2134, P3. On the fact of it, this deed is a transfer to Siddhartha and his heirs,
30 executors, administrators and assigns. There is no dedication to the Sangha in this deed. The property might have passed to Siddhartha's lay heirs those days, but not now in view of the Buddhist Temporalities Ordinance of 1931. It is urged for the 1st defendant that there is no evidence that the consideration for this deed was supplied by the Vidyadhara Sabha. This property has been possessed from the time it was purchased in the name of this priest as part of the Pirivena buildings required for the Pirivena have been erected on it and they are used for the Pirivena. The minutes of the proceedings of the meetings of the Sabha prior to 1915 are not available, but there is the
40 half century report. It shows that the Sabha had been functioning and improving the place and doing all that was necessary to make the Pirivena permanent. How Siddhartha got money to buy this land is not shown. According to the Vinaya he should be poor, having taken the vow of poverty, but of course in Ceylon some Buddhist priests are not poor. I find that this property has been used for the Pirivena and the reasonable conclusion is that the money was supplied

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by the Sabha. Anyway it has been possessed as part of the Pirivena property for more than ten years, and I find that it too formed part of the property dedicated by the deed of 1876, P2, for the purpose of establishing and maintaining a Pirivena to teach Buddhism.

At this stage it is convenient to discuss the question whether Jinaratana is the senior pupil of Sri Sumangala or not. Even the plaintiff had accepted him as such till he saw the deed 1676 of 31.5.1879, P10. By this deed Sri Sumangala appointed Siddhartha, the transferee on P3, his pupil and his successor. Sri Sumangala was the incumbent of temples that passed according to the rule of pupillary succession. 10 In this deed he has stated that he had no pupils of his own. The plaintiff produced the declaration made by Jinaratana. In it the date of robing and ordination is given as May, 1878, P25. This certified copy has been issued in 1944. The 1st defendant also produced a certified copy of an amended declaration of Jinaratana, 1D63. In this the date of robing and ordination is shown to have been altered from May, 1878, to June, 1879, and the deed P10 was on the last day of May, 1879; The copy 1D63 also states that the alteration has been made on a letter of the M.N.T. dated 30th April, 1950, and this certified copy has been obtained on 10th May, 1950. 20 “M.N.T.” in the note by the Registrar-General in 1D63 means, I believe, the Maha Nayake Thero of the Nikaya, Cage 14 of the copy. One cannot say why this alteration has been made at this stage. This reminds one of the mandamus application by the Malwatte High Priest on the Registrar-General to have the name of Indajoti expunged from the Register of priests, and Indajoti was contesting the election of the 1st defendant priest as the Chief High Priest of Adam’s Peak, Sri Padasthana. The Supreme Court refused the application as the object in view was to prevent Indajoti from proceeding with his objections against the 1st defendant’s election. This does not sound 30 well for the Chapter. A Buddhist priest had to register himself under the Ordinance. In the application he had to give certain particulars. A Court can presume these particulars to be true under Section 114 of the Evidence Ordinance, but when these forms are altered in the way it has been done in May, 1950, just before the trial of this very issue, I think a Court will be justified in not accepting the particulars as proved by the mere production of the certificate of registration, and I do not do so as regards 1D63. Still in this case there is a large volume of evidence to show that Jinaratana has been accepted for a long time as the senior pupil of Sri Sumangala. He 40 might have become a pupil after May, 1879, or perhaps the deed of 1879, P10, might have been a document executed to disclaim or disinherit the senior pupil as such things have often been in the old days and as being done even now. By habit and repute Jinaratana is the senior pupil. I hold him to be the senior pupil of Sri Sumangala.

The question whether the 1st defendant's claim to the office of Viharadhipathy is prescribed has been raised. I have already held that Jinaratana never acted as Viharadhipathy. Sri Sumangala died in 1911. As senior pupil his claim arose then. It is clearly prescribed. Today the 1st defendant comes forward with a deed from Jinaratana granting the office to him. Jinaratana is living. Any action by him claiming this office is barred, and it is preposterous to think that a grantee from him can maintain an action for the office. The devolution of the office of Viharadhipathy cannot be likened to the devolution
 10 of property subject to a *fidei commissum*. *Fidei commissa* can be created only for a certain period, which may be long or short. They have to end at the longest after four generations. The *fidei commissarii* did not take the property through the fiduciaries; in the case of pupillary succession the pupils succeeded through their tutors and the succession goes on as long as there are pupils in the line. This form of succession corresponds to the ordinary form of intestate succession among the laity. I think that once prescription starts running against a Viharadhipathy it continues to do so as against his pupil who succeeds him. I hold that the 1st defendant's claim to the
 20 office which he alleges is attached to these premises is prescribed.

Now the next question is the plaintiff's title to maintain this action and to have the 1st defendant ejected from the premises. The Supreme Court in its judgment on appeal from the decision on issues 19, 20 and 21 interpreted the document P2 in the following terms :—

The deed P2A (this is the translation of P2) grants the legal estate—the Venerable Sumangala Nayaka Thero, Principal of the said Pirivena, and on his demise to the Principals appointed by the Sabha.

The legal estate here referred to is the legal estate of the property
 30 in Schedule A that is including the aramaya. The matter of the other portion called Palm House property was left to be established on evidence. I have already held that it too forms part of the property subject to the purpose for which the other property was granted. I may humbly and with respect state that after all this long and tedious trial in which many points affecting the interpretation of this deed were investigated that given by the Supreme Court stands even now. As I have stated the words “sangha” and “sanghika” entitle any Buddhist priest to receive his education in this Pirivena and to reside in it for that purpose, but the legal title vests in the Principal appointed
 40 by the Sabha, and he is the chief priest of the institution including the Aramaya.

Now the deed P1 in my opinion shows that the thirteen mentioned therein made themselves trustees for the fund that was to be collected for the establishment of the Pirivena and they voluntarily among

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themselves entered into the various covenants found in it. They are not covenants into which the people, who assembled and appointed them, wanted them to enter. They have agreed to carry out the work with the help of others. The deed P2 shows that they have carried the first part of the trust, that is, they have established the Pirivena and appointed a Principal. Two of the original thirteen appear to have dropped out and five others taken into the Sabha. How this came about is not clear from this second deed, and there is no record of how the additional five came into the Sabha. The deed P1 provides for the payment of a monthly subscription of Rs. 2/- by 10 each member, and a penalty is provided if a member fails to pay that subscription. The institution has grown from its very beginning. Today there are about eight hundred priests receiving instruction in it. Additional buildings have been erected from time to time. In 1867 there is another deed to which thirteen members, eleven of these who signed the deed P1 and two others and thirty others have signed. Provision is made in it, No. 2341 of 1887, 1D16, for the payment of subscription of one rupee. This deed did not entitle the forty-three to appoint a Principal, but it provided for all to carry on the good work of keeping the Pirivena going. Two of the original thirteen are 20 absent from this and two others appear. The thirteen are said to be the persons who had entered in the deed, P1. Next we have a deed, No. 5193 of 8.5.1907. 1D14. This gives the names of thirteen persons and they are called the members of the Vidyadhara Sabha established in terms of deed 925, P1, and 2431 of 1887. 1D16. Not one of these appear in the deed P1. All the books of the Pirivena had been taken by the military or Police authorities soon after the riots of 1915, and the early records of the Sabha are not available now. Here again it is a safe and reasonable inference that these thirteen persons have been elected to succeed those that passed away. 30 This deed, 1D16, shows that the Sabha had appointed three of them to act as trustees for the Sabha at a meeting held on 24.7.1901; that one of them died and at a meeting held on 19.7.1903 another was appointed in his stead, and finally another died and a third was appointed and this deed empowered the three to act as trustees and manage the property. They were empowered to sign cheques and carry and collect the income, etc. Sri Sumangala's name is also mentioned in this deed. But only eight persons have signed this deed, and Sri Sumangala has not signed it. This deed shows that the Sabha has been active and was taking an interest in the property of 40 the Pirivena. It did not have to appoint a Principal till 1911 on Sri Sumangala's death. The Sabha as constituted at that time had appointed the successor, Gnanisswara. He died in 1922 and his successor Kahawe Ratanasara was also appointed by the then Sabha. These appointments are not denied. They are also mentioned by the 1st defendant himself in his letter to the Sabha that was functioning at the time of the death of Kahawe Ratanasara in 1936, P13. In this

letter the 1st defendant put forward his claims to the appointment as Principal. According to this letter each of Gnanisswara and Ratanasara had been the Vice-Principal just prior to appointment as Principal. When Ratanasara was appointed the plaintiff was appointed Vice-Principal in 1925. On Ratanasara's death in 1936 the plaintiff was first appointed to act and soon after to be the Principal. He has been sent the two acts of appointment, P19 and P20. The appointments are also recorded in the minutes of the meetings at which they were made. After that the 1st defendant wrote several letters complaining
 10 that he was not given classes by the plaintiff. Till 13.5.1941 he acknowledged the Sabha as a duly constituted one. He never took objection to its constitution. His complaint was that his talents as a teacher were not made use of by the plaintiff or by the Sabha. The minutes of the meetings of the Sabha are available from about 1924. They show that various members have been elected to it in place of those that died. They do not appear to have been signed regularly. They are kept in due order in two books, the second one being used when the first was over. The election of these various members appears to have been by some members of the Sabha and others.
 20 The provision in the deed P1 is for the election by the Sabha and dayakayas present. It did not provide for a quorum of members or dayakayas. Some of the elections have not taken place within the month of the date of vacation of office by the death of a member. There has been delay, but I do not think that that would vitiate an election. Mr. Kottegoda in his address pointed out details of the various meetings of the Sabha including those at which successor members were elected. (Addresses of all Counsel have been taken down almost in full.) It is not known whether all these meetings at which members were elected had been advertised as set out, but some
 30 meetings had been. The Sabha functioned and is still functioning. The validity of its constitution at any time was not attacked by anyone, nor even by the 1st defendant till he did so in this case. Had there been anything wrong in the election of the members I think there would have been protest meetings and demonstrations. There was one over the funds collected for a funeral. There was a stir when the 1st defendant went on his fast. I hold that the members of the Sabha that appointed the plaintiff as Principal had been duly elected and that the plaintiff has been duly appointed as Principal in accordance with the deed of 1873, P1. The present Sabha is carrying on
 40 the good work started by the thirteen persons mentioned in the deed of 1873, and the Pirivena is being maintained today as it was wished in 1873, and those who succeeded the original thirteen from time to time also maintained it.

I hold that the plaintiff has the legal estate and he is entitled to maintain this action.

There are two points that I have not discussed though I had them in mind when I wrote the above. They do not alter the decision on any point as recorded above. One is that Sri Sumangala used the collections at Sri Padasthana for the construction of some of the buildings. I do not think that it was irregular, for the money was used to spread the doctrine by educating Buddhist priests and laymen of all religions. The other is, it was argued that this is a place where the Buddhist public worshipped and therefore the place became a temple as defined in the Buddhist Temporalities Ordinance. I have held that the Aramaya came up as an adjunct to the Pirivena. It was 10 urged that a Buddhist priest was an object of worship and that people went to the residential quarters too to worship priests and therefore the quarters too came under the Ordinance. Similarly people would have gone to the instruction halls, and the halls too would have to come under the definition. I think that that definition applies only to places of Buddhist worship where that is the only thing done. Here the worshipping part is incidental to the main thing, education of priests and laymen in the Buddhist doctrine. Even if this institution came within that definition I think the appointment of the chief priest is governed by the two deeds, 1259 of 1876, P2, and 925 of 1873, P1, 20 and not by pupillary succession. I do not think any person of any religion would prevent any other of that same religion from worshipping in places of this type, that is, places of worship attached to educational institutions. Much less would any Buddhist priest prevent any member of the Buddhist public from worshipping at the temple that is attached to this Pirivena.

The next question is whether the 1st defendant can be ejected from the place. He has brought himself within the law that empowers a priest to be ejected from a temple where as a pupil of a past Viharadhipathy he is entitled to remain and be maintained. He is in wrongful 30 occupation of a hall meant to instruct students. He has started a school of his own in some part of the premises. He is withholding the keys of these rooms. On one occasion he opened letters addressed to the Principal and kept back certificates sent by the Education Department to candidates who were successful at some examination. He has been disobedient to the plaintiff, who is the chief priest of this institution. He not being a tutor or a student is not entitled to residence. His remaining in the place obstructs the due execution of the trust imposed by deeds P1 and P2.

I answer the issues as follows :—

40

1. Yes.
2. Yes.
3. (As shown on page 7, last line). Yes.
4. Yes.
5. (As amended on page 60). Yes.

6. (As amended on page 60). Yes.
7. (As amended on page 60). Yes.
8. Yes.
- 9a. Yes.
- 9b. Yes.
10. Yes.
11. Yes.
12. Yes.
- 10 13. Damages agreed at one rupee for the whole period.
14. Yes.
15. Yes, in accordance with the deeds P1 and P2.
16. The properties were dedicated for the establishment of a
 Pirivena and not a temple for worship.
17. No.
18. The rules of Sisyanusisya Paramparawe do not apply to
 this institution.
19. Yes.
20. Yes.
21. Yes.
- 20 22. This does not arise.
23. Their names are set out in the minutes of the meeting of
 the Sabha held on 6.4.1936, P12.
24. Yes.
25. Yes.
26. As issues 24 and 25 are answered in the affirmative this
 issue does not arise.
- 27 and 29. The premises in Schedules A and B did not comprise
 the Maligakande Temple, there was no office of an in-
 cumbent for this institution, but the Principal of the
 30 Pirivena is the chief priest of the whole institution
 including the aramaya and temple.
28. (As Amended on page 61). No.
30. Yes.
31. No.
32. Yes.
33. Yes.
34. They were necessary according to the original plaint;
 according to the amended plaint they need not have

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been parties but their presence has not embarrassed the plaintiff or the 1st defendant. This issue has been raised only with regard to costs.

35. I have held that these premises do not comprise the Maligakande Temple and that that part of the premises called the Aramaya or Maligakande Temple form part of the Pirivena. The 1st defendant's claim to be Viharadhipathy to any part of the premises in Schedules A and B is prescribed.

I enter judgment for the plaintiff as prayed for in the amended ¹⁰plaint with costs of the action against the 1st defendant. The damages are fixed at one rupee.

The other defendants are entitled to costs already allowed them by this Court or the Supreme Court. The documents produced by them would have been produced by the plaintiff had they been not parties. In fact he would have had to produce them. I allow them against the 1st defendant the cost of producing their documents, including the cost of perusing them and cost of consultation with Counsel, and I think they should bear their other costs.

(Sgd.) V. S. JAYAWICKREMA, ²⁰
Additional District Judge.
17.10.1950.

Pronounced in open Court in the presence of the plaintiff and proctors of parties.

(Sgd.) V. S. JAYAWICKREMA,
Additional District Judge.
17.10.1950.

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No. 40

Decree of the District Court

IN THE DISTRICT COURT OF COLOMBO

30

Ven. Baddegama Piyaratana Nayake Thera as Principal
of the "Vidyodaya Pirivena", Maligakanda in
Colombo.....*Plaintiff*

No. 2882/L.

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayake Thera of Vidyodaya Pirivena, Maligakanda in Colombo.
2. The Hon. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatte Road in Colombo.

3. The Hon. Mr. Christopher William Wijekoon Kanningara, M.S.C., of "Cranford", 29, Alfred Place, Kollupitiya in Colombo.
4. Mr. Jacob Moonesinghe, Proctor, of "Winton", Dickman Road in Colombo.
5. Mr. Henry Woodward Amarasooriya, M.S.C., of 9, Gower Street in Colombo.
6. Mr. Willorage Henry William Perera, Proctor, of "Vijitha", 335, Timbirigasyaya Road in Colombo.
- 10 7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace in Colombo.
8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya in Colombo.
9. Mr. Rjah *alias* Rajasinghe Hewavitarna, M.S.C., of "Nimalka", Kollupitiya in Colombo.
10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya in Colombo.
11. Mr. B. R. Dias of Kenilworth, Dematagoda Road in Colombo.
- 20 12. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwela.
13. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratnatinge of "Sagala", Chapel Lane, Wellawatta, in Colombo.
- (Dead) 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda.
(2nd to 14th defendants as members of the Vidya-dhara Sabha of the Vidyodaya Pirivena, Maligakanda, Colombo.)
- 30 (Dead) 15. Dr. B. E. Fernando of Colombo substituted in place of 14th defendant (deceased).
16. Daya Hewavitarne of Alfred Place Avenue in Colombo substituted in place of 4th defendant (deceased).
17. N. S. Moonesinghe substituted in place of 15th defendant Dr. B. E. Fernando
..... *Defendants.*

This action coming on for final disposal before V. S. Jayawickrema, Esquire, Additional District Judge, Colombo, on the 15th, 16th, 17th and 18th May, 12th, 13th, 15th and 16th June, 4th, 5th, 7th, 10th, 11th, 13th and 14th July, 5th, 6th, 7th, 8th, 11th, 12th, 13th, 14th and 15th September, 1950, in the presence of Mr. Advocate W. H.

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Perera with Mr. Advocate Kingsley Herat and Mr. Advocate A. W. W. Gunewardene instructed by Mr. W. H. Senanayake, Proctor, on the part of the plaintiff, Mr. Advocate E. G. Wikramanayake with Mr. Advocate A. B. Perera, Mr. Advocate C. E. Jayawardene, Mr. Advocate Subasinghe and Mr. Advocate M. L. de Silva instructed by Mr. S. Gunasekera, Proctor, on the part of the 1st defendant and Mr. Advocate H. A. Kottegoda instructed by Mr. D. E. Weerasooria, Proctor, on the part of the 2nd, 3rd, 5th, 7th to 13th, 16th and 17th defendants and the 6th defendant appearing in person

It is ordered and decreed :—

10

(a) That the plaintiff do hold the lands and premises described in the Schedules A and B hereto and now described in the Schedule C hereto as one property in trust for or as Trustee of a Charitable Trust the purposes referred to in Deed No. 925 dated 6th December, 1873, attested by W. P. Ranasinghe of Colombo, Notary Public ;

(b) That the plaintiff as such Trustee is declared entitled to the said lands and premises described in the Schedules A and B hereto and now described in the Schedule C hereto as one property ;

(c) That the 1st defendant be ejected from the said lands and premises described in the Schedules A and B hereto and now described 20 in the Schedule C hereto as one property and the plaintiff be placed in quiet possession thereof and that the 1st defendant do pay to the plaintiff a sum of Re. 1/- as damages and the plaintiff be placed in peaceful and quiet possession thereof ; and

(d) That the 1st defendant do pay to the plaintiff his costs of this action as taxed by the Officer of this Court and that the 1st defendant also do pay to the 2nd, 3rd, 5th, 6th, 7th to 13th, 16th and 17th defendants costs already allowed them by this Court or the Supreme Court together with costs of production of their documents including the costs of perusing them and costs of consultation with Counsel and 30 that the said defendants do bear their other costs.

The Schedule above referred to :

1. All that defined allotment of land called and known as Maligakande situated at Dematagoda in Maradana Ward within the Municipality and in the District of Colombo, Western Province, and bounded on the North by the land of Tangachchipulle Meera Natchi, on the East by the land of Don Lewis Mahavidane, on the South by the land of Rev. J. D. P. Palms and on the West by the land of Assan Meera Natchiar containing in extent three square roods (A0. R3. P0) as per Plan made by N. F. de Silva, Surveyor. 40

2. All those two contiguous lands marked 3 and 4 of Maligakande situated at Dematagoda aforesaid and bounded on the North by the land belonging to Sinnatangatchi, on the East by the lands

marked Figure 5, on the South by the High Road and on the West by the land claimed by Mr. Mackwood and the land said to belong to Kande Badalge Don Lewis Mahavidane containing in extent three square roods and twenty-four perches (A0. R3. P24) excluding an extent of five perches (A0. R0. P5) gifted to Kande Addara Badalge Mariya Nachchire.

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The Schedule B above referred to :

All that defined allotment of land called and known as “ Palm House ” situated at Dematagoda aforesaid and which said defined
10 allotment of land is bounded on the North and East by the land belonging to the temple, on the South by the road to Maligakande and on the West by the other part of the said land containing in extent three roods thirteen and seventy-four upon one hundred perches (A0. R3. P13. 74/100) as per plan dated the first day of May, 1880, made by Charles Schwallie, Licensed Surveyor, registered at the Land Registry, Colombo, in Volume A 6/26.

The Schedule C above referred to :

All those contiguous allotment of lands and premises now called and known as Maligakande Vidyodaya Pirivena premises fully depicted
20 in the Plan No. 786 dated the 10th day of July, 1943, made by Mr. I. W. W. Indatissa, Licensed Surveyor, together with all the buildings, trees, plantations, soil and everything standing thereon formerly Assessment No. 105 and present Assessment No. 131 situated at Maligakanda Road, Maradana, within the Colombo Municipality and in the District of Colombo, Western Province, and which said contiguous allotments of lands now called and known as Maligakande Vidyodaya Pirivena premises are bounded on the North by premises bearing Assessment Nos. 148 and 158 (1-47), (Dematagoda Road) and 86 and 88 (Reservoir Lane) on the East by Reservoir
30 Lane, on the South by Maligakande Road, and on the West by premises bearing Assessment Nos. 138 (12-30), 144 and 148 Dematagoda Road and 37 and 55 (Clifton Lane) containing in extent two acres one rood and thirty-seven perches (A2. R1. P37).

Colombo, 17th October, 1950.

(Sgd.) V. S. JAYAWICKREMA,
Additional District Judge.

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No. 41**Petition of Appeal to the Supreme Court**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

D.C. Colombo. No. 2882/L

D.C. (F) 26
1952

Ven. Baddegama Piyaratana Nayaka Thera as Principal
of the "Vidyodaya Pirivena", Maligakanda in
Colombo.....*Plaintiff*

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Nanesvara 10
Dhammananda Nayaka Thera of Vidyodaya Piri-
vena, Maligakanda in Colombo.
2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of
"Woodlands", Kanatta Road in Colombo.
3. The Hon. Mr. Christopher William Wijekoon Kan-
nangara, M.S.C., of "Cranford", 29, Alfred Place,
Kollupitiya in Colombo.
- (Dead) 4. Mr. Jacob Moonesinghe, Proctor, of "Winton",
Dickman Road in Colombo.
5. Mr. Henry Woodward Amarasuriya, M.S.C., of 9, 20
Gower Street in Colombo.
6. Mr. Willorage Henry William Perera, Proctor, of
"Vijitha", 335, Thimbirigasyaya Road in
Colombo.
7. Dr. Gunapala Piyasena Malalasekera of "Sama-
nala", 16, Longden Terrace in Colombo.
8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place,
Kollupitiya in Colombo.
9. Mr. Rajah *alias* Rajasinghe Hewavitarne, M.S.C., of
"Nimalka", Kollupitiya in Colombo. 30
10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar",
Kollupitiya in Colombo.
11. Mr. B. R. Dias of Kenilworth, Dematagoda Road in
Colombo.
12. Mudaliyar Egodage Alfred Abayasekara of Karagam-
pitiya Road, Dehiwela.
13. Mudaliyar Piyadasa Dharmasiri Abeywardhana
Ratnatunge of "Sagala", Chapel Lane, Wella-
watte in Colombo.

- (Dead) 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda.
- (Dead) 15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant (dead).
16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant (dead).
17. N. S. Moonesinghe substituted in place of Dr. Hewavitarne of Colombo, who was substituted in place of 15th defendant, Dr. B. E. Fernando (dead).
- 10 2nd to 17th defendants as members of the Vidyadhara Sabha of the Vidyodaya Pirivena, Maligakanda in Colombo..... *Defendants*
- between*
- Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo.....*1st Defendant-Appellant*
- and*
- 20 1. Ven. Baddegama Piyaratana Nayaka Thera as Principal of the Vidyodaya Pirivena, Maligakanda in Colombo.....*Plaintiff-Respondent.*
2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodands", Kanatta Road in Colombo.
3. The Hon. Mr. Christopher William Wijekoon Kanningara, M.S.C., of "Cranford", 29, Alfred Place, Kollupitiya in Colombo.
- (Dead) 4. Mr. Jacob Moonesinghe, Proctor, of "Winton", Dickman Road in Colombo.
- 30 5. Mr. Henry Woodward Amarasuriya, M.S.C., of 9, Gower Street in Colombo.
6. Mr. Willorage Henry William Perera, Proctor, of "Vijitha", 335, Timbirigasyaya Road in Colombo.
7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace in Colombo.
8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya in Colombo.
9. Mr. Rajah *alias* Rajasinghe Hewavitarne, M.S.C., of "Nimalka", Kollupitiya in Colombo.
- 40 10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya in Colombo.
11. Mr. B. R. Dias of "Kenilworth," Dematagoda Road in Colombo.

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12. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwela.
13. Mudaliyar Piyadasa Dharmasiri Abeywardhana Ratanunga of "Sagala", Chapel Lane, Wellawatte in Colombo.
- (Dead) 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda.
- (Dead) 15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant-respondent (dead).
16. Daya Hewavitarne of Alfred Place Avenue, 10 Colombo, substituted in place of 4th defendant-respondent (dead).
17. N. S. Moonasinghe substituted in place of Dr. Hewavitarne of Colombo, who was substituted in place of 15th defendant-respondent, Dr. B. E. Fernando (dead).

2nd to 17th defendants-respondents as members of the Vidyadhara Sabha of the Vidyodaya Pirivena, Maligakanda, in Colombo..... *Defendants-Respondents.*

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

On this 18th day of October, 1950.

The petition of appeal of the 1st defendant-appellant above-named appearing by Somawira Gunasekera, his Proctor, states as follows :—

1. The plaintiff-respondent filed the above styled action against the 1st defendant-appellant for a declaration that the said plaintiff-respondent holds the lands and premises described in the Schedule to the plaint in trust for or as trustee of a Charitable Trust and for an order to eject the 1st defendant-appellant from the said premises 30 and for the recovery of damages. The 2nd to 17th defendants-respondents were made parties as Members of the Vidyadhara Sabha in order to give them notice of the action.

2. The 1st defendant-appellant filed answer denying the plaintiff-respondent's rights and claimed the said property which he says is a temple upon a deed of appointment bearing No. 2662 from one Rev. Jinaratana who became entitled to the same according to the rules of pupillary succession from Rev. Hikkaduwe Sri Sumangala Nayaka Thera. The 1st defendant-appellant further pleaded that the 2nd to 17th defendants-respondents were not properly elected members of 40 the Vidyadhara Sabha and that the appointment of the plaintiff-respondent was bad.

3. The case went to trial on several days on a number of issues and the learned District Judge delivered Judgment on the 17th day of October, 1950, declaring that the plaintiff-respondent holds the said lands and premises in trust for a charitable trust and ordering the 1st defendant-appellant to be ejected.

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Petition of
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4. Being dissatisfied with the said Judgment the 1st defendant-appellant begs to appeal to Your Lordships' Court on the following among other grounds that may be urged by Counsel at the hearing of the appeal :—

- 10 (a) The said Judgment is contrary to law and against the weight of evidence led in the case.
- (b) The learned District Judge has misdirected himself when he holds that—
- (1) the Pirivena was established before the Aramaya ;
 - (2) temple property can be controlled by laymen ;
 - (3) there are no two separate offices of Viharadhipathy and Parivenadhipathy ;
 - (4) the Rev. Jinaratana was never the Viharadhipathy of the Maligakande Temple ;
 - 20 (5) the words “ Sangha ” and “ Sanghika ” in deed 1259 (P2) entitled any Buddhist priest to receive his education in these premises and if there is room to reside for the sole purpose of receiving education and that these words do not bring this dedication within the rules of Pupillary Succession ;
 - (6) the reasonable conclusion (in regard to the deed P3 in favour of M. Siddhartha) is that the Sabha provided the money for the purchase of “ Palm House ”;
 - (7) the claim of the 1st defendant-appellant to the Viharadhipathiship cannot be maintained as the claim of Rev. Jinaratana is prescribed ;
 - 30 (8) the Vidyadhara Sabha exists today and that delay cannot vitiate an election of a member to it and that the validity of the constitution of this Sabha had not been attacked by any one ;
 - (9) the plaintiff-respondent was duly appointed Principal and that he has the legal estate and he is entitled to maintain this action ;
 - (10) the 1st defendant-appellant has brought himself within the law that empowers a priest to be ejected from a temple ;
 - 40 (11) temples that are wholly exempted from the Buddhist Temporalities Ordinance can be brought under the Provisions of the Trusts Ordinance.

(c) The answer of the 1st defendant-appellant and the evidence in his favour have not been given due weight.

(d) The learned District Judge holds that the Rev. Jinaratana is the Chief Pupil of the late Rev. Hikkaduwe Sri Sumangala and from that it follows that if the proper meaning is given to the word "Sanghika" then the Rev. Jinaratana and after him the 1st defendant-appellant is the Viharadhipathi of the Maligakande Temple.

(e) As a matter of law the action is not maintainable by the plaintiff-respondent on the footing of a Charitable Trust in as much as he has not complied with the provisions of Section 101 of the Trust 10 Ordinance.

(f) It is humbly submitted that even if deed 1259 (P2) is a dedication for the establishment of a Pirivena —

(i) the persons who have the right to appoint the Parivenadhipathi are the party of the second part in the said deed 1259 (P2), namely the following 16 persons and their successors in office duly elected in terms of deed 925 (P1):—

1. Don Philip de Silva Epa of St. Joseph's Street,
Colombo. 20
2. Lansage Andris Perera of Pettah.
3. Kalanasuriya Aratchige Don Cornelis de Silva.
4. Bulathsinalage Cornelis Cooray.
5. Willora Aratchige Cornelis Perera.
6. Hewavitaranage Don Carolis.
7. Pattiyawattage Hendrick Perera of Slave Island.
8. Wettasinghage Don Cornelis de Silva.
9. Mahaveediyage Don Girigoris of Maradana.
10. Rajapakse Kumarannehelage Johanis Alponsu of
Peliyagoda. 30
11. Gurunanselage Don Pelis of St. Joseph's Street.
12. Don Thomas Weerakkody.
13. Kahawe Guruge Janchi Peeris of Pettah.
14. Pilo Fernando Wijesekera Aratchi of Pettah.
15. Lansage Siman Perera, and
16. Don Manuel of Maradana.

Successors to the aforesaid 16 persons have not been duly elected and it is submitted therefore that the appointment of the plaintiff-respondent is irregular and invalid and that he has no status to maintain this action. 40

(ii) upon failure of the body authorized—which is the aforesaid 16 persons and their successors—to elect the Parivenadhipathi, the rules of Sisyanu Sissya Paramparawa prevails. The 1st defendant-appellant submits that he has established his claim in accordance with that line of succession.

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(g) In any event it is submitted that no writ for ejection of the 1st defendant-appellant from the said premises can issue.

(h) It was common ground between the parties and it was agreed that the property in dispute was Sanghika. The point in dispute was whether it was the Parivenadhipathi or the Viharadhipathi who had control. The 1st defendant-appellant humbly submits that immediately property is dedicated it comes under the operation of the Buddhist Temporalities Ordinance and the management is vested in the Viharadhipathi.

Wherefore the 1st defendant-appellant prays—

- (a) that Your Lordships' Court be pleased to set aside the Judgment and Decree of the learned District Judge dated 17th October, 1950 ;
- (b) that he be declared the lawful Viharadhipathi and/or Parivenadhipathi of the premises in dispute ;
- (c) that the appointment of the plaintiff-respondent be declared to be invalid ;
- (d) for costs ; and
- (e) for such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) S. GUNASEKERA,
Proctor for 1st Defendant-Appellant.

Settled by

C. E. JAYEWARDENE, Esquire,

Advocate.

No. 42

Proceedings before the District Court

D.C. 2882/L

18.1.51.

Mr. Advocate R. L. Pereira, K.C., with Mr. Advocate Herat for plaintiff-petitioner who is the respondent to the appeal.

Mr. Advocate E. G. Wikramanayake, K.C., with Mr. Advocate Jayewardene for the first defendant-respondent to the application who is the appellant.

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Proceedings
before the
District Court
18.1.51

Mr. Pereira suggests that this inquiry be adjourned in order to enable Mr. Jayawickrema to hear it. He states that it would be more convenient if he hears the application as this is a very long case and was heard by him.

Mr. Wikramanayake objects to this application.

In view of this objection I proceed to hear the application.

Mr. Pereira states that this is an application to execute the decree, which had been entered in favour of the plaintiff. He gives a resume of the nature of the action brought—the first defendant's case and the judgment that had been delivered. He particularly refers to 10 the judgment on page 36 just before the issues were answered.

The present application is made under section 763 of the C.P.C.; he submits that execution of a decree shall not be stayed merely because the unsuccessful party has preferred the appeal; the burden is on the appellant to show sufficient cause why execution should not be issued; his client is prepared to give such reasonable security as ordered by Court.

Mr. Pereira states that he is not asking for the ejection of the first defendant but he asks that the plaintiff be placed in possession of the premises to which he has been declared entitled. He refers 20 to plan No. 786 (P8). He asks for possession of living quarters; No. 8; library No. 7, the keys of which are with the appellant; students are deprived of gaining access to the books of the library; premises marked 11 which are the kitchen and the Dharmasalava; the priests are now prevented from having their meals cooked in the kitchen; Sri Sumangala Memorial Hall is being used as a private school for youths and young girls and is conducted by one B.C. Waragoda; he reads from the notice appearing in the "Dinamina" of 4.11.1950, which indicates that recently there have been three sessions of the school which were advertised in the newspaper of that date. 30

He states that no loss will be occasioned to the appellant if possession is given to the plaintiff pending the appeal. He cites 26 N.L.R. page 363 at page 365.

Mr. Wikramanayake states that he does not propose to go into the judgment of this Court as the matter is in appeal and in the ordinary course it would be canvassed in the Appellate Courts. He states that if the premises in respect of which the action is brought is declared to be the Sanghika property, the devolution of the control and management of the said property were in accordance with the rules of the Sisyanusisya Paramparawa then his client will succeed 40 in appeal; it would be therefore unreasonable to execute that decree because his client is being in possession since 1941; he submits that his position should not be disturbed. The Additional District Judge realising this has awarded damages in a Re. 1/-.

In regard to the kitchen and the Dharma Salawa, he states that each priest is given a Re. 1/- by charitably disposed individuals for their meals ; this state of affairs can continue without causing any harm to the priests, till the appeal is decided ; his client has no objection to the priests using the Dharma Salawa but he would object to the use of the kitchen by the priests as this may lead to trouble.

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Continued

With regard to the library, all valuable books have been removed by Mr. Hewavitarne from the custody of the first defendant's agent ; there are some books still left and his client has no objection to the
10 library being used between certain fixed hours, but the keys must remain with the first defendant.

Counsel submits that in the case of applications for execution of decree the Court will consider whether the application for execution was before or after the appeal was filed ; if it was after the appeal was filed Section 763 would apply ; the Court before it grants an application for execution in such a case must be satisfied that if it is not granted it would result in substantial loss and irreparable injury and damage to the decree holder ; the burden is shifted on to the judgment creditor to show that if it is granted it would cause him substantial loss and
20 irreparable damage for execution of his decree though an appeal has been preferred.

He refers to the judgment of the Supreme Court of 11.2.44 in A.C.R. Colombo 92901 in which the Court stayed execution of the decree pending the hearing of the application by the appellant to stay writ ; he admits that ultimately writ was not stayed, but that order was made in the circumstances of that particular case ; the Court will also bear in mind that there is always a reasonable prospect of the judgment being set aside, and if it is set aside it will undoubtedly cause irreparable injury to the appellant if pending the
30 decision by the Appellate Court the decree had been executed.

Mr. Pereira in reply submits that no burden is cast on him or his client to show irreparable loss and damage ; his client is entitled to the fruits of the decree he has obtained ; it is for the appellant to show that unless security is ordered he would suffer irreparable loss. He cites 3 *Chancery Appeals*, page 814 ; 11 *Probate Division* 116 ; 41 *N.L.R.*, page 89.

Mr. Wikramanayake cites 46 N.L.R., page 342.

Order reserved for 23.1.1951.

(Sgd.) V. MANICAVASAGAR,

A.D.J.

18.1.1951.

Order of the District Court

D.C. 2882/L.

23.1.1951.

ORDER

This is an application by the plaintiff, decree holder, to execute the decree which he has obtained, and against which decree and judgment the first defendant has lodged an appeal.

The decree declared the plaintiff, as against the first defendant, to be a trustee of a charitable trust, and entitled to the entire premises described in schedule C of the decree, and depicted in plan 786 dated 10 10.7.1943 made by I. W. W. Indatissa, Licensed Surveyor; that the first defendant be ejected from the said premises, and to damages which, it is relevant to observe, was by consent of parties, restricted to only Re. 1/-.

The first defendant appealed from the judgment and the decree, and subsequent to the filing of the appeal, the decree holder made this application for execution under section 763 of the C.P.C.; he asks in his petition that the first defendant be ejected from the library (building No. 7), kitchen and Dhanasalawa (No. 11), and the Sri Sumangala Memorial Building, all of which are shown in the plan referred to 20 above; this application is supported by his affidavit; in answer to this the first defendant filed a counter affidavit denying some of the statements made by the decree holder, and stating certain facts; he also stated *inter alia* that if writ be executed he will suffer grave and irremediable damage in as much as he would lose control of the entirety of the building, the title to which he claimed as Viharadhipathy.

It is submitted by learned counsel for the decree holder that on an application under section 763, the Court should as a matter of course allow the execution of the decree, for the reason that the 30 execution of the decree should not be stayed by reason only of an appeal having been preferred; and he submits that if sufficient cause is shown by the judgment-debtor, the Court might protect his interests, in the event of his succeeding in appeal, by directing the decree holder to give security for one or more of the purposes indicated by section 763.

I concede that the mere fact of an appeal having been preferred should not prevent the decree holder from realising the fruits of the decree he has obtained; but, I certainly do not agree that where an appeal has been preferred, execution must issue as a matter of course; it must be kept in mind that the judgment-debtor is a necessary party 40 to an application to execute the decree, pending appeal; he is entitled to be heard against the issue of execution; his appearance is not

restricted solely to showing such cause so as to make provision for an order of security against the decree holder ; the following opening words of the second para of section 763 are significant.

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District Court
23.1.51—
Continued

“ If, on any such application, an order is made for the execution of a decree against which an appeal is pending ; . . . ”

I think the word *if* visualizes the prospect of an application for execution pending appeal, being refused ; if as is contended by learned counsel for the decree holder, the execution must issue as a matter of course despite the appeal, there is no purpose in the use of the words
10 of the section I have quoted it should have been set down differently ; therefore, I say that the judgment-debtor's rejoinder to the application must be considered ; and one factor the Court should bear in mind is whether if execution issues, substantial loss and/or irreparable damage would result to the judgment-debtor ; “ The loss must be a tangible one and not a mere annoyance to the feelings.”

In the present application, the ejection of the first defendant is sought from the kitchen and Dhansalawa, the library, and the Sri Sumangala Memorial Building ; these buildings are stated by the decree holder in his affidavit were for the use of his pupils who have
20 been deprived of the use of these since the judgment-debtor came into occupation of them ; the judgment-debtor according to the affidavit, and the evidence in the case has been in possession, prior to 1943 ; and has been conducting classes in the Sri Sumangala Memorial Building ; if execution issues, these classes must necessarily cease to exist resulting in disorganisation and interruption of the work of the pupils who attend these classes at present ; in my view this would be a loss that cannot be repaired, or sufficiently remedied by damages, if the judgment-debtor was to succeed in the appeal. The kitchen, the Dhanasalawa and the library are being used by the pupils of the
30 judgment-debtor and it seems to me that if they were to be deprived of these amenities it is more than likely that substantial loss can result. The decree holder, the pupils and teachers of the Pirivena have for some years now being deprived of the use of these buildings, and I do not think a wait of another year or two is likely to cause such detriment as would undoubtedly ensue to the judgment-debtor and his pupils if execution was allowed.

I therefore think that the application for execution should not be permitted ; the application is refused with costs payable to the judgment-debtor.

40

(Sgd.) V. MANICAVASAGAR,
Additional District Judge.

23.1.1951.

No. 44
 Objections of
 the 1st
 Defendant
 2.6.54

No. 44**Objections of the 1st Defendant****IN THE DISTRICT COURT OF COLOMBO**

Ven. Baddegama Piyaratana Nayaka Thera as Principal
 of the Vidyodaya Pirivena, Maligakanda, Colombo....
*Plaintiff*

vs.

1. Ven. Morantuduwe Sri Dhammananda Nayaka Thera
 and others.....*Defendants.*

No. 2882/Land.

10

On this 2nd day of June, 1954.

The objections of the 1st defendant abovenamed appearing by Somawira Gunasekera, his proctor, states as follows :—

1. The plaintiff on 18th June, 1952, made an application to this Court to substitute Mr. Dudley Shelton Senanayake for the deceased 2nd defendant Don Stephen Senanayake and to substitute Jothipala Subasinghe for the 11th defendant B. R. Dias who had resigned.

2. The Court has made order allowing the said application on 18.6.52 without noticing this defendant or his proctor in the case 20 without any inquiry.

3. The plaintiff applied also on 15.3.54 to substitute Dr. A. M. Samarasinghe for the deceased 19th defendant Jothipala Subasinghe and the Court has similarly made order allowing this application.

4. This defendant says that the said orders allowing the said application for substitution are bad in law and of no effect as such orders were not made with the consent of all parties nor was notice to all parties of the said applications served on all proctors and their objections heard.

5. The defendant states that the said Mr. Dudley Shelton 30 Senanayake and Mr. Jothipala Subasinghe were not duly appointed members of the Vidyadhara Sabha and their appointments were void and of no legal effect.

6. This defendant also says that the election of the said Dr. A. M. Samarasinghe referred to in paragraph 3 of the plaintiff's petition dated 20th February, 1954, was bad and void in as much as proper notice of the said General meeting of the Vidyadhara Sabha referred to had not been given to Members of the Sabha and the said meeting has not been properly convened. The appointment of the said Dr. A. M. Samarasinghe was not duly made and is therefore void and 40 of no legal effect.

Wherefore this defendant prays—

- (a) that the order of this Court dated 18.6.52 substituting Mr. Dudley Shelton Senanayake for the deceased—2nd defendant Mr. Don Stephen Senanayake and substituting Jothipala Subasinghe for the 11th defendant B. R. Dias who has resigned be declared void and of no legal effect and that the said orders be *pro forma* set aside ;
- 10 (b) that the order of this Court dated 15.3.54 substituting Dr. A. M. Samarasinghe for the deceased 19th defendant Jothipala Subasinghe be declared void and of no legal effect and that the said order be *pro forma* set aside ;
- (c) for an order that the said applications of the plaintiff dated 18.6.52 and 15.3.54 be heard *de novo* ;
- (d) for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) S. GUNASEKERA,
Proctor for 1st Defendant.

Settled by :

20 H. W. JAYEWARDENE, Esqr.,
Advocate.

Received notice with copy of the objections on behalf of the plaintiff.

(Sgd.) W. H. SENANAYAKE,
Proctor for Plaintiff.

No. 45

Proceedings before the District Court

2882/Land.

22.7.54.

Mr. Kingsley Herat for plaintiff instructed.

30 Mr. E. G. Wikramanayake, Q.C., with Mr. Wilmon Gunasekera instructed by Mr. Somawira Gunasekera for the 1st defendant.

Mr. Kottegoda for 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 16th, 17th, 18th and 20th respondents.

INQUIRY

Mr. Herat states that this action was filed by the plaintiff against the 1st defendant, and refers to the amended plaint at page 8. In 1873 certain people formed themselves into an association with the

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Objections of
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ideas of establishing a Pirivena. Later on one of them executed a deed conveying certain premises to the Rev. Sumangala and his successors in the office of Principal of the Pirivena for the purpose of a charitable trust. From time to time various Principals were appointed to succeed the Principal and the present Principal was the plaintiff Rev. Baddegama Thero. The plaintiff complained that the 1st defendant priest was in wrongful possession of a portion of the Pirivena premises and he asked that the Court be pleased to declare the plaintiff holder of the premises as trustee of the charitable trust, and that the plaintiff be declared trustee of those lands. 10

The 2nd to 14th defendants were made parties for the reason given in para 28 of the amended plaint. By the time the case came up for trial some of the defendants had died and substitutions were made, who were elected to the Sabha. Mr. Herat refers to proceedings of 15th November, 1950, page 113.

Mr. Wikramanayake says he received no notice of the application for substitution. He challenged the due election of the substitutes, if they come in on the basis of the election. The method of the election is the matter that goes to the root of the whole case.

Mr. Kottegoda says that the matter now concerns the 18th and 20 20th respondents.

Mr. Herat continuing says that on the 15th May, 1950, it was pointed out to Court that the original 4th defendant Mr. J. Munasinghe, one of the members of the Sabha, was dead but he does not transfer his rights to anybody. The 16th defendant Mr. Daya Hewavitarne was substituted in place of the 4th defendant. The 15th defendant Dr. B. E. Fernando was substituted in place of the original 14th defendant Dr. D. B. Perera who died. The case came up for trial. (Refers to page 117.) That is the stage when issues had been framed and counsel for the 1st defendant raised certain issues of laws to whether 30 the property had been properly vested in the plaintiff under the Trust Ordinance. This Court made an order which was appealed from and the Supreme Court made order that the plaintiff could appeal. Certain additional issues were thereafter framed. The Judgment is given at page 634 of the brief. The Court held with the plaintiff and on this issue 34 the answer is at page 637. The 1st defendant appealed against the judgment of this Court. In the meantime the original 2nd defendant the late Rt. Hon. D. S. Senanayake died and in his place substituted Mr. Dudley Senanayake the present 18th defendant.

Mr. Wikramanayake states that the substitution of the 18th 40 defendant is also objected to by the 1st defendant. Mr. Herat continuing says that that substitution took place somewhere in 1952. On the 18th June, 1952, the plaintiff applied for the substitution of Mr. Dudley Senanayake in place of the deceased 2nd defendant and

that the original 11th defendant having resigned, one Mr. Jothipala Subasinghe be substituted for the 11th defendant. The Court made order allowing those substitutions. Mr. Jothipala Subasinghe was substituted as the 19th defendant in place of 11th defendant, and the record was sent back to the Supreme Court. Then Mr. Jothipala Subasinghe himself died and on an application made by the plaintiff on 15th March, 1954, Dr. A. M. Samarasinghe the present 20th defendant was substituted in place of the deceased Jothipala Subasinghe. All those applications were made by the plaintiff to this Court without
 10 notice to the 1st defendant. Mr. Herat submits that there is no requirement for plaintiff to give notice to the 1st defendant. He refers to Chapter 25 of the Civil Procedure Code commencing with section 392 which makes provisions for substitutions of parties in certain circumstances. He also refers to section 404 which catches up the case of devolution or transmission of interests other than by actual death or intestacy. Where these particular substitutions were concerned, section 404 is not applicable. His contention is that section 404 is applicable only when some right in the subject matter of the action is transmitted other than by way of succession, but it must be an
 20 interest in the subject-matter of the action. In this particular case, the original defendants who died are people against whom no relief is claimed. They had no interest in the subject-matter of the action. Section 404 of the C.P.C. was originally the equivalent of section 372 of the Indian Code which has now been repealed and is now Order 22, Rule 10 of the present Indian Code. The point he aims at is what is meant by the word "interest". "Interest" has been defined as 'interest in the property the subject-matter of this action', and the case which says so is 30 Calcutta 961 (1903). There is no other section which applies except section 839 of the C.P.C. but this section
 30 cannot be used if there is express provision in the code.

He also cites 35 Bombay 393 (1911). Another case on the same point is 12 Calcutta 642. Mulla's Civil Procedure Code, pages 433 and 435), sets out the various uses for things that can be done by a Court under section 839 of our code. The necessity of giving notice therefore does not arise.

Mr. Herat points out that the objections are dated 2nd June, 1954. The whole of Chapter 25 of the Civil Procedure Code refers to devolution of interest in the subject-matter of the action. Mulla's commentary at page 876 on the scope of the original section 376,
 40 now Order 22, Rule 10, gives the various illustrations of the cases dealt with by that section. If therefore section 404 applies, the plaintiff has no right to make an application for the substitution without notice to all the parties.

Mr. Kottegoda refers to deed 925 of 6th December, 1873 (P1). The Sabha was created on that deed and what is enjoined in that deed had been done.

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 Proceedings
 before the
 District Court
 22.7.54—
Continued

Mr. Herat is asked by Court if he concedes that paragraph 6 of the deed should have been complied with for the purpose of substitution and any substitution made in the absence of such compliance is not valid.

Mr. Herat says that the affidavit in all those cases sets out that somebody had died, and what had been done and who were substituted and elected at the meeting. It was open to the Court to call upon the petitioner to mark the minutes but the Court acted on the affidavit. On the death of Mr. D. S. Senanayake a similar affidavit had been filed. On that evidence the Court was satisfied and made the substitution. The order had therefore been made. He further states that 1st defendant's complaint against the order is twofold. First of all the 1st defendant says that the order is bad because no notice is given. Plaintiff has argued that the notice is good. If the order is good though no notice was given, 1st defendant cannot complain of the evidence or material which was placed before Court. If the Court wants to satisfy itself that there was proper compliance with the rules of the Sabha he is prepared to satisfy the Court by calling the necessary witnesses, and producing the publications in the various newspapers. But he says all that is not necessary. 20

Mr. Kottegoda states that if the Court needs evidence he is prepared to lead that evidence. He is prepared to prove that what is enjoined in that deed has been correctly, duly and in time been done. He asks that he be allowed to call Mr. Raja Hewavitarne to show that the 18th defendant was substituted for the 2nd defendant correctly according to the rules of the Sabha.

Mr. Wikramanayake objects and says he is entitled to a notice. An order made without notice being given has to be supported.

Mr. Kottegoda goes further and says that there is no evidence that the order made by the Court is not correct. Nobody has come forward to say that the appointments were not made correctly. 1st defendant has filed certain objections. Those objections are not supported by petition and affidavit. The 18th respondent was made a party as long ago as 1952. The 1st defendant appellant was aware of the fact of the substitution of the parties. He says that the objections are not proper according to the procedure observed in the code. 30

Mr. Wickramanayake states that this case was sent back from the Supreme Court by reason of the fact that somebody had died and the Supreme Court could not go on with it. He was not aware that there was a definite method of election to the Sabha until Mr. Kottegoda mentioned it and to satisfy the Court they had given notice to the Court. The Court has been surprised into this. When they made a second substitution his client sent a letter to the Registrar of the Supreme Court. 40

He also states that not one of the judgments referred to by Counsel for plaintiff have any bearing on this case. The deed itself which gave the grant is a matter of interpretation.

The fact that the defendants are trustees is set out in the plaint. The trustees took part in the proceedings and appeared by Counsel throughout the case. He further says that when a party has come and given notice to the other parties and not to him and swears an affidavit that notice has been given, that notice does not apply to him.

Audi Alteram partem is the most cardinal rule of justice.

10 Mr. Herat cites Chittaley, Vol. 2, 2nd Edn. at p. 2144 and 47 N.L.R. 537.

Order 27.7.

(Sgd.) G. C. T. A. de SILVA,
A.D.J.

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Proceedings
before the
District Court
22.7.54—
Continued

No. 46

Order of the District Court

2882/Land.

No. 46
Order of the
District Court
27.7.54

ORDER

20 In this case decree was entered declaring --(a) that the plaintiff do hold the lands and premises described in the Schedules A and B hereto and now described in the Schedule C hereto as one property in trust for all as trustee of a charitable trust for the purposes referred to in deed No. 925 dated 6th December, 1873 ; (b) that the plaintiff as such trustee is declared entitled to the said lands and premises ; (c) that the 1st defendant be ejected from the said lands and premises and the plaintiff be placed in quiet possession thereof and that the 1st defendant do pay to the plaintiff a sum of Re. 1/- as damages ; and

30 (d) that the 1st defendant do pay to the plaintiff his costs of this action ; and that the 1st defendant also do pay the 2nd defendant, 3rd, 5th, 6th, 7th to 13th, 16th and 17th defendants costs already allowed them by this Court.

The 1st defendant appealed from the judgment of this Court. The 2nd defendant-respondent died pending appeal and the record was returned to this Court by the Registrar of Supreme Court, for necessary action. The case was called on 18.6.1952 for steps to be taken. On that date the Hon. Mr. Dudley Shelton Senanayake was substituted as the 18th defendant-respondent in place of the 2nd defendant-respondent deceased. The 11th defendant-respondent 40 had resigned from the membership of the Vidyadhara Sabha and the

No. 46
Order of the
District Court
27.7.54—
Continued

19th defendant-respondent was substituted in his place on the same day. The 19th defendant-respondent also died on 12.1.54 and the 7th defendant-respondent who is the Secretary of the said Vidyadhara Sabha filed an affidavit and moved that Dr. A. M. Samarasinghe be substituted as 20th defendant-respondent in place of the 19th defendant-respondent. This application was allowed and the 20th defendant-respondent was substituted in place of the 19th defendant-respondent. On 7.6.54 the 1st defendant filed a motion objecting to the substitution of the 18th defendant-respondent in place of the 2nd defendant-respondent deceased and to the substitution of the 20th 10 defendant-respondent in place of the 19th defendant-respondent. The 1st defendant-appellant's objection is that no notice of the application for the substitution has been served on him as required by section 404 of the Civil Procedure Code. Section 404 is in the following terms :

“ In other cases of assignment, creation or devolution of any interest pending the action, the action may with the leave of the Court given either with the consent of all parties or after service of notice in writing upon them and hearing their objections if any be continued by or against the persons to whom such interest has come 20 either in addition to or in substitution for the person from whom it has passed as the case may require.”

It is agreed that the other sections of Chapter 25, which deals with the continuation of actions after alteration of a party's status have no bearing at all on the question for consideration in this case. The plaintiff's contention is that section 404 also has no application in this instance and that the order for substitution has been correctly made. The plaintiff maintains that 2nd to 17th defendants are not necessary parties to this action as they have no interests in the subject-matter of the action. It is argued for the plaintiff that the word 30 'interest' in section 404 means an interest in the subject-matter of the suit and that no notice of substitution need be served on the 1st defendant-appellant as the 2nd to 17th defendants-respondents have no interest in the subject-matter of the action. In support of this submission I was referred to a number of authorities. In Ceylon Law Weekly, Vol. I, page 313 (*Wilson v. Velayathan Chettiar*) it was held that 'Interest' in section 404 of the Civil Procedure Code means 'Interest' in the property the subject-matter of the suit. This case followed the principal laid down in *Harish v. Chandpori Co., Ltd.* (30 Calcutta 961). 40

In the Indian Civil Procedure Code, Act 14 of 1882, section 372, is in the same terms as section 404 of the Ceylon Procedure Code. But there is authority for the proposition that the word 'interest' has been construed to mean not merely interest in the subject-matter of the suit but any interest which will be vitally affected by the suit.

It has been held in Harihas Prasad *v.* Gendai Lal (A.I.R. 1918 Patna) that the 'interest' contemplated in 0.22.r.10, is any interest which will be vitally affected by the suit. The addition of a party, however, to a suit under that rule is a matter within the discretion of the Court. 0.22.r.10 corresponds to section 404 of our code. In the present case the defendants 2, 3, 4, 5, 7 to 12, 13, and 14 have consistently taken up the position that they are vitally interested in the suit. At this stage I may refer to paragraph 7(b) of the answer filed by the said defendants where they state that the plaintiff as Principal and in-

10 cumbent and his predecessors in the said office of Principal and incumbent have acquired a prescriptive title to the said premises subject to the condition that the said premises should be held for the same use and for the same purposes as the premises in Schedule A and subject to the rights of the said Sabha similar to the rights exercised by the said Sabha in respect of the premises in Schedule A. They prayed that the plaintiff be declared entitled to hold the said premises in the Schedules A and B as a Charitable trust for the purposes referred to in the Deed No. 925.

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District Court
27.7.54—
Continued

These defendants participated in the trial. They took up the

20 position that they were necessary parties to the action and that issues 3, 4, 14, 15, 22 to 26 vitally affect them. It will thus be seen that there is a conflict of interest between these defendants and the 1st defendant-appellant. It may be that as far as the plaintiff is concerned these defendants are not necessary parties to the action. But the defendants themselves take up a different position. In this connection I may also refer to issue 34 "Have the 2nd to 17th defendants been either necessarily or properly made parties to this action?" It was conceded by the 1st defendant at the trial that 2nd to 17th

30 defendants were not necessary parties in view of the position taken up by the plaintiff in the amended plaint. But as I have stated earlier, there are other issues which vitally affect these defendants-respondents. In that view of the matter I hold that section 404 of the Civil Procedure Code is applicable in the circumstances of this case. It is conceded that notice of the application for substitution has not been served on the 1st defendant-appellant. The order for substitution already made therefore cannot stand. Accordingly I set aside the order made in respect of the substitution of the 18th defendant-respondent in place of the 2nd defendant-respondent and the 20th defendant-respondent in place of the 19th defendant-

40 respondent. This order, however, will not operate as a bar to the substitution of the 18th and 20th defendants-respondents in place of the 2nd defendant-respondent and the 19th defendant-respondent after compliance with the formalities described in section 404. In other words, the merits of the application for the substitution will be considered after notice of this application is served on the 1st defendant-appellant and on hearing his objection.

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 Order of the
 District Court
 27.7.54—
 Continued

In my opinion it is not necessary to invoke the provisions of section 839 of the Civil Procedure Code as contended for by the plaintiff. Even if section 839 is availed of it is in the interest of justice that notice should be served on the 1st defendant-appellant of the plaintiff's application for substitution of parties. In 4 Ceylon Law Journal 193 (Selvadurai vs. Suntherarajah) it was held that even where a Court has recourse to such inherent Powers it must be careful to see that its decision is in harmony with sound legal principles and it is not inconsistent with the intentions of the legislature. It may be noted that the appointment of a successor in the event of the death 10 or resignation of any member of the Sabha is governed by deed No. 925 of 1873. It therefore becomes all the more necessary that notice of application for substitution should be served on the 1st defendant-appellant.

It was suggested by Mr. Kottegoda on behalf of the defendants-respondents that this is an attempt on the part of the 1st defendant-appellant to delay the final hearing of this case. I cannot help commenting on the facts that the 1st defendant-appellant took no action in the matter when the case was returned to this Court for necessary action as far back as 1952. It took the 1st defendant-appel- 20 lant nearly 2 years to file a motion objecting to the substitution already made.

The costs of this inquiry will be considered when the order for substitution is finally made.

(Sgd.) G. C. T. A. de SILVA,
A.D.J.

No. 47
 Objections of
 the 1st
 Defendant
 29.9.54

No. 47

Objection of the 1st Defendant

IN THE DISTRICT COURT OF COLOMBO

Rev. Baddegama Piyaratana Nayaka Thero as Principal 30
 of the Vidyodaya Pirivena, Maligakanda, Colombo.....
 *Plaintiff*

vs.

1. Rev. Morontuduwe Sri Naneswara Dhammananda,
 Nayaka Thero of Maligakande, Colombo, and others
 *Defendants.*

In the matter of an application to substitute a Member/
 Members of the Vidyadhara Sabha in place of the 2nd
 defendant deceased and 11th defendant resigned

between

Rev. Baddegama Piyaratana, Nayaka Thero, Principal of
the Vidyodaya Pirivena, Maligakanda, Colombo.....
.....*Petitioner*

and

1. Mr. Dudley Shelton Senanayake.
2. Mr. Jotipala Subasinghe.
3. Dr. A. M. Samarasinghe, all of Colombo.....
..... *Respondents.*

No. 47
Objections of
the 1st
Defendant
29.9.54—
Continued

10 Nc. 2882/Land.

On this 29th day of September, 1954.

The objections of the 1st defendant abovenamed appearing by Somawira Gunasekera, his proctor, states as follows:—

1. This defendant objects to the substitution of—

(a) the 1st respondent Mr. Dudley Shelton Senanayake in place of the 2nd defendant deceased (Hon. Mr. D. S. Senanayake);

(b) the 2nd respondent Mr. Jothipala Subasinghe in place of the 11th defendant who resigned (Mr. B. R. Dias); and

20 (c) the 3rd respondent Dr. A. M. Samarasinghe in the place of the said Mr. Jothipala Subasinghe deceased.

2. This defendant denies that the alleged election of the said Mr. Dudley Shelton Senanayake, Jothipala Subasinghe and Dr. A. M. Samarasinghe has been properly and lawfully made and puts the plaintiff-petitioner to the proof of the same.

3. The methods of election of members of the Vidyadhara Sabha is prescribed and set out in Deed No. 925 of 6th December, 1873, read together with Deed No. 1259 of 9th March, 1876. It is submitted that the respondents have not been elected in accordance with the requirements set out in the said two deeds.

30 4. This defendant further states that according to the said Deed No. 925 upon a vacancy it should be filled by election by a majority vote of those present at a meeting of the Dayakayas and the remaining members of the Sabha: at least 8 days notice of that meeting should be given by proper publication in the newspapers and by such other manner.

40 5. This defendant states that the election of the Hon. D. S. Senanayake, Mr. Raja Hewavitarne and Dr. G. P. Malalasekera were bad and that therefore the election of one in place of the said Mr. D. S. Senanayake is bad and that all meetings for the election of members in which the said Mr. Raja Hewavitarne and Dr. G. P. Malalasekera participated are bad in law.

No. 47
 Objections of
 the 1st
 Defendant
 29.9.54—
Continued

6. This defendant further states that the meetings for the election of (1) Mr. Dudley Shelton Senanayake, (ii) Mr. Jothipala Subasinghe, and (iii) Dr. A. M. Samarasinghe were not properly convened or conducted by giving proper notice to the Dayakayas and the remaining members of the Sabha in the manner provided by the said Deed No. 925. A large number of voters were kept away from the said meetings—

- (a) due to insufficient publicity;
 - (b) restrictions imposed by the nature and form of the notice;
- and 10
- (c) misconception of those convening and conducting the said meetings in regard to their own rights and those of the Dayakayas.

Wherefore the 1st defendant prays—

- (a) that the application of the petitioner to substitute the names of Mr. Dudley Shelton Senanayake in place of the 2nd defendant deceased, Mr. Jothipala Subasinghe in place of the 11th defendant who had resigned from the membership of the Sabha and Dr. A. M. Samarasinghe in place of the 2nd respondent who also died pending appeal be dismissed with costs; 20
- (b) for costs; and
- (c) for such other and further relief as to this Court shall seem meet.

(Sgd.) S. GUNASEKERA,
Proctor for 1st Defendant.

Settled by
 W. D. GUNASEKERA, Esqr. and H. W. JAYEWARDENE, Esq., Q.C.

No. 48
 Proceedings
 before the
 District Court
 3.12.54

No. 48
Proceedings before the District Court

2882/Land.

3.12.54. 30

1st defendant absent.

Mr. Advocate Herat for plaintiff instructed.

Mr. E. G. Wikramanayake, Q.C., with Mr. Gunasekera for 1st defendant instructed.

Mr. Advocate Kottegoda for 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 16th, 17th, 18th and 20th defendants instructed.

Mr. Kottegoda states that the original plaint was filed on 26th July, 1943 ; judgment was delivered by this Court on 20th November, 1944. One of the parties appealed to the Supreme Court and the Supreme Court by Order dated 25th October, 1946, sent the case back for re-trial. The re-trial took place from 15th May, 1950, till 15th September, 1950. This Court delivered judgment on 17th October, 1950, and the 1st defendant-appellant filed petition of appeal on 18th October, 1950. During the course of the proceedings there were the 1st defendant and 13 others. Four defendants died and a defendant
 10 was appointed in place of them. The 14th defendant died and the 15th defendant was substituted. Then a number of defendants died and substitution was made. The 2nd defendant Mr. D. S. Senanayake died and in his place Mr. Dudley Senanayake was substituted according to Deed No. 925 of 1923 which is the deed applicable for the substitution of members who have either died or resigned. The original 11th defendant resigned and Mr. Jothipala Subasinghe was appointed, he also died and in his place Dr. A. M. Samarasinghe was appointed. As regards the substitution he says his clients have carried out those things that are enjoined on them by the deed No. 925. Clause 6
 20 states that the filling of the vacancies must be done within a month of the death or resignation of a member. He reads clause 6. The other relevant clause is clause 13.

Mr. Kottegoda submits that the substitution of the members of that Society were carried out as enjoined in that deed. If necessary, he is prepared to lead evidence on that.

Mr. Wikramanayake states that the Secretary of the Society must be brought forward and cross-examined. The Secretary must produce the minutes of the meeting. He objects to anyone else being called in to swear to the proceedings of the meeting where the
 30 minutes have been signed by somebody else. The person who swore the affidavit must be produced to be cross-examined. As Dr. Malalasekera was the Secretary of the Society and had signed the minutes, he desires that Dr. Malalasekera be brought before Court to be cross-examined by him.

Mr. Kottegoda says that the gentleman who swore the affidavit is out of the Island.

Mr. Wikramanayake states that there is no affidavit before Court and there is also no proper application before Court. There is therefore no material on which this inquiry can proceed.

40 Mr. Kottegoda states that he is prepared to prove the averments made in the affidavit.

Mr. Wikramanayake says this inquiry cannot proceed as it is not supported by affidavit. If the other parties want to rely on the affidavit they must produce the person who swore the affidavit for the purpose of cross-examination.

No. 48
 Proceedings
 before the
 District Court
 3.12.54—
Continued

Evidence of
 Mudaliyar
 E. A. Abaya-
 sekara
 Examination

Mr. Kottegoda states that the matter was fully argued and this Court made order on 27th July, 1954. Even at the trial the Secretary was a different person. It was Mr. Abayasekara who gave evidence with regard to what took place at the meeting. He moves to call Mr. Abayasekara.

Mudaliyar E. A. ABAYASEKARA. Affirmed. 63. Retired Sinhalese Translator to Government, residing at Dehiwela.

(Mr. Wikramanayake objects to the averments in the affidavit being led in evidence.)

I have been a member of the Sabha for 26 years. I am the 2nd 10 oldest member of the Sabha. Mr. D. S. Senanayake was a member of the Sabha. He was the 2nd defendant. He died about 23rd March, 1952. Thereafter there was a vacancy and we advertised a vacancy and a meeting was held subsequently. It was advertised on the 7th April, 1952, in the Observer. I produce copy of the Sinhala Bauddhaya marked XI and the draft notice dated 1952. (Witness reads the notice.) In pursuance of this notice a meeting was held. I produce marked X2 the minutes of the meeting held.

(Mr. Wikramanayake objects to the minutes of the meeting being produced by this witness.) 20

I have been a member for 26 years.

(Counsel states that Dr. Malalasekera has signed the minutes of the meeting as Secretary.)

I was present at that meeting. Dr. Malalasekera is out of the Island. So is Mr. Hewavitarne. I also produce the advertisement in the Ceylon Observer.

(Mr. Herat states that he appears for the plaintiff and as far as he is concerned he is not ready to proceed with the inquiry in the absence of Dr. Malalasekera. On the question of costs he asks the Court to refer to the judgment which was in favour of the plaintiff. 30 Pending appeal certain other members of the Sabha had died and the record had been sent back by the Supreme Court for substitution. It was held that notice was necessary to the other side. He asks that costs be made to abide the result of the inquiry.)

(Mr. Wikramanayake insists on costs being paid.)

(Mr. Herat states that petition and affidavit have been filed. The application for a date by him is on the ground that he is not ready to proceed with the inquiry in the absence of Dr. Malalasekera who is the Secretary of the Sabha and he has signed the affidavit.

Mr. Wikramanayake asks for his costs.) 40

(Mr. Herat states that the order for costs in this case be made to abide the result of the inquiry.)

It appears that Dr. Malalasekera has left the Island and the plaintiff would have been aware of this fact. Plaintiff should have in these circumstances made an application for a date before the date of the inquiry. In the circumstances I order the plaintiff to pay the costs of today to Mr. Wikramanayake's client.

No. 48
Proceedings
before the
District Court
3.12.54--
Continued

Inquiry 31.1.

(Sgd.) G. C. T. A. de SILVA,
A.D.J.

No. 49

Proceedings before the District Court

10

D.C. 2882/L.

31.1.55.

No. 49
Proceedings
before the
District Court
31.1.55

Mr. Kottegoda states that the 6th defendant in this case has died pending appeal. Mr. Kottegoda states that he will take steps *re* 6th defendant deceased.

Steps 23.2.55.

Mr. S. Gunasekera, proctor for 1st defendant files motion asking Court to revoke the proxy granted to him by 1st defendant.

Issue notice on 1st defendant for 23.2.55.

(Sgd.) G. C. T. A. de SILVA,
A.D.J.

20

No. 50

Affidavit of G. P. Malalasekera

IN THE DISTRICT COURT OF COLOMBO

Rev. Baddegama Piyaratana Nayaka Thero as Principal
of the Vidyodaya Pirivena, Maligakanda, Colombo . . .
.....*Plaintiff*

No. 50
Affidavit of
G. P.
Malalasekera
18.2.55

No. 2882/L.

vs.

1. Rev. Morontuduwe Sri Naneswara Dhammananda
Nayaka Thero of Maligakanda, Colombo and
others..... *Defendants.*

30

In the matter of an application to substitute a member of the Vidyadhara Sabha in place of the 6th defendant deceased.

No. 50
Affidavit of
G. P.
Malalasekera
18.2.55—
Continued

between
Rev. Baddegama Piyaratana Nayaka Thero, Principal of
the Vidyodaya Pirivena, Maligakanda, Colombo
..... *Petitioner*
and
Gamini Jayasuriya of No. 494/6, Galle Road, Colombo 3,
..... *Respondent*

I, Gunapala Piyasena Malalasekera of Longden Terrace, Colombo, do hereby solemnly, sincerely and truly declare and affirm as follows :— 10

1. I am the 7th defendant in the above case and Secretary of the Vidyadhara Sabha duly elected on 30th April, 1952.

2. W. H. W. Perera who was a member of the Vidyadhara Sabha and the 6th defendant in the above case departed this life on the 7th day of January, 1955, and at a special general meeting of the Vidyadhara Sabha held on 4th February, 1955, the respondent abovenamed was unanimously elected as a member of the said Sabha in place of the said deceased.

3. It has become necessary for the purpose of the above case to substitute the respondent abovenamed in place of the 6th defendant 20 deceased.

Signed and affirmed to at Colombo }
on this 18th day of February, } (Sgd.) G. P. MALALASEKERA.
1955.

Before me.
(Sgd.) R. Hewavitarne,
J.P.

No. 51
Petition of Rev.
Baddegama
Piyaratana
Nayaka
Thero
23.2.55

No. 51
Petition of Rev. Baddegama Piyaratana Nayaka Thero

IN THE DISTRICT COURT OF COLOMBO 30

Rev. Baddegama Piyaratana Nayaka Thero as Principal
of the Vidyodaya Pirivena, Maligakanda, Colombo
..... *Plaintiff*

No. 2882/L.

vs.

1. Rev. Morontuduwe Sri Naneswara Dhammananda
Nayaka Thero of Maligakanda, Colombo and
others..... *Defendants.*

In the matter of an application to substitute a member of the Vidyadhara Sabha in place of the 6th defendant deceased

No. 51
Petition of Rev. Baddegama Piyaratana Nayaka Thero
23.2.55—
Continued

between

Rev. Baddegama Piyaratana Nayaka Thero, Principal of the Vidyodaya Pirivena, Maligakanda, Colombo.....
.....*Petitioner*

and

Gamini Jayasuriya of No. 494/6, Galle Road, Colombo 3
..... *Respondent.*

10

On this 23rd day of February, 1955.

The petition of the petitioner abovenamed appearing by William Henry Senanayake, his proctor, states as follows :—

1. The petitioner is the plaintiff abovenamed.
2. Willorage Henry William Perera who was a member of the Vidyadhara Sabha and the 6th defendant in the above case departed this life on the 7th day of January, 1955, and at a special general meeting of the Vidyadhara Sabha held on the 4th February, 1955, the respondent abovenamed was unanimously elected as a member
20 in place of the said 6th defendant deceased.
3. It has become necessary for the purpose of the above case to substitute the respondent abovenamed in place of the 6th defendant deceased.

Wherefore the petitioner prays—

- (a) that the respondent abovenamed be substituted in place of the said 6th defendant deceased ;
- (b) for costs in this behalf incurred ; and
- (c) for such other and further relief as to this Court shall seem meet.

(Sgd.) W. H. SENANAYAKE,
Proctor for Petitioner.

30

No. 52

Statement of Objections of the 1st Defendant

IN THE DISTRICT COURT OF COLOMBO

Rev. Baddegama Piyaratana Nayaka Thero as Principal of the Vidyodaya Pirivena, Maligakanda, Colombo....
.....*Plaintiff*

No. 52
Statement of Objections of the 1st Defendant
6.4.55

No. 52
Statement of
Objections of
the 1st
Defendant
6.4.55—
Continued

No. 2882/L

vs.

1. Rev. Morontuduwe Sri Naneswara Dhammananda
Nayaka Thero of Maligakanda, Colombo and
others..... *Defendants.*

In the matter of an application to substitute a Member of
the Vidyadhara Sabha in place of the 6th defendant—
deceased.

between

Rev. Baddegama Piyaratana Nayaka Thero as Principal
of the Vidyodaya Pirivena, Maligakanda, Colombo.... 10
.....*Petitioner*

and

Gamini Jayasuriya of No. 494/6, Galle Road, Colombo 3
..... *Respondent.*

On this 6th day of April, 1955.

The statement of objections of the 1st defendant abovenamed
appearing by Felix Joseph Peter Perera, his proctor, states as
follows :—

1. The 1st defendant admits paragraph 1 of the petition.
2. The 1st defendant admits that Willorage Henry William 20
Perera, was the 6th defendant in the above case and that he departed
this life on the 7th day of January, 1955, but denies the other aver-
ments in paragraph 2 of the petition.
3. The 1st defendant states that the Special General Meeting
alleged to have been held on the 4th February, 1955, was not properly
constituted and that the proceedings of the said meeting are void
ab initio.
4. Alternatively, the 1st defendant states that even if the said
meeting was properly constituted the respondent, Gamini Jayasuriya 30
aforesaid was not duly elected.
5. The 1st defendant denies that Dr. Gunapala Piyasena Malala-
sekera is the Secretary of the Vidyadhara Sabha and that he has any
right of status to swear the affidavit dated 18th February, 1955,
annexed to the petition of the plaintiff.
6. The 1st defendant states that in any event the averments in
the affidavit of Dr. Gunapala Piyasena Malalasekera in respect of the
alleged meeting and the election of the said respondent Gamini
Jayasuriya are not correct.
7. The 1st defendant states that the petitioner cannot have and
maintain this application in law. 40

Wherefore the 1st defendant prays—

- (a) that the petitioner's application be dismissed ;
- (b) for costs ; and
- (c) for such other and further relief as in the premises this Court seems meet.

No. 52
Statement of
Objections of
the 1st
Defendant
6.4.55—
Continued

(Sgd.) F. J. P. PERERA,
Proctor for 1st Defendant.

Settled by

A. B. PERERA,

10 H. W. JAYEWARDENE, Q.C.,
Advocates.

No. 53

Proceedings before the District Court

No. 53
Proceedings
before the
District Court
20.5.55

2882/L

20.5.55.

Mr. Advocate K. Herat for plaintiff, instructed by Mr. W. H. Senanayake.

Mr. Advocate E. G. Wikramanayake, Q.C., with Mr. Advocate A. B. Perera and Mr. P. Ranasinghe for 1st defendant, instructed by Mr. Felix Perera.

20 Mr. Advocate Kottegoda for defendants 3, 5, 7, 8, 9, 10, 12, 13, 16, 17, 20 and 21, instructed by Mr. D. E. Weerasooria.

Mr. Herat addresses Court. He states that judgment was entered against the 1st defendant. He refers to P1. The right to appoint a Principal according to plaintiff was by the members of the Vidyadhara Sabha. The 1st defendant's contention was that it should be according to pupillary succession. When the action was filed defendants 2 to 14 were the members of the Vidyadhara Sabha. Certain defendants died while the case was pending in this Court.

30 Mr. Herat says that substitutions were made according to the terms of the deed P1. No objection was taken then. They were the original 4th and 14th defendants. The 15th defendant was elected to the Sabha in place of the deceased 14th defendant and substituted in the record. The 17th defendant was substituted in place of the 15th defendant. He says that the procedure adopted was that a person is elected by the Sabha when a person dies, and the person so elected is substituted on the record. No objection was taken when this was done while the trial was pending. 1st defendant appealed

No. 53
 Proceedings
 before the
 District Court
 20.5.55—
Continued

against the judgment. When the appeal was pending the 2nd defendant died on the 22nd March, 1952. On 20th April, 1952, Mr. Dudley Senanayake was elected to the Sabha in place of the 2nd defendant.

Then the original 11th defendant resigned from the Sabha and in his place on the 14th May, 1952, one Mr. Jothipala Subasinghe was elected as a member of the Sabha.

Mr. Jothipala Subasinghe himself died on 12th January, 1954, and on the 5th February, 1954, Senator Dr. A. M. Samarasinghe was elected in his place. The record was then sent back by the Supreme ¹⁰ Court for substitution. Mr. Dudley Senanayake was substituted as the 18th defendant on 16th June, 1952, in place of 2nd defendant. Mr. Jothipala Subasinghe was substituted as the 19th defendant and when the 19th defendant died Dr. Samarasinghe was substituted as the 20th defendant.

At that stage when the record was back again in this Court the 1st defendant filed objections stating that these substitutions were bad on two grounds. One was that the substitutions on the record had taken place without notice to him, and therefore as he had not prior consent, it was bad. 1st defendant also took up the position ²⁰ that the election to the Sabha in succession to those people was also bad. The matter came up before this Court and order was made on 27th July, 1954. The Court held that the substitution could only take place under Section 404 and that notice should have been given to the 1st defendant.

On 7th January, 1955, the original 6th defendant died and on 4th February, 1955, Mr. Gamini Jayasuriya was elected to the Sabha and he seeks to substitute Mr. Gamini Jayasuriya as the 6th defendant.

Mr. Herat refers to clauses five and six of P1.

He also refers to clause 13 of P1 under which Mr. B. R. Dias ³⁰ resigned from the Sabha.

Mr. Wikramanayake addresses Court. He refers to the order of 27th July.

Mr. Herat leads evidence and calls—

Plaintiff's Case
 Evidence of
 D. C. S.
 Algama
 Examination

PLAINTIFF'S CASE

D. C. S. ALGAMA. Affirmed. 34. Clerk, Lake House, Colombo.

I am an employee of Lake House. The Manager of the Ceylon Observer has been summoned to produce a copy of the Ceylon Observer of 9th April, 1952, which I produce marked XI. The relevant advertisement is at page 2. The Dinamina is also published ⁴⁰ by the Lake House press. I produce a copy of the Dinamina of 26th January, 1954, which I mark as X2. XI is in connection with the

death of the 2nd defendant and X2 is in connection with the death of Mr. Subasinghe. In X2 the advertisement is at page 2. I also produce marked X3 the Dinamina of 24th January, 1955. The advertisement in X3 appears at page 2.

Cross-examined by Mr. Wikramanayake.

I have just produced these from Lake House. I know nothing at all about these advertisements.

Re-examined. Nil.

(Sgd.) A. L. S. SIRIMANNE,

A.D.J.

10

R. V. EKANAYAKE. Affirmed. 30. Editor, Sinhala Bauddhaya.

I produce marked X4 copy of the Sinhala Bauddhaya of 12th April, 1952.

That is in connection with the death of the 2nd defendant. I also produce marked X5 copy of the Sinhala Bauddhaya of 3rd May, 1952.

(Counsel points to the advertisement being in connection with the resignation of the 11th defendant and election of the 19th defendant.)

20 I was the editor of the Sinhala Bauddhaya for eight years.

Cross-examined. Nil.

(Sgd.) A. L. S. SIRIMANNE,

A.D.J.

Dr. G. P. MALALASEKERA. Affirmed. Longden Terrace, Colombo.

I am a professor of Pali at the University of Ceylon. I am also Dean of the Faculty of Oriental Studies. I acted as Pro Vice-Chancellor of the University for a period. I am an M.A. (London) and D.Litt. (Lond.).

30 I am the 7th defendant in this case. I was made a defendant in my capacity as a member of the Vidyadhara Sabha. The Vidyadhara Sabha was constituted in 1873. The document relating to the election of successors to the Vidyadhara Sabha is the deed which has been marked as P1 in this case. The Vidyadhara Sabha must consist always of 13 members. Clause six of the deed P1 provides for the manner in which members of the Sabha are replaced. Clause 13 provides for the resignation of a member. I became a member of the Sabha since 1935. I was elected as Secretary of the Sabha in April, 1952, in place of Mr. Raja Hewavitarne.

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Proceedings
before the
District Court
20.5.55—
Continued

Evidence of
D.C.S.
Algama
Cross-
examination

Evidence of
R. V. Eka-
nayake
Examination

Evidence of
Dr. G. P.
Malalasekera
Examination

No. 53
 Proceedings
 before the
 District Court
 20.5.55—
Continued

Evidence of
 Dr. G. P.
 Malalasekera
 Examination—
Continued

I produce marked X6 the death certificate of the Rt. Hon. Don Stephen Senanayake the 2nd defendant in this case showing that he died on the 22nd March, 1952. The document X1, the Ceylon Observer of 9th April, 1952, has been produced where this notice appears in English. (Counsel reads X1.) Below the notice appears the name of the Secretary. The document X4, the Sinhala Bauddhaya of the 12th April, 1952, has been produced. (Counsel reads X4.) I have with me the minute book of the Vidyadhara Sabha from 20th April, 1952. I mark the minutes of the meeting of the 20th April, 1952 as X7. The minutes of the meeting are recorded in Sinhalese. 10 Mr. Hewavitarne has signed those minutes. I was the Secretary at that time. They were confirmed on the 30th April, 1952.

(Counsel marks the minutes of the meeting of 20th April as X7A.) (Witness reads minutes of 20th April.)

Seven of the 12 members were present at that meeting. Mr. Dudley Senanayake was unanimously elected in place of the 2nd defendant.

I know Mr. B. R. Dias personally. He was a member of the Sabha; he was the 11th defendant. Mr. B. R. Dias resigned. He was present at the meeting and expressed his inability and reluctance to continue. At the meeting held on the 30th April the minutes of which I produce 20 marked X7B it is minuted that Mr. B. R. Dias resigned and the Sabha accepted his resignation. Those minutes were confirmed on 4th May, 1952. The document X5 which is the Sinhala Bauddhaya has been produced. (Counsel reads X5.) That notice has been sent by me because I was the Secretary at that time.

I produce the minutes of the meeting of 14th May, 1952, marked X7C. (Witness reads X7C.) Mr. Jothipala Subasinghe was unanimously elected in place of Mr. B. R. Dias. Mr. Jothipala Subasinghe died on the 12th January, 1954. I produce copy of his death certificate marked X8. The document X2 is the Dinamina of 26th 30 January, 1954, where I have published the notice regarding a meeting for the purpose of electing a member to the Sabha in place of Mr. Jothipala Subasinghe. I produce the minutes of the meeting of 5th February, 1954, marked X7D. In addition to X2 which was published in the Dinamina, individual notices were sent by me to the remaining members of the Sabha. After I became Secretary I sent individual notices of these meetings for the election of members of the Sabha.

(Witness reads X7D.) At the meeting of the 5th February, 1954, six members of the Sabha were present including myself. There 40 was no quorum when the general meeting of the Sabha was held. At that meeting there were Dayakayas also present. In place of Mr. Jothipala Subasinghe, Senator Dr. A. M. Samarasinghe was elected. He was unanimously elected.

Q. According to these various minutes who are the people who have been present ?

A. These are members of the Vidyadhara Sabha as well as Dayakayas.

X7A, X7C, and X7D show that members of the Sabha and Dayakayas were present.

Mr. W. H. W. Perera the 6th defendant died on the 8th January, 1955, I produce a copy of the death certificate marked X9. The document X3 has been produced which is the Dinamina of 24th 10 January, 1955. I also produce minutes of the meeting of 4th February, 1955, marked X7E. There were members of the Vidyadhara Sabha and the Dayakayas present at that meeting.

Gamini Jayasuriya was elected in place of the late Mr. W. H. W. Perera as a member of the Vidyadhara Sabha. Those minutes were signed by Mr. Kannangara. No meeting has been held after that.

I produce the minute books X7 from my custody as Secretary. The previous minute books have been produced as documents in this case.

Q. You were also elected President of the World Buddhist 20 Association ?

A. The World Federation of Buddhists.

Q. With regard to the members of the Sabha who died, applications are being made in this case to have the people who were elected in their place substituted on the record ?

A. Yes.

Q. And also in connection with Mr. B. R. Dias' resignation ?

A. Yes.

In connection with those applications I have sworn affidavits.

(Shown X7A.)

30 That was at a time when Mr. Raja Hewavitarne was the Secretary. I know his signature.

The minutes were signed by him. At that meeting some members of the Vidyadhara Sabha were present and some Dayakayas were also present.

Cross-examined (Mr. Wikramanayake).

I am the Secretary of the Vidyadhara Sabha today. At the moment only this meeting book is with me. There are no minute books in existence other than those filed in the case and this book. Judgment in the case was delivered in 1950.

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Proceedings
before the
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Evidence of
Dr. G. P.
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Proceedings
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Continued

Evidence of
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Continued

Q. There were meetings held between 1950 and 1952 ?

A. I don't know where those minutes are.

The first minute in this book is a minute signed by Mr. Raja Hewavitarne as Secretary. This minute book was started before I became Secretary. The next minute is mine. It is only at the next meeting that Mr. Raja Hewavitarne owing to the pressure of work decided to resign.

Till that there is no intimation to the Society that he intended to resign.

Q. Mr. Raja Hewavitarne was Secretary ?

10

A. Yes.

Q. After 1950 there were meetings ?

A. Yes.

They were produced at various meetings. When I became Secretary all the minute books were not available. Two years had passed between the case and this minute book. I attended the meetings and some of the minute books are not available.

Regarding the minutes of the 1st meeting, I was the chairman at the next meeting and I wanted this minute book produced at that meeting.

20

(Further hearing 19th and 20th July.)

(Sgd.) A. L. S. SIRIMANNE,

A.D.J.

No. 54
Proceedings
before the
District Court
21.7.55

Evidence of
Dr. G. P.
Malalasekera
Cross-
examination—
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No. 54
Proceedings before the District Court

2882/L.

21.7.55.

Appearances as before.

Dr. G. P. MALALASEKERA. Re-called. Affirmed.

Cross-examination—(Contd.).

Q. You have sworn to what took place at the meeting when 30
Mr. Gamini Jayasuriya was elected in place of Mr. W. H. W. Perera.
You filed an affidavit in Court that you were present at that meeting ?

A. I was present immediately after the meeting finished.

I was not present at the meeting.

Q. What you have sworn to is, what you have heard ?

A. Yes.

(Shown Translation 7E.)

Q. Is your name there at all among those present ?

A. No.

Q. Look at the Sinhalese version which is translated. Your name is there and scored off, can you say who scored that off ?

A. I scored it off before the minutes were presented at the meeting.

Q. At what meeting, there has never been another meeting of the Sabha ?

A. At the meeting of the 4th July of the Vidyadhara Sabha.

10 Q. After that meeting there has been no meeting of the Vidyadhara Sabha ?

A. No.

Q. You said that you scored it off, then it was presented for confirmation ?

A. I remember the list was scored off.

Q. When did Dr. Kannangara sign the minutes when there was no subsequent meeting, on what day did he confirm these ?

A. We had a meeting on the 4th February, 1955. He confirmed the minutes of the same day. I went there after the meeting was
20 over.

Mr. Amarasinghe wrote those minutes.

Q. You have signed it as Secretary, as purporting to be correct record of the minutes ?

A. Yes.

Q. Mr. Kannangara left the meeting as soon as it was over ?

A. The minutes were written on the same day while I was there.

Q. Mr. Amerasinghe wrote the minutes to which you have put your signature down as being a correct record of what you were not
30 present at ?

A. Yes.

Q. And Mr. Kannangara was not there at the time ?

A. They were confirmed on the same day in his house.

Q. Amarasinghe wrote that, you signed it and they were taken to Mr. Kannangara's house on the same day to sign.

You have taken part in meetings of Associations, Committees, etc. ?

A. Yes. The minutes are confirmed at the next meeting.

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Proceedings
before the
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21,7.55—
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Evidence of
Dr. G. P.
Malalasekera
Cross-
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 Proceedings
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Evidence of
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 Malalasekera
 Cross-
 examination—
Continued

Q. How did he confirm this on the same day ?

A. Because they were required for this case.

Q. How did you know that this was challenged ?

A. There was no question of challenging. It was necessary that this meeting should be confirmed.

Q. These minutes were not being challenged at all at the time, on 4th February nobody knew about the election of Mr. Gamini Jayasuriya, why did you get the minutes signed that evening ?

A. It was necessary that those minutes should be signed on that date because an appeal was pending. 10

Q. The minutes of other meetings were also confirmed on the same day as the meeting ?

A. No. At the next meeting. It was not necessary to confirm those minutes on the same day. At that time there was urgency at the appeal that was pending.

Q. You knew that so far as the others were concerned there was no challenge of the accuracy of the proceedings ?

A. There was no urgency. I was told so by Mr. Senanayake of Messrs. Julius & Creasy. I was told that before the meeting. I cannot remember how long before the meeting he told me. 20

Q. Mr. Senanayake of Julius & Creasy told you that it would be necessary to have the minutes confirmed immediately and you put your signature down to the minutes of a meeting at which you were not present, setting out what took place ?

A. For which I was prepared to be responsible, whether it was true or false.

Q. Why is your name scored off, who has initialled the scoring off ?

A. I have initialled the scoring off.

Q. Can you explain why that has not appeared in the translation ? 30

A. At the time the translation was made no scoring off was done.

Q. At whose instance were these translations made ?

A. By the lawyers.

Q. You went immediately after the meeting ; were you there when the Police arrived ?

A. No.

Q. Do you know the Police arrived ?

A. I heard afterwards that the Police had arrived.

Q. You heard that the Police arrived because there was a disturbance at the meeting ?

A. No.

Q. When you heard that the Police arrived, as a responsible officer of that Association you asked why the Police had been brought in ?

A. I heard that the Police came, afterwards, not on that day.

Q. When did you hear that the Police arrived ?

10 A. On the following day.

Q. From whom ?

A. From the papers.

Q. Which papers ?

A. I cannot remember.

Q. You did not try to find out from the person who gave you these minutes to sign what had happened at the meeting ?

A. I did not.

Q. You got to know that there had been a disturbance at the meeting ?

20 A. I heard there was some objection raised about a name that was proposed.

Q. The objection is not recorded in the minutes ?

A. Not in these minutes. But they are recorded in the minutes of the meeting of the Vidyadhara Dayaka Sabha. These minutes record only the meetings of the Vidyadhara Sabha.

Q. You have put this forward as the minutes of the proceedings of that meeting on that day, what is this purporting to be, a minute of the meeting of what ?

30 A. Of the Vidyadhara Sabha and the Vidyaloka Dayakaya Sabha.

Q. And this trouble took place at the joint meeting ?

A. Yes.

Q. X7E is a minute of that joint meeting ?

A. Yes.

Q. You don't find in that minute something of the things that took place at that meeting, the objection taken to another name ?

A. Yes.

Q. So that the minute is not correct to your knowledge ?

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Proceedings
before the
District Court
21.7.55—
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Evidence of
Dr. G. P.
Malalasekera
Cross-
examination—
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No. 54
 Proceedings
 before the
 District Court
 21.7.55—
Continued

Evidence of
 Dr. G. P.
 Malalasekera
 Cross-
 examination—
Continued

A. I won't say it is not correct. It does not contain that information because I am not concerned with that information.

Q. You have put down in the minutes only the information that you are concerned with ?

A. Only which is relevant to the purpose.

Q. Is it relevant to the meeting that another name was proposed ?

A. The minutes do not say that.

The Chairman then informed the Sabha that another name was proposed. Mr. Gamini Jayasuriya was elected. It was seconded and 10 Mr. Gamini Jayasuriya was elected unanimously.

Q. Is it not relevant to the purpose of this meeting to show that another name was proposed ?

A. The name proposed was by a person who was not a member of the Sabha, therefore it does not concern us. As far as the meeting of the members was concerned the resolution was accepted unanimously.

(To Court :

Q. Your position is that the other name that was proposed was proposed by persons who were not members of this Sabha ? 20

A. Yes.)

Q. You spoke about seeing it in the papers ?

A. Yes.

Q. What you saw in the paper was that the meeting ended abruptly ?

A. Something to that effect. That there was an objection.

Q. You can't remember that the meeting was said to have ended abruptly ?

A. I cannot remember.

Q. All that is said was that the Minister of Local Government 30 who took the chair left the meeting before the end ?

A. No.

(Mr. Wikramanayake moves to produce the Lankadipa of 5th February marked Y1.

Mr. Herat objects.

The paper is admitted subject to proof.)

(Shown Y1.) The paper says that the Minister of Local Government who took the chair, got up and walked away earlier. He left

probably before the meeting ended. That is how I would interpret it.

Q. Is this translation correct: “. . . had to be abandoned midway on account of the dispute which arose between two parties” ?

A. It is “ was stopped midway because of a dispute that arose between two parties.”

Q. It goes on to say “ The Minister of Local Government Mr. C. W. W. Kannangara who was presiding left the meeting before the end when he found that the dispute was taking a grave turn ” ?

10 *A.* That is right. The meeting was becoming more and more serious.

Q. You heard on the next day that the Police were sent there, did you discuss this matter with Mr. Kannangara ?

Q. The reason for this dispute was the inability to decide whether those who would be considered Dayakayas are only those who paid subscriptions ?

A. That is also here.

Q. None of that is recorded in the minutes that you have produced ?

20 *A.* Yes.

Q. Did you in the course of your conversation the following day with Mr. Kannangara gather that these things took place ?

A. I heard about it. Mr. Kannangara told me that there was an objection raised, and I asked the Secretary of the Dayakayas who was present. He proceeded to declare Mr. Gamini Jayasuriya elected.

Q. Did he over-rule the objection on the ground that proposer's name did not appear in the Dayakayas list ?

A. That was what I heard. There was such a list.

30 It was started in June, 1952.

Q. When was the decision in this case ?

A. In 1950. The list was started in June, 1952. I have got that list.

(Shown a book.)

I was President of the Society.

Q. Is this the book you referred to? What is the book purporting to be ?

A. It is a list of the Dayakayas made by the Secretary.

The Secretary was elected when the Vidyaloka Dayaka Sabha
40 was started in June, 1952.

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Proceedings
before the
District Court
21.7.55—
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Evidence of
Dr. G. P.
Malalasekera
Cross-
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 Proceedings
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Continued

Evidence of
 Dr. G. P.
 Malalasekera
 Cross-
 examination—
Continued

Prior to that there was a Dayaka Sabha. The name of this Dayaka Sabha is the Vidyaloaka Dayaka Sabha. The Vidyadhara Sabha was the Board of trustees. There was always a Dayaka Sabha attached to the Pirivena.

In June, 1952, we properly constituted the Dayaka Sabha and rules were framed for the Sabha, because the older Dayaka Sabha was not a properly organised body, because there were no rules. They used to meet off and on and I felt that this was not satisfactory.

Q. The Dayaka Sabha that existed prior to June, 1952, was the Sabha which had no rules and no office bearers ? 10

A. Yes.

Q. That was the Sabha which consisted of Dayakayas of the temple ?

A. Yes.

Q. You know what a Dayakaya of a temple is ?

A. Yes.

Q. That is not any organisation with rules or office bearers, they are just persons who assist in the looking after of the affairs of the temple ?

A. It is difficult to define what a Dayakaya is. I would consider 20 a Dayakaya as a person who is a regular supporter of the temple. Generally a regular supporter is understood to be a man who gives wass dhanas.

Q. Dayakayas have not been in a society with rules and regulations and office-bearers ?

A. Up to 1952 there was nothing.

Q. Apart from this temple, the Dayakayas could not have rules and regulations ?

A. Some temples have and some have not.

Q. The deed provides that the Dayakayas should be regular 30 supporters and not members of any organised association with any office-bearers and rules ?

A. I do not think so because I don't know what the intention was. But to my knowledge there existed such organisations both with rules and regulations. Whenever there was a meeting the Dayakayas would come in. And in the same sense these Dayakayas came to this meeting.

In 1952 we organised the Dayaka Sabha. That is to say after notification to the members of the Vidyadhara Sabha that the Dayaka Sabha was going to be organised. A public meeting was held 40

and at that meeting the Dayaka Sabha was constituted, and the Dayaka Sabha was constituted by the appointment of office-bearers.

(Mr. Wikramanayake marks book containing the list of members as Y2.)

Q. Who were the persons who voted when Mr. Dudley Senanayake was elected ?

A. That was on 20th April, 1952.

Q. How did you then decide who was entitled to vote at that 10 meeting ?

A. This particular meeting I remember, notice was sent out to those whose names were in the register of Wass Dhanes. I have not got that register. That is kept in the temple. There is a person who is in charge of the Dhanes and a notice is sent out, also a public notice was printed in the papers asking the Dayakayas to come.

(To Court :

The procedure was to send out notices to all those Dayakayas whose names appear in the Wass Register and also a public notice in the papers.)

20 Q. Were you Secretary at the time ?

A. No.

Q. You are speaking of what Mr. Raja Hewavitarne did. How do you know ?

A. I was a member of the Sabha at the time.

Q. Were you present when the notices were sent ?

A. I could not say about that.

Q. Did you see Mr. Hewavitarne send out any notices ?

A. I got some notices myself.

Q. Did you see when in consequence of any list, he sent out 30 notices ?

A. Yes. The list was taken down in the register. It was taken down at the meeting. It was taken down by Mr. Hewavitarne from the list of Wass Dhanes. The other supporters were summoned by public notice in the paper. The notice was published in the paper according to the rules of the Vidyadhara Sabha as trustees in order that the deed may be fulfilled. No person who were regular members of the temple were precluded from voting.

Q. Even after the Dayaka Sabha was organised, those persons who were regular supporters would be considered Dayakayas ?

40 A. All regular supporters joined the Society.

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Proceedings
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Evidence of
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Malalasekera
Cross-
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 Proceedings
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Q. You know a gentlemen by the name of Tallagalle ?

A. I don't know him.

(Shown X7A.)

Q. You will find he was one of the voters. Is his name there ?

A. There is a D. A. Tallagalle here.

Q. He would not have been there except as a Dayakaya ?

A. I presume not.

Q. He was admitted there and according to those minutes permitted to vote ?

A. Yes. 10

Q. When was he a Dayakaya ?

A. I could not say that.

Q. Can you say whether he would be a Dayakaya ?

A. I cannot say.

Q. Can you say why he was precluded from taking part in the proceedings of the meeting of which Mr. Kannangara gave his ruling ?

A. I cannot answer that question hypothetically.

Q. Was the peon of the Sabha a Dayakaya ?

A. No.

Q. He was E. J. Perera ? 20

A. I cannot remember his name.

(Shown marked Y3 minutes of the meeting of 14.5.52 in minute book X7.)

It was decided to employ without delay a suitable person in place of E. J. Perera who desired to resign from the service. Signed by me as Hony. Secretary.

(To Court :

Q. Are there two different minutes on that day ?

A. Yes. One was for the election of a person, in place of the deceased, that was a joint meeting. The second was a meeting of 30 the Vidyadhara Sabha alone. One meeting was held earlier.)

The minute is in my own handwriting.

(Witness asked to read paragraph three of the minutes.)

(Witness reads.)

(Witness asked to read earlier paragraph. Witness reads.) " At a meeting of the Vidyadhara Sabha and the members of the Dayakaya Sabha . . . "

Q. That was the Dayaka Sabha that was not organised and had no rules, that was that it consisted of all the regular supporters ?

A. Yes.

Q. At that time you had a meeting of the Vidyadhara Sabha and the Dayaka Sabha which consisted of Dayakayas who were regular supporters, and they elected Jothipala Subasinghe unanimously ?

A. Yes.

(Witness asked to read another paragraph.)

10 Q. Mr. E. J. Perera who for a long time had been in the service of the Society wishes to give up his services ?

A. It was as a Upasakaya. He used to live in the Temple and helped in the work of the Pirivena. He was not a servant. He was not paid a salary, but he was given some kind of money for pocket expenses, like travelling expenses. It was a very small amount, it varied, it may be Rs. 10/-. He had to go and arrange for these Wass Dhanes. He had to go and remind the people about the Wass Dhanes.

Q. He was paid an honorarium ?

20 A. He was there in the temple. It was never stated or understood that he was being paid. But he was a man helping in the temple. When he required money for expenses he would go to the Secretary or the Treasurer and ask for money and the money would be given. He was in the Vidyadhara Sabha, he had been there for so many years.

Q. Has the Vidyadhara Sabha any right to distribute moneys like that ?

A. It had, for the work done for the Pirivena, and any money could be spent for the work of the Pirivena.

Q. What was the work of the Pirivena ?

30 A. Arranging of the Dhanes was the work of the Pirivena. He was not a Sabhaphathy. Under the constitution there were no office-bearers. As the expenditure was incurred for the work of the Pirivena it was sanctioned by the Sabha. I cannot produce the minutes regarding that. It was a long standing custom which was continued in my time. He would ask for some amount of money and he would ask the Secretary or Treasurer. The Treasurer would keep the account of such expenditure. The accounts have to be published every six months. I should imagine they were published.

40 Q. You were not even aware of the fact that the Secretary had to sign under the deed ?

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Proceedings
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21.7.55—
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Evidence of
Dr. G. P.
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Cross-
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A. I must have been aware. These accounts are brought before the meeting and submitted to the meeting. Whether I signed it at the meeting or not I cannot remember.

Q. This E. J. Perera was he a Dayakaya ?

A. I would call him one because he was a regular supporter. Supporter by reason of the fact that he arranged for the Wass Dhanes and also gave Dhanes. At one time he was in affluent circumstances. I knew him to be so before he lost his money. I don't know the date when he was in affluent circumstances. I did not know him in affluent circumstances. I knew he was in the 10 Society helping.

Q. How did you know that he was in affluent circumstances ?

A. He had told me.

Q. He had told you that when he was in affluent circumstances he gave Wass Dhanes ?

A. I have been associated with this Sabha for more than 10 years. In that period of time he had not been in affluent circumstances.

Q. And he had not been in a position to give Wass Dhanes ?

A. That he did not say. 20

Q. But he was taking a few rupees from the Society ?

A. It is quite possible that he gave Wass Dhanes himself.

Q. You did not try to ascertain this before he was allowed to vote ?

A. The question of allowing him to vote or not was not raised.

(Shown X7A.) He was also present at that meeting being a member of the Vidyaloka Dayaka Sabha.

Q. After it was organised, who made a list of the names of the members ?

A. The Secretary made a list. 30

Q. At the reorganisation what else was done ?

A. We adopted certain rules in order that the Dayaka Sabha may work smoothly.

Q. Work smoothly in what way ?

A. To look after the Pirivena to help in any way it could.

The object of the Dayaka Sabha are given in the rules of the Sabha.

(The Rules of the Sabha as organised in June 1952 marked Y4.)

(Witness reads.) First is the name of the Society. Second is the office of the Society. The Society had an office also. That object had been the object of the Dayakayas also prior to that day. There are three types of members; before that they were just all one. There were Honorary members, life members and Acting members. Those who gave not less than Rs. 1,000/- would be elected Honorary members; those who paid somewhat less than Rs. 250/- would be life members; those who paid Rs. 10/- a year or Rs. 6/- once in six months or Re. 1/- every month would be ordinary members.

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10 Q. The deed provides that the Dayakayas of the temple should have the right to vote ?

A. Yes.

Q. Could a person be a regular supporter of the temple without paying Re. 1/- a month to the Society ?

A. Yes.

Q. Could he give Wass Dhanes without paying Re. 1/- a month ?

A. Yes.

Q. You have already defined a Dayakaya as a person who was a regular supporter, more particularly a man who gave Wass Dhanes
20 so there would have been Dayakayas who were not members of the Society ?

A. They would be known to us.

Q. They would have a right to vote ?

A. Yes.

Q. At the election ?

A. If they are considered members.

Q. Assuming a man a regular supporter then he would have the right to vote even though he would not have to pay Re. 1/- a month to the Society ?

30 A. Yes.

The rules provides for the expulsion of members, that all members have the right to vote in the Sabha, the objects of which are set out earlier. Both men and women can become members. They should all be Buddhists.

Q. Are you certain that E. J. Perera was a Buddhist ?

A. I cannot say. He was not a peon.

Q. Amerasinghe has taken the place of E. J. Perera ?

A. He is now working as a kepakaru. He is not a peon. He is a sort of person who helps in the work of the Pirivena. When the
40 Principal of the Pirivena wants certain things done; he is there

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present in order to carry out the Principal's wishes. There was a suggestion that Amerasinghe should be paid Rs. 75/- because there was money. It was approved.

Q. He started functioning when E. J. Perera resigned ?

A. He was helping there before E. J. Perera ceased.

I organised this Sabha in June, 1952.

I decided to take an active part in organising it, there is a minute that refers to it, which is now marked Y3.

Q. The last paragraph says "The Secretary informed that he would take a special interest in organising the Dayaka Sabha." 10

A. It says "The Secretary was taking an active step to re-organise the Dayaka Sabha."

Q. At the next meeting of the Vidyadhara Sabha X7D at which Dr. Samarasinghe was elected, Dr. Malalasekera, President of the Vidyaloka Dayaka Sabha, occupied the chair. By that time you had become President of the Sabha ?

A. Yes. Caldera who was Secretary of the Vidyaloka Dayaka Sabha acted as Secretary of that meeting.

Q. You were the Secretary of the Vidyadhara Sabha, Caldera was the Secretary of the Vidyaloka Dayaka Sabha and at this meeting 20 he functioned as Secretary ?

A. Yes.

Q. Who drew up the minutes of this meeting and who signed them ?

A. I signed the minutes of the Vidyadhara Sabha as Secretary of the Vidyaloka Dayaka Sabha. This meeting was a joint meeting. This meeting is submitted to the Vidyadhara Sabha for their information, so I signed as Secretary. That confirmed the minutes at the joint meeting. All those minutes are confirmed by Mr. C. W. W. Kannangara at the meeting of the 14th July, 1954. 30

(Minutes of meeting of 14th July, 1954, appearing in X7 marked Y5.)

The minutes of the meeting of 5th February are confirmed on 7th July.

Q. At the meeting of 14th July at which the confirmation took place, the only person present who had been present at the previous meeting and can speak to the accuracy of the minutes of that meeting was yourself ?

A. No. Daya Hewavitarne and myself.

According to the rules of the Vidyaloka Dayaka Sabha, people had to pay subscriptions. There is a subscription list. Y2 is a list of the members. I was president of the Sabha.

Y2 contains a list of the members names on one side and addresses on the other. The date alongside is the date of joining. I don't know what the figures are against the names. There are 17 names on the first page. On the second page some have joined on the 1st June, the others the date of joining is not shown. On the second page there are 17 names. On the 3rd page there is no date of joining, some of them have joined on 17th July and some on the 19th August. In the third page there are 15 names. The total number of names in that book is 49.

Q. It is a fairly well known temple and Pirivena ?

A. Yes.

Q. And the total number of members of the Dayaka Sabha is 49 at the moment ?

A. Y2 is not kept by me so I cannot vouch for that. (Shown subscription book marked Y6.)

I don't know this book, this is the first time I have seen it.

20 Q. What is the rule regarding the life membership ?

A. A person should pay Rs. 250/- or more.

There are four names on the first page of Y6. I cannot show where the subscriptions are paid because I did not keep this book. I have paid subscriptions. I am not a life member. I come in as an ex-officio member. I do not pay subscription but I give money as donations. I did give money, but not as subscriptions but as donations.

Q. Under the rules you don't conform to anyone on that list ?

A. I come in as an ex-officio member of the Vidyadhara Sabha. (Shown Y4.)

30 Q. Can you show the rule under which you are a member, under which you don't pay subscription, were an ex-officio member is provided for by the society ?

A. According to rule No. 6.

Q. You say you gave donations, did you give donations to the Vidyaloka Dayaka Sabha as such ?

A. That depends upon who collects the money on different occasions, sometimes a list is sent round, sometimes no. The hat is passed round and we give something.

40 Mr. Raja Hewavitarne is a member of the Vidyadhara Sabha. He is also a life member.

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Q. Some of the other members have paid their moneys ?

A. I don't know whether there are subscriptions, they pay Rs. 250/- and come in as life members.

Q. According to Y6 there are 69 persons who have paid moneys ?

A. Those are 69 items.

Q. Item 1 says Rs. 15/- subscription, what is the total amount paid ?

A. I cannot say what is in this book.

Q. On page two against the first name there are two sums of Rs. 10/- and Rs. 5/- totalling Rs. 15/- ? 10

A. Yes. I cannot say that the figures 1 and 15 on the other side corresponds to Rs .15/-.

Q. Do you see No. 1, you see against that Rs. 15/-. That is not Rs. 15/- it is " 15 " stroke and dash, I don't know what it is. It is not that I don't know but I don't want to swear to that because I have sworn to give evidence.

Against figure one I see Dharmadasa. Against the second name there is a figure 2 and the total of the money paid by that person is Rs. 15/-.

Q. Figure 13, on the other side is against D. P. Jayasekera life 20 member Rs. 250/- ?

A. (No answer.)

Q. Take figure 29, showing figure 15 stroke ?

A. Yes.

Q. On the other side M. B. A. Gunasekera shows Rs. 15/- ?

A. Yes.

Q. There are 69 persons who paid subscriptions ?

A. They are 69 entries.

The list of members contains only 49 members. I am not aware how Dr. Kannangara got the list of members. 30

Q. You said you went there for the election of somebody to succeed Mr. W. H. W. Perera and there happened to be a meeting of the combined Vidyadhara Sabha and of the Dayakayas ?

A. Yes.

There was such a meeting, that was the meeting presided over by Mr. C. W. W. Kannangara. That was the meeting which I went when the meeting was just over, and of the proceedings of which I saw nothing. That is the body that had the right to elect.

The Vidyaloka Dayaka Sabha as such had no right to elect.

Q. Was there a meeting of the Vidyaloka Dayaka Sabha on that day ?

A. I cannot remember.

When I went there I went too late for the joint meeting.

Q. Who was the president of the Vidyaloka Dayaka Sabha ?

A. I had been the president. I would have been notified of any meeting. I would normally be the person who presided.

Q. You remember attending any meeting of the Vidyaloka Dayaka Sabha on that day ?

A. After the election there was a meeting. There continued to be a meeting. There were several members of the Vidyaloka Dayaka Sabha present.

Q. Were they having a meeting without a Chairman and proceedings ?

A. I cannot say.

Q. Up to date are you aware of any meeting that was held by the Vidyaloka Dayaka Sabha on that day ?

A. I am not aware.

Q. The Vidyaloka Dayaka Sabha has no right to elect by itself ?

A. Yes.

Q. And the minutes in relation to that election are the minutes that were submitted to the Vidyardhara Sabha ?

A. After the Dayaka Sabha came into being the election was forwarded to both Sabhas and it was recorded in the minute books of both Sabhas.

Q. And the minutes should be substantially the same because they are minutes of the same meeting only confirmed by two separate bodies that took part in a meeting jointly ?

A. Yes.

(Shown marked Y7 minute book of the Vidyaloka Dayaka Sabha, page 54 minutes of the meeting of 4th February, 1955.) (Witness reads first paragraph.)

The joint meeting of the two societies was held on 4th February to elect a successor to Mr. W. H. W. Perera. The list of persons present bears a slight difference. (Witness reads names of persons present.)

My name is included here. It is incorrect. I was not present at the meeting. My name was included thereafter. The name W. P.

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Wikremaratchi is not in the other minute. The proposal and secondment is there. The other minute says it was carried unanimously.

Q. You told us that all persons were entitled to vote whether they had paid subscriptions or not provided they are regular supporters of the temple ?

A. If they are recognized as regular supporters. (Witness reads Y7.)

Another name was proposed. On being questioned by the Chairman it was stated that he was not a member of the Dayaka Sabha; therefore that proposal was overruled. As no other proposal was brought up by members, the only proposal was adopted. That is signed by a person called R. M. Arthanayake. I was President. I was not present then. It was confirmed on the 27th February, Siriwardene signed as Secretary. (Mr. Wikramanayake moves to mark as Y8 reference to an article that appears in the Lankadipa which has already been marked.) Mr. Arthanayake sent a reply to that on the 19th February, 1955, which was published in the Lankadipa ?

(Mr. Herat objects to Y8.

Y8 is admitted subject to proof.)

20

(Shown letter written by Arthanayake who was the Secretary and who signed those minutes as Secretary.)

Q. Who was it who sent out those notices for the meeting on the 4th February ?

A. I sent out the notices to Vidyadhara Sabha members and the Secretary to the Vidyaloka Dayaka Sabha to their members and probably he would include the Vidyadhara Sabha members also. In addition there was the notice published.

(Shown translation of XC.) It is signed by me and certified as correct.

30

(Witness points out that the translation is correct.)

(Shown X7A and the translation.)

The confirmation is not in the translation. The confirmation probably came in after the translation. My translation is dated 20th May, 1952, the sworn translator has signed on 19.7.54. This was translated for the lawyers. The sworn translator has signed it.

Q. Were you aware of the practice that had existed before you organised the Vidyaloka Dayaka Sabha with regard to the election of persons as Sabhathies ?

A. Yes. There was a meeting of the members of the Vidya-40 dhara Sabha and the Dayakayas. The question of subscription was

not raised, but it used to be the practice. I was told that there was a minute in the papers and the election took place.

I have been a member since 1935. The Vidyloka Dayaka Sabha was reorganised in 1952.

Q. Mr. D. S. Senanayake was elected a member in 1933 ?

A. I was not a member then.

Q. Were there any meetings for elections of persons from about the early period when you joined this Society ?

A. I do not remember.

10 Q. Can you remember the practice obtaining in any elections prior to 1932 ?

A. I cannot remember.

I cannot remember any particular election.

Adjourned.

(Sgd.) A. L. S. SIRIMANNE,

A.D.J.

D.C. 2882/L.

21.7.55.

After Lunch.

Same appearances.

Dr. G. P. MALALASEKERA. Recalled. Affirmed.

20 *Cross-examination* --(Contd.).

Q. You were aware of the fact that some dayakayas had themselves a few days before that published a notice and distributed a handbill with regard to this matter ?

A. No. I was not aware of that.

(Mr. Wikramanayake marks handbill dated 22nd January, 1955, Y9. Admitted subject to proof.)

Q. I put it to you that this was distributed among all persons including the members of the Vidyadhara Sabha ?

A. I was not aware of it.

30 Q. You anticipated trouble at that meeting ?

A. No.

Q. Your coincidence was that you were late ?

A. No coincidence. There was an exhibition at the Art Gallery. I was the President. The Governor-General was opening the Exhibition. That Exhibition was to be opened a little while before that meeting and that is why I was late.

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Q. Mr. Kannangara was not the President of the joint body ?

A. We had no President of the Vidyadhara Sabha, they are all Sabhapaties.

Q. There is no President as such of the joint body ?

A. Yes.

Q. The Chairman had to be elected from the meeting ?

A. Yes. That is the usual procedure.

Q. There is nothing in the minutes to show that Mr. Kannangara was elected Chairman.

(Shown X7E.)

10

A. This says that Mr. C. W. W. Kannangara was presiding at the meeting; in other minutes also the recording is the same.

(Shown X7A.) At that meeting Mr. Raja Hewavitarne proposed and Mudaliyar Ratnatunga seconded the name of Mr. W. H. W. Perera.

(Shown X7B.) This reads " After Dr. Malalasekera was elected to the Chair."

(Shown X7C.) This reads, "proposed by Mr. Malalasekera and seconded by somebody else that Mr. Pedris takes the chair".

(Shown Y3.) This reads that Mr. Pedris was elected to the 20 Chair.

(Shown X7D.) This reads Mr. Malalasekera, President of the Vidyadhara Sabha, occupied the Chair.

Q. According to what you heard the Police came on the scene just as the meeting was over ?

A. I was there when the meeting was over, there were no police then.

I was there when the meeting was just finished. They asked me " why weren't you here " and from that I inferred that the meeting was just over. In so many words anybody did not tell me 30 that it was over a minute ago.

(Shown Y1.) I heard that the Police had come. I asked the person who told me why the Police had come. I did not realise that they had come on the instructions of Mr. C. W. W. Kannangara. They were not there when I came. I was there immediately after the meeting and there was no police there. My first information of the Police coming there was the newspaper report. I did not question anybody immediately. I cannot say how long after that I questioned. I was leaving for Kandy and I do not think I questioned anybody immediately. I cannot remember when I asked; may be some days 40 later. The meeting was at 6 or 6.30. I left the following morning

for Kandy. There was time that night to meet anybody. I met Mr. Kannangara that night, he had been at the meeting. I did not question him. I wrote the minutes before I met Mr. Kannangara.

(Shown X7E.) Amarasinghe wrote these minutes. I took that to Mr. Kannangara. I did not discuss with him about any trouble at all. Prior to the date of this re-organising there was a Dayaka Sabha but not a properly constituted Dayaka Sabha. I do not know whether it was known as the Vidyodaya Dayaka Sabha. I have read the deeds.

- 10 (Shown X7B.) This reads "Mr. P. D. Dias had resigned and his resignation was brought to the notice of the Sabha and it was accepted." (Witness is asked to read the minutes in Sinhalese.) The Sinhalese reads, "had resigned and his resignation was brought to the notice of the Sabha."

Re-examination.

The Vidyadhara Sabha consisted of 13 Sabhapathies, that is the Sabha referred to in deed P1. Mr. Kannangara was a Sabhapathy at the time.

- 20 (Shown Y7.) This is the minute book of the Vidyodaya Dayaka Sabha. I was questioned about the minutes of 4.2.55 as minuted in Y7. Those minutes are at pages 54 and 55 of Y7.

(Witness is asked to read the portion side lined in red at page 54.) It reads "After pansil was taken at the proposal of Mr. Raja Hewavitarne and seconded by G. C. Perera the Hon'ble Mr. C. W. W. Kannangara was elected to the Chair."

(Shown Y2.) This is the list of members of the Vidyodaya Dayaka Sabha. Mr. Dudley Senanayake's name appears in Y2. Mr. Jothipala Subasinghe's name is not there. The name of A. M. Samarasinghe and Gamini Jayasuriya are there.

- 30 (Shown Y6.)

Q. Y6 has attached to it the original build-up applications of various members of the Vidyodaya Dayaka Sabha ?

(Mr. Wikramanayake objects. I allow the question.)

A. Yes.

Q. Y6 shows that on 1.6.52 A. M. Samarasinghe has become a life member by paying Rs. 250/- ?

A. Yes.

- Q. In Y6 it appears that in July, 1952, Gamini Jayasuriya has paid Rs. 15/-, Rs. 5/- being the entrance and Rs. 10/- the year's subscription ?

A. Yes.

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Q. Also Y6 shows that in July, 1952, Dudley Senanayake has paid Rs. 25/- ?

A. Yes.

I said that I was not sure whether I had paid subscriptions.

Q. Y6 shows that you had paid Rs. 5/- entrance and Rs. 10/- subscription ?

A. Yes.

(Mr. Herat marks as X10 the minute of 24th July, 1952, which is one of the minutes at page 15 of Y7. Mr. Wikramanayake objects. I allow the document to be shown.) There is a minute there that 10
 Gamini Jayasuriya has been elected a member of the Vidyodaya Dayaka Sabha.

(Mr. Herat marks as XII minutes of 14th August, 1952, at page 18 of Y7. Mr. Wikramanayake objects. I allow the document to be shown.) There is a minute here that Gamini Jayasuriya was elected Secretary.

Q. The original deed P1 provides for 13 members of the Vidya-dhara Sabha ?

A. Yes.

Q. Apart from that there are the Dayakayas attached to the 20
 Pirivena ?

A. Yes.

I was questioned about there being a Dayaka Sabha prior to June, 1952.

Q. What happened in June, 1952, with regard to the Dayaka Sabha ?

A. The Dayaka Sabha was organised as a properly constituted body with office bearers, rules were framed and office-bearers were elected, the committee was appointed and the Dayaka Sabha was put on a more authorised scale. 30

Q. A Dayakaya of the Pirivena would be a person who was a regular supporter of the Pirivena ?

A. Yes.

Q. Would an occasional subscriber be considered a Dayakaya ?

A. No.

Q. After the Dayaka Sabha was reconstituted in 1952 what were the steps you took to put it on an organised scale ?

A. We got members. We wrote to all the people who were steadily supporting the Pirivena in various ways asking them to

join up and we sent them forms to fill up. We had several meetings. We had a committee to draw up rules and these were circulated among the people who expressed their desire to become members, the rules were ratified at a general meeting.

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(Sgd.) A. L. S. SIRIMANNE,
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Mr. Herat closes his case reading in evidence XI to XII.

1st DEFENDANT'S CASE

1st Defendant's
Case

Mr. Wikramanayake calls—

10 D. A. TALAGALLA. Affirmed. 66, Senior Assistant Teacher, Maligakanda Government School, Colombo.

Evidence of
D. A. Talagalla
Examination

I have been in the Maligakanda Government School since 1922. I resided in a house in the school premises which is opposite the Maligakanda Vidyodaya Pirivena. I am a Buddhist and since 1922 I have taken an interest in the affairs of the Maligakanda Vidyodaya Pirivena. I have been a Dayakaya of the Pirivena since 1922. I have given regular support to that Pirivena. I gave alms to the priests. During the Wass season I do not have opportunity of giving alms, the rich people have volunteered to supply alms during that
20 season and we have no opportunity of doing so and during the other seasons the poor people get an opportunity of giving alms. It is the rich people who get priests to reside in the temple during that season and who attend to the Wass ceremony and so they undertake to give alms. I have been a regular dayakaya throughout. I do not know whether I have been accepted by the others as a dayakaya but I have been supporting the Pirivena all throughout and also I have been helping in the repairs of the buildings.

Q. You know that under some old deed whenever one of the Sabhapathies of the institution dies his successor is elected by the
30 rest of the board and the dayakayas ?

A. Yes.

Q. Have you attended meetings where Sabhapathies were elected before 1954 ?

A. Yes.

I point to X7A the meeting where Mr. Dudley Senanayake was present at which I was present.

Q. You were accepted then as a person authorised to go there ?

A. Yes.

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Q. Some time before the election in 1955 did you see any hand-bills distributed by the dayakayas ?

A. Yes.

(Shown Y9.)

Q. Did you also receive a copy of this ?

A. Yes.

This was distributed in the neighbourhood.

I know D. S. Wijesinghe, he is a dayakaya of the Pirivena. I know J. A. Albert Perera, he is a dayakaya, I know U. Ameradasa Perera, he lives close to the temple, he is a dayakaya of the Pirivena. 10
 I know A. M. Edwin Perera. I know that he supports this temple regularly. I know A. M. Peter Singho. He is a person who takes an interest in the affairs of the Pirivena. He is a dayakaya of this temple. I know Edmond Perera. He is also a dayakaya of the temple. I know W. M. Perera. He is also a dayakaya. I know N. W. Romiel Perera. He is a dayakaya of the temple. He takes a great interest in the temple. He takes a greater interest than ourselves. I know B. A. P. Perera. He is also supporting the temple. I know Wilfred Gunasekera. He lives close to the temple and he is also a dayakaya of the temple. Y9 purports to have been signed by them. 20

Q. When this thing was published what were the reactions of the people in the neighbourhood ?

(Mr. Herat objects to this question.)

A. I met people who had received this notice after they had received this notice and we had discussions about this.

Q. What was the general feelings among those who discussed it with you ?

(Mr. Herat objects. I uphold the objections.)

In the course of the discussion they told me certain things, I did not tell them anything. 30

I did not see a notice in the newspaper. I did not see a notice in the Dinamina. There was a meeting to elect a successor to Mr. W. H. W. Perera. I went to that meeting. There were about 70 people at that meeting including the people whom I know.

Q. The people whom you know were they people with whom you had discussed this matter ?

A. About 50 of them with whom I had discussed this matter were there.

Q. Who took the chair ?

A. The Honourable Mr. Kannangara. 40

Q. Was he proposed or how did he come to be there ?

A. Nobody proposed and nobody seconded, he came of his own and got into the Chair.

Q. What happened thereafter ?

A. Then Mr. Kannangara got up from his chair and all those who were present were asked to take pansil and all took sil.

Q. Nobody administered the pansil ?

A. No.

Q. Next what happened ?

10 A. After Pansil we all sat down. Then Mr. Kannangara got up from his chair and said that all those who were present must stand up and remain standing as a mark of respect to the late Mr. W. H. W. Perera and we all stood up for a few minutes. Thereafter Mr. Kannangara asked somebody whom I do not know to read if there are any letters that had been received and one letter was read.

Thereupon Mr. Kannangara called for people to propose a name to fill the vacancy created by the death of Mr. W. H. W. Perera as Sabhapathy. Then a gentleman who was there proposed the name of Gamini Jayasuriya and that was seconded by some other person.
20 After that Mr. Kannangara asked whether there were any other names to be proposed. Then Romiel Perera got up and proposed the name of one Albert Perera.

Mr. Kannangara then put out his hand and said "Stop. What is your name ?" Then that person said "My name is Romiel Perera." Then Mr. Kannangara asked him whether he was a member of the Dayaka Sabha and whether he had paid the subscriptions. At the same time he asked another person to look into the register and see whether his name was in the register of dayakayas. Then that person referred to a register and said that there was no such name in the
30 register.

Romiel then read out from the handbill Y9 the clause from the deed. Then Mr. Kannangara was silent and he said "I have done what I had to do, the Sabha has now elected Gamini Jayasuriya and the matter is now over" and he got up from his chair and went away.

The dayakayas who were there created a disturbance and said that what Mr. Kannangara did was wrong and an injustice and all got on to the compound and in about five minutes time a constable came on the scene and questioned the crowd and asked what the trouble was and said that Mr. Kannangara had lodged a complaint at the
40 Police Station. At that time Mr. Raja Hewavitarne was present and he had a discussion with the constable. Mr. Raja Hewavitarne was present in Court this morning. After he had a discussion with the constable the constable went away. Almost immediately a Police

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van came full of Police Officers. The Inspector got down from the Police van, spoke to Mr. Raja Hewavitarne and he also got into the Police van and went away.

Thereafter Dr. Malalasekera came on the scene. I saw a report of that meeting in the Lankadipa of the following day. I read that. (Shown Y1.) This is that report.

Q. When you read it your memory was fresh then, did it strike you as being a correct version of what took place there that day?

A. Yes.

Q. Did you see a letter in the press thereafter? 10

A. In the same paper several days later I saw a letter published.

(Shown Y8.) This is the letter I saw. The name of the writer is Attanayake. I do not know who he is. I know E. J. Perera who is called "upasaka". He used to go to houses and arrange for the almsgiving to the priests and he was attending to various other jobs for the priests of the temple and he takes about letters and carries messages for the Sabha. He was paid by Mr. Raja Hewavitarne.

Cross-examined.

I do not know that there is a Dayakaya Sabha.

(Shown Y2.) 20

Q. Do you know whether this is the book that was referred to when Romiel Perera's name was mentioned?

A. I do not know.

Q. Does your name appear in Y2?

A. I do not know.

This is not the book. What they referred to that day was an exercise book.

Q. Do you know that the Vidyodaya Dayakaya Sabha was reorganised in 1952?

A. I do not know. 30

Q. No Dayaka Sabha ever functioned?

A. After I came I do not know of such a Dayaka Sabha.

I was born in Welthara in Salpiti Korale. From 1922 up to date I have been in Colombo, I am still a teacher. I have no time to support my village temple, whenever they request me for help I used to send it.

(Shown X3.) On 24th June, 1955, I did not see this notice. (Shown Y9.) This states that the Vidyadhara Sabha might not give notice.

Evidence of
 D. A. Talagalla
 Cross-
 examination

Q. The parties who brought Y9 out anticipated that they would not give notice ?

A. Yes. That is what it means.

Q. At the meeting of 4th February P. C. Perera proposed the name of Mr. Kannangara that day ?

A. Nobody proposed.

Q. And nobody seconded ?

A. There was no proposal to second.

Q. Did the Secretary read out the purpose of the meeting ?

10 A. As far as I am aware Dr. Malalasekera is the Secretary of the Sabha.

Q. What Sabha is this ?

A. Of the Vidyadhara Sabha which met that day. This notice X3, which I saw now, has also been published by the Vidyadhara Sabha.

Q. Did you know that it was a meeting that day of Vidyadhara Sabha and the Vidyodaya Dayaka Sabha ?

A. I did not.

Q. Did the President at that meeting say for what purpose the 20 parties met at that place on that day ?

A. No. Nobody explained.

Q. After that did somebody propose the name of Mr. Gamini Jayasuriya ?

A. I have stated what happened.

Q. Gamini Jayasuriya's name was duly proposed and seconded ?

A. Yes.

Q. Then a member from the crowd got up ?

A. No. Then again Mr. Kannangara asked whether there was any other name to be proposed.

30 Q. Then Romiel Perera got up and proposed Albert Perera's name ?

A. Yes.

Then Mr. Kannangara stopped Romiel Perera and wanted to verify whether he was a member of the Dayaka Sabha.

Q. Then did somebody else look at the register and say that his name was not in the Dayaka Sabha ?

A. Some gentlemen turned over a book and said his name was not there.

No. 54
Proceedings
before the
District Court
21.7.55—
Continued

Evidence of
D. A. Talagalla
Cross-
examination—
Continued

No. 54
 Proceedings
 before the
 District Court
 21.7.55—
Continued

Evidence of
 D. A. Talagalla
 Cross-
 examination—
Continued

Q. Then no other name was proposed and Mr. Gamini Jayasuriya was elected ?

A. Mr. Kannangara said that the person whose name is not in the register of the Dayakayas cannot propose or second or give his vote for election and declared that Gamini Jayasuriya was elected and got up from his chair and went away.

Q. The purpose of convening the meeting was to elect a person in place of W. H. W. Perera ?

A. Yes.

Q. Then the purpose of the meeting ended ?

10

A. Yes. Those who were there got out.

Q. At the time Mr. Kannangara got out from the chair there was no disturbance ?

A. When Mr. Kannangara said that they cannot vote then Romiel Perera pointed out the clause in the handbill and said, "Why not? According to this we as Dayakayas have the right."

Q. You did not fill up any application form and become a member of any Dayakaya Sabha ?

A. I never filled and sent a form.

Q. Did you pay any regular subscription to any Dayaka Sabha ? 20
 (Mr. Wikramanayake objects.)

A. I did not.

Q. You did not give any Wass Dana ?

A. No.

Q. At the Pirivena there are a large number of teachers and pupils ?

A. Yes.

Q. From about 1940 there has been some trouble at this place ?

A. Yes. I am aware that there is a case pending in this Court about the incumbency of this temple.

30

(Counsel states that they are unable to appear on 25.7.55 for which the case has been fixed for further hearing. They beg for 25.8.55.)

Further hearing on 25.8.55.)

(Sgd.) A. L. S. SIRIMANNE,

A.D.J.

No. 55

Proceedings before the District Court

No. 55

Proceedings
before the
District Court
25.8.55

D.C. 2882/Land.

25.8.55.

Trial resumed.

Same appearances.

D. A. TALLAGALA. Recalled. Affirmed.

Evidence of
D. A. Tallagala
Cross-
examination—
*Continued**Cross-examined* by Mr. Kottegoda — (*Contd.*).

Q. Is there a lay school attended by boys and girls ?

A. Not in the Pirivena.

- 10 There is a hall by the name of Sri Sumangala Gunanusmarana Salawa in memory of the Sri Sumangala priest. That is in the Pirivena premises. I do not go there. I have never been there. I go to the temple to meet the 1st defendant as well as the other priests.

Cross-examined by Mr. Herat.

- At the meeting the Hon. Mr. Kannangara presided. He is a member of the Vidyadhara Sabha. That is of the 13 members that is what I have heard. I have seen in documents that there are 13 Sabhapathies of the Vidyadhara Sabha and I know that the Hon. Mr. Kannangara was one of them at the time. Mr. Raja Hewavitarne
20 was also present at that meeting. He was also a member of the 13. Mr. Daya Hewavitarane was not present. (Mr. Herat says that his name appears in Y7 which has been marked as the record of that meeting.) Mudaliyar P. D. Ratnatunga was there. Dr. A. M. Samarasinghe was there. I did not see Dr. A. D. V. Wijegoonewardene there. I remember the four people I mentioned being there. I have not known Mudaliyar Ratnatunga for a long time. Recently I came to know him. I know that he is a government pensioner. I do not know his last employment. He is a prominent member in the Pirivena matters.

- 30 Q. 1st defendant is not a member of the Vidyadhara Sabha or of the Dayaka Sabha ?

A. No.

Q. No action has been taken by any member of the Dayaka Sabha or any member at all to question the validity of that meeting ?

A. The dayakayas who were present at the meeting protested stating that their votes were not taken and they objected.

Q. Apart from what took place at the meeting no proceedings have been taken anywhere to query the validity of that meeting ?

A. Nobody created any disturbance.

No. 55
 Proceedings
 before the
 District Court
 25.8.55—
Continued

Evidence of
 D. A. Talagalla
 Cross-
 examination—
Continued

Q. Has any action been taken by anybody to question the validity of that meeting where Mr. Gamini Jayasuriya was elected.

A. That is what I am saying now that the appointment is wrong.

I know of no other action.

Q. Has any proceedings being taken in any Court to question the validity of the election of Gamini Jayasuriya or to question the validity of the meeting ?

A. I do not know of any other case, what I am stating now is that.

10

(To Court :

As far as I know there is no other case except this.)

Q. As far as you are aware is there any other case or any proceedings in any Court where Mr. Gamini Jayasuriya's election has been canvassed ?

A. No.

Q. Or any proceeding or any case where the validity of that particular meeting has been questioned ?

A. I do not know.

Q. Apart from what you say were the protests raised at the 20 meeting have there been any other proceeding outside a Court of law where the validity of that meeting was questioned ?

A. I do not know.

I do not know the Vidyodaya Dayaka Sabha. I know the dayakayas. I am also a dayakaya.

Q. Was there a meeting of the dayakayas to canvass or question the validity of Mr. Jayasuriya's election meeting ?

A. Not to my knowledge.

Re-examined.

Evidence of
 D. A. Talagalla
 Re-
 examination

The Wass season is for three months. Apart from the Wass 30 season dana is given for the rest of the year. That is given by the dayakayas. Other forms of assistance is also given to the temple. All that is by the dayakayas. The meaning of the word dayakaya is a person who often goes to the temple for the purpose of worship and also gives alms to the priests and sees to the renovations of the existing buildings of the temple.

Briefly a dayakaya is a person who gives assistance to the priesthood.

(Sgd.) A. L. S. SIRIMANNE,

A.D.J. 40

J. M. RODRIGO. Sworn. 29. Agency Inspector, Times of Ceylon, Colombo.

(Shown Y8.) This paper is a publication of the Times of Ceylon at the Lankadipa press of 19th February, 1955. That contains a letter by a person who purports to be the Secretary of the Vidyodaya Dayaka Sabha.

(Shown Y1.) This is also a publication of the Times of Ceylon at the Lankadipa press.

Cross-examined by Mr. Kottegoda. Nil.

10 *Cross-examined* by Mr. Herat.

I was not the person who reported that meeting nor do I have any personal knowledge of what is mentioned there.

Re-examined. Nil.

(Sgd.) A. L. S. SIRIMANNE,
A.D.J.

D. S. WIJESINGHE. Affirmed. 59. Overseer, Colombo Municipality, residing at Dematagoda.

I have been residing in Dematagoda for the last 50 years. I am a Buddhist. My father was also a Buddhist. In that area the temple which I went to most frequently was the Maligakanda Temple. My father was a dayakaya of that temple. Somewhere a long time ago the pinnacle was taken up by my father and placed on the dagoba. My father was the late Wijesinghe Aratchige Don Wilson Appuhamy. There were two societies, the Punga Sri Wardha Society and the Dharma Kirti Society. The Punga Sri Wardha Society was giving dana to all the people who take sil. The Dharma Kirti Society was another society for similar work. My father was an officer-bearer in both societies. I have been a dayakaya of this temple for 30 or 40 years. I know the Vidyadhara Sabha. I know that on the death of a member of the Sabha another person is elected to the Vidyadhara Sabha. In the past I did not know that there were meetings at any time. The last meeting I attended was on the death of Mr. W. H. W. Perera. That is the only meeting I attended. Mr. W. H. W. Perera died and I knew that a meeting had to be held to elect somebody in his place.

Q. Who were the people who had the right to elect ?

A. I think it was the dayakayas.

I became aware of this after Mr. W. H. W. Perera's death. Prior to that I as a dayakaya had not been informed of any election and I had not attended any election.

No. 55
Proceedings
before the
District Court
25.8.55—
Continued

Evidence of
J. M. Rodrigo
Examination

Evidence of
J. M. Rodrigo
Cross-
examination

Evidence of
D. S. Wijesinghe
Examination

No. 55
 Proceedings
 before the
 District Court
 25.8.55—
Continued

Evidence of
 D. S. Wijesinghe
 Examination—
Continued

In this particular one I was interested. It was after Mr. W. H. W. Perera's death that I became aware that the dayakayas had a say in the election. Several people of the locality came to me and they appealed to me to get up a meeting and I said that was no use and suggested that we publish a handbill and we published a handbill and distributed it among the dayakayas, that is Y9. The people who signed the handbill were the dayakayas. The handbills were given to the different people who were known to be dayakayas. I know the people in the locality who were supporting the temple. We had Y9 distributed widely. (Shown Y9.) This is the handbill I caused to 10 be distributed. My name is the first there. A notice appeared in the papers to say that a meeting would be held on the 4th February and I went to that meeting.

Roughly there were about 75 people or so at the meeting. Mr. Kannangara came there and he went to the Chief High Priest's room and came back, the Chief High Priest was Rev. B. Piyaratana. All the people were assembled at the hall. He came there and sat in the chair which I think was meant for the Chairman and then facing the dagoba we all took pansil. No priests were present at the meeting. Nobody administered the pansil. Then somebody read 20 the notice summoning the meeting and after that somebody from the audience proposed the name of Mr. Gamini Jayasuriya to be one of the Sabhapathies in place of Mr. W. H. W. Perera. Mr. Kannangara was not proposed to the chair by anybody. Somebody seconded Mr. Gamini Jayasuriya's name. After that one Romiel Perera suggested the name of J. A. Perera. To my knowledge I do not know whether Romiel Perera was a dayakaya of the temple. I know Romiel Perera.

Q. Is he a dayakaya of the temple ?

A. Yes.

30

I say that he is a dayakaya for the reason that he has signed Y9.

Romiel Perera suggested the name of J. A. Perera. Then Mr. Kannangara put up his hand and said "Stop." Nobody seconded it. Before it was seconded Mr. Kannangara asked him to stop and asked the person who had read the notice to see whether Romiel Perera's name was given as a dayakaya. Then that person said that his name was not there. Then Mr. Kannangara said that Mr. Gamini Jayasuriya is elected and he went off. Nothing else happened at that meeting. After the meeting a lorry load of constables and an inspector came there. I do not know for what reason they came there. I was 40 speaking to Raja Hewavitarne. Raja Hewavitarne said, "Nothing happened here. You better go away" and they went.

Q. Was there any disturbance earlier at the meeting. Was there any protest against Mr. Kannangara's ruling ?

A. Yes. There was a sort of protest.

Q. Did Mr. Kannangara adjourn the meeting in a leisurely manner or otherwise ?

A. He got up and went away.

Cross-examined by Mr. Kottegoda.

Q. Are you aware that the Vidyodaya Dayaka Sabha was reconstituted in 1952 ?

(Mr. Wikramanayake objects to this question. Mr. Kottegoda withdraws the question.)

10 Q. Were you aware that there was a Dayaka Sabha ?

A. Yes.

Q. Are you aware that in 1952 certain people signed applications and formally became members ?

A. No.

Q. You did not sign an application form like this (Shown Y6) ?

A. No.

Q. You never paid any subscriptions ?

A. No.

(Mr. Kottegoda reads the minutes at page 54 in Y7.)

20 Q. That says that by a resolution proposed by Raja Hewavitarne and P. C. Perera Hon. Dr. C. W. W. Kannangara was voted to the chair ?

A. No. Nothing like that happened.

Q. Thereafter the notice confirming the minutes was read ?

A. Yes.

Q. Thereupon he called upon the members of the Vidyodaya Dayaka Sabha to propose a name for the vacancy created by Mr. W. H. W. Perera ?

A. He did not say that.

30 I do not know exactly who the proposer or the seconder was. But I know that somebody proposed and somebody seconded the name of Mr. Gamini Jayasuriya. I did not see those two who proposed and seconded. I was not acquainted with those two people. Romiel Perera proposed a name and Mr. Kannangara asked whether he was a member of the Sabha and that was ruled out. Dr. Kannangara then said that Mr. Gamini Jayasuriya was elected. He did not say that there were no other names and got up and went away. That was all that took place there.

No. 55
Proceedings
before the
District Court
25.8.55—
Continued

Evidence of
D. S. Wijesinghe
Cross-examination

No. 55
 Proceedings
 before the
 District Court
 25.8.55—
Continued

Evidence of
 D. S. Wijesinghe
 Cross-examination—
Continued

Cross-examined by Mr. Herat.

Q. All that you say that took place was that when Albert Perera's name was proposed an inquiry was made by the Chairman whether Albert Perera's name and Romiel Perera's name appeared in the list of dayakayas ?

A. Yes. Mr. Kannangara asked somebody whether Romiel Perera's name appeared.

I do not know who the Sabhathies are.

Q. Do you know the terms of the original deed constituting the Vidyadhara Sabha ?

10

A. No.

I saw Mr. Kannangara there. I saw Mr. Raja Hewavitarne there. I do not think I saw Mr. Daya Hewavitarne there. I do not know Mudaliyar Ratnatunga. I do not know who the Sabhathies are. This was the only meeting I attended to elect a member of the Vidyadhara Sabha. Mr. W. H. W. Perera was our proctor and after his death we were on the alert to see who was being elected in his place. I was interested because he was our proctor and he knew us, everybody in our family, from childhood. He was our family lawyer. He was not a relation.

20

Q. Why were you worried about who was taking his place in the Vidyadhara Sabha ?

A. That was the only time we knew that somebody would be elected.

Q. You went there merely because an election was to take place to elect somebody in place of Mr. W. H. W. Perera, your proctor ?

A. Yes. Because after we published the handbill we had come there.

About 10 or 15 people of the locality came to me with the idea of publishing the handbill. They came and asked me what to do about this election and I suggested distributing a handbill. It was after that I saw the notice in the papers. I think the handbill was on the 21st or 22nd and the notice in the papers was on the 23rd. The notice was in the papers after the handbill appeared. People had come to see me before the notice appeared. People of the locality came to see me. About 10 or 15 persons came, of them some were Romiel Fonseka, Perera—I do not know his initials, Piyadasa and Gunasekera. They told me that this time even we must try to get a member from the locality to the Vidyadhara Sabha. The reason was to get a member of the locality who was a dayakaya of the temple. At the meeting among the 75 people there were dayakayas present. Subsequently I saw the notice in the papers.

40

Q. After Romiel Perera's motion was ruled out there were no further names proposed ?

A. No.

Re-examined.

I was the Secretary of the All-Ceylon Congress of Buddhists. I was a dayakaya but I was not a member of a Sabha. There are lots of other people in the locality who are dayakayas but who are not members of a Dayaka Sabha. I know that today there are said to be members of a Vidyodaya Dayakaya Sabha. That is the book into which
10 Dr. Kannangara looked. To my knowledge before that there was no Dayaka Sabha.

(Sgd.) A. L. S. SIRIMANNE,
A.D.J.

Mr. Wikramanayake closes his case reading in evidence Y1 to Y9.

Mr. Herat addresses Court. He refers to proceedings of 20th May, 1955. He states that the present objections are those dated 6th April, 1955. Refers to P1 deed 925 at page 49 of the record. He refers to paragraph 6 of P1.

20 He refers to Clause 13 of P1 at page 52 of the record.

Mr. Wikramanayake addresses Court. He refers to the order dated 27.7.54. Refers to objections of 29.7.54 and X1, X4, X2, X3 and Y4.

(Adjourned for lunch.)

(Sgd.) A. L. S. SIRIMANNE,
A.D.J.
25.8.55.

2882/Land. 25.8.55.

After lunch.

30 Mr. Wikramanayake resumes his address.

He refers to Y6. He points to the date on which Mr. Gamini Jayasuriya was elected a member and the date on which his subscription was paid as shown from the receipt of the Bank of Ceylon. He says that the Vidayadoya Sabha came into existence in 1952 after the case was over. He says that with regard to the election of Mr. Dudley Senanayake the inadequacy of the notice was purposely done.

No. 55
Proceedings
before the
District Court
25.8.55—
Continued

Evidence of
D. S. Wijesinghe
Re-
examination

No. 55
 Proceedings
 before the
 District Court
 25.8.55—
Continued

He submits that those who had the right to vote were not given the chance to vote, therefore the elections are bad and if the elections are bad the substitution is bad.

Mr. Kottegoda addresses Court. He refers to the objections filed by the appellant. He also refers to X10 and X11.

(Mr. Wikramanayake objects to X10 and X11 being referred to as they have not been formally proved.

I allow the document.)

Order 1/9.

(Sgd.) A. L. S. SIRIMANNE, 10
A.D.J.

No. 56
 Order of the
 District Court
 1.9.55

No. 56
Order of the District Court

D.C. 2882/L.

ORDER

The plaintiff claimed in this action that he be declared entitled as trustee to certain premises described in the schedule to the plaint as against the 1st defendant. He claimed that he was duly appointed by a body of 13 persons called the Vidyadhara Sabha as Principal of the Vidyodaya Pirivena and the incumbent of the Aramaya in accordance with the terms of an old deed 925 of 1873, P1. He complained that the 1st defendant was in unlawful occupation of those premises and prayed that he be ejected. 20

The 2nd to 14th defendants were made parties to give them notice of the action as members of the Vidyadhara Sabha and no relief was claimed by the plaintiff against them.

It might be noted here that the 1st defendant took up the position in his answer that "the devolution of the control of the said temple was in the Sisyanusisya Paramparawa"—that the members of the Sabha (that is the 13 people referred to above) were not entitled to make appointments and further that in any event the 2nd to 14th defendants were not properly elected members of the Vidyadhara Sabha. So that, from his point of view any person elected to succeed anyone of the 2nd to 14th defendant must also be a person not duly elected and in this view of the matter no substitution can ever be made—as indicated in paragraph 5 of the 1st defendant's objections dated 29.9.54 regarding the 2nd defendant's successor. He says there that the election of the 2nd defendant was bad in law and that therefore the election of a member in his place is also bad. 30

However that may be, some of the defendants died while the trial was pending in the District Court and the plaintiff substituted certain others in their place. It is unnecessary to discuss those substitutions for the purposes of this inquiry for no objection was taken by the 1st defendant at that time.

No. 56
Order of the
District Court
1.9.55—
Continued

Plaintiff then obtained judgment against the 1st defendant and decree was entered on 17.10.50.

The defendant appealed.

While the appeal was pending more defendants died and the record was returned to the District Court for substitution. The 18th defendant was substituted in place of the 2nd defendant in 1952. The 11th defendant resigned and the 19th defendant was substituted in his place also in 1952. The 19th defendant then died in 1954 and when the 20th defendant was substituted in his place the 1st defendant objected to this substitution and also to those that were made in 1952—one of his objections being that the substitutions were made without notice to him. After inquiry my predecessor held that section 404 applied and that the 1st defendant was entitled to notice before a substitution can be made. He said in his order dated 27.7.54 ;
20 “ Accordingly I set aside the order made in respect of the substitution of the 18th defendant-respondent in place of the 2nd defendant-respondent and the 20th defendant-respondent in place of the 19th defendant-respondent.

This order, however, will not operate as a bar to the substitution of the 18th and 20th defendants-respondents in place of the 2nd defendant-respondent and 19th defendant-respondent after compliance with the formalities prescribed in section 404.”

Notice was then given to the 1st defendant of these applications to substitute and also that of another, for the 6th defendant had died
30 in the meantime and one Gamini Jayasuriya elected in his place.

The 1st defendant has objected again and those objections are the subject-matter of this inquiry. They are dated 29.9.54 and 6.4.55 and in the main the complaint is that there was insufficient publicity and that the form of the notices imposed certain restrictions. He puts the plaintiff to the proof that the persons concerned has been duly elected.

Paragraph 6 of the deed P1 sets out the manner in which a member should be elected in place of a deceased member. It reads as follows :—

40 “ 6. It is further agreed that if any member of this Sabha happens to pass away, within a month of his passing away, the fact having been published 8 days previously in such suitable manner as through newspaper, etc., a general meeting consisting

No. 56
Order of the
District Court
1.9.55—
Continued

of dayakayas (Supporters) and the remaining Sabhapathies shall be convened and in accordance with the decision of a majority at such a meeting a Sabhapathy shall be elected.”

One has to remember that the Deed P1 is really nothing more than an agreement between 13 persons setting out the measures that should be adopted in order to achieve the object they had in mind, viz. :—

the establishment and maintenance of a Pirivena for teaching Buddhism.

This body of 13 persons is an entirely “ private society ” (if one may use that term) not governed by any statute, and the procedure which they adopted and the manner in which they conducted their business at meetings is not governed by any law. Meetings of this Sabha are on an entirely different footing from company meetings or meetings of their bodies having legal recognition like Town Councils, Village Committees, etc.

Let us examine now the procedure that has been adopted in each of the cases relevant to this inquiry.

First:—The 2nd defendant, the Right Honourable D.S. Senanayake, died on 22.3.52. (X6 is the death certificate.) The fact that a special general meeting would be held to elect a successor was published in the “ Ceylon Observer ” of 9.4.52 (X1) and the “ Sinhala Bauddhaya ” of 12.4.52 (X4). X7A are the minutes of the meeting held on 20.4.52 at which the 18th defendant, Mr. Dudley Senanayake, was elected in his place.

The Minute book X7 is produced from the custody of the present Secretary, Professor G. P. Malalasekera, and I see no reason whatsoever to hold that there was anything wrong with the election of the 18th defendant.

Second:—There is the resignation of Mr. B. R. Dias the 11th defendant which had been accepted. X7B are the minutes of a meeting held on 30.4.52 for this purpose. X5 is a notice published in the newspaper “ Sinhala Bauddhaya ” that a meeting of the Sabha and the dayakayas will be held on 4.5.52 to elect a member in place of the 11th defendant who has resigned. X7C are the minutes of a meeting held on 14.5.52 at which Mr. Jothipala Samarasinghe, 19th defendant, was elected in his place. I see nothing wrong with this election.

Third:—The 19th defendant died on 12.1.54. X8 is the death certificate. X2 is a notice published in the “ Dinamina ” of 26.1.54 that a meeting will be held on 5.2.54 for the purpose of electing a member in place of the deceased 19th defendant. X7D are the minutes of the meeting held on 5.2.54 at which Dr. A. M. Samarasinghe, the 20th

defendant, was unanimously elected in place of the deceased. Once again I see no reason to hold that the election of the 20th defendant was invalid.

No. 56
Order of the
District Court
1.9.55—
Continued

Lastly:—The 6th defendant, W. H. W. Perera, died on 8.1.55. X9 is the death certificate. X3 is a notice published in the “Dinamina” of 24.1.55 notifying the fact that a meeting would be held on 4.2.55 to elect a person in his place. X7E are the minutes of the meeting of 4.2.55 at which Gamini Jayasuriya was elected in place of the deceased.

10 In regard to this last meeting the Secretary, Prof. G. P. Malalasekera, arrived late. Two witnesses, one Talagala and Wijeyasinghe have been called by the 1st defendant. My view is that these two, particularly the former, were inclined to exaggerate the alleged irregularities at that meeting probably because they are annoyed that the Chairman did not put to the house a name proposed by a person, who according to the Chairman’s ruling was not a dayakaya. The evidence of Seneviratne shows, however, that the procedure usually adopted at meeting of societies was substantially followed. The meeting (says witness) started with Pan Sil. The notice convening
20 the meeting was read—Gamini Jayasuriya’s name was proposed and seconded. It was when a second name was proposed by one Romiel Perera that the Chairman rules (apparently after consulting some officer of the Society who had a list of dayakayas) that Romiel was not entitled to propose a name. Even this witness himself was not too sure whether Romiel was a dayakaya or not.

Now, when the proceedings of this meeting (as well as the minute book and other books of the Society) are subjected to microscopic scrutiny certain irregularities can be pointed out, *e.g.* that the Chairman was not proposed and seconded to the Chair—that the minutes
30 were not circularised before they were confirmed, etc., but I do not think that these irregularities are such as to render the elections void.

It has been pointed out that in 1952 after a re-organisation of the dayakayas by Prof. Malalasekera their numbers were restricted.

A dayakaya (according to this witness) is a regular supporter of the temple particularly one who gives Wassa Dana.

In 1873 when P1 was drawn up this class of persons would have been quite easily ascertainable. But at the present time with the development of the town and the facilities for travel, large numbers of people not only from Colombo but outside it could claim to be
40 dayakayas and no one would be able to dispute such a claim unless some sort of list or register was prepared.

I do not see any objections to the procedure adopted in 1952 to ascertain who the dayakayas were. If this was not done (particularly when there was a dispute) a person who wanted to create trouble

No. 56
Order of the
District Court
1.9.55—
Continued

could pack a meeting with all sorts of men who call themselves dayakayas—and no one would be able to contradict them. The one and only meeting which the witness Seneviratne attended, for instance, was the meeting of 5.2.55.

I hold that the persons referred to above have been duly elected and I allow the application for substitution. Let Gamini Jayasuriya be added as a defendant and the caption amended accordingly. The name of the other substituted defendants already appear in the caption and can remain as they are.

Plaintiff is entitled to the costs of this inquiry.

10

Forward record to Supreme Court.

(Sgd.) A. L. S. SIRIMANNE,

A.D.J.

1st September, 1955.

No. 57
Petition of
Appeal to the
Supreme Court
12.9.55

No. 57

Petition of Appeal to the Supreme Court

Filed at 9.55 a.m. today.

(Sgd.)

Assistant Secretary,

D.C., Colombo.

20

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

D.C. No. 2882/Land.

Ven. Baddegama Piyaratana Nayaka Thero as Principal
of the "Vidyodaya Pirivena", Maligakanda in Colombo

D.C. (Inty) 37 *Plaintiff*

1956

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thero of Vidyodaya Pirivena, Maligakanda in Colombo.
- (Dead) 2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatta Road in Colombo.
3. The Hon. Christopher William Wijeykoon Kannan-gara, M.S.C., of "Cranford", 29, Alfred Place, Kollupitiya in Colombo.
- (Dead) 4. Mr. Jacob Moonesinghe, Proctor, of "Winton", Dickmans Road in Colombo.

- (Dead) 5. Mr. Henry Woodward Amarasuriya, M.S.C., of No. 9, Gower Street in Colombo.
6. Mr. Willorage Henry William Perera, Proctor, of "Vijitha", No. 335, Timbirigasyaya Road in Colombo.
7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace in Colombo.
8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya in Colombo.
- 10 9. Mr. Rajah *alias* Rajasinghe Hewavitarne, M.S.C., of "Nimalka", Kollupitiya in Colombo.
10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya in Colombo.
11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road, Colombo.
12. Mudaliyar Egodage Alfred Abayasekara of Karagam-pitiya Road, Dehiwela.
- 20 13. Mudaliyar Piyadasa Dharmasiri Abeywardene Ratnatinga of "Sagala", Chapel Lane, Wellawatte in Colombo.
- (Dead) 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda.
15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant (dead).
16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant (dead).
- 30 17. N. S. Moonesinghe, substituted in place of Dr. Amarasinghe of Colombo, who was substituted in place of 15th defendant Dr. B. E. Fernando (dead).
- 2nd to 17th defendants as members of the Vidyadhara Sabha of the Vidyodaya Pirivena, Maligakanda in Colombo..... *Defendants.*
- Ven. Baddegama Piyaratana Nayaka Thera as Principal of the "Vidyodaya Pirivena", Maligakanda in Colombo.
 *Plaintiff-Petitioner*
- and*
- 40 1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo.
- (Dead) 2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatta Road in Colombo.

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- (Dead) 3. The Hon. Mr. Christopher William Wijeykoon Kan-
 nangara, M.S.C., of "Cranford", 29, Alfred Place,
 Kollupitiya in Colombo.
4. Mr. Jacob Moonesinghe, Proctor, of "Winton",
 Dickmans Road in Colombo.
5. Mr. Henry Woodward Amarasuriya, M.S.C., of No. 9,
 Gower Street in Colombo.
- (Dead) 6. Mr. Willorage Henry William Perera, Proctor, of
 "Vijitha", 335, Timbirigasyaya Road in Colombo.
7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 10
 16, Longden Terrace in Colombo.
8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place,
 Kollupitiya in Colombo.
9. Mr. Rajah *alias* Rajasinghe Hewavitarne, M.S.C., of
 "Nimalka," Kollupitiya in Colombo.
10. Mr. Wimala Dharma Hewavitarne of Sri Nagar",
 Kollupitiya in Colombo.
11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road
 in Colombo.
12. Mudaliyar Egodage Alfred Abayasekara of Karagam- 20
 pitiya Road, Dehiwela.
13. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratna-
 tunga of "Sagala", Chapel Lane, Wellawatte in
 Colombo.
- (Dead) 14. Dr. D. B. Perera of No. 40, High Level Road,
 Nugegoda.
- (Dead) 15. Dr. B. E. Fernando of Colombo, substituted in
 place of 14th defendant-respondent (dead).
16. Daya Hewavitarne of Alfred Place Avenue, Colombo,
 substituted in place of 4th defendant-respondent 30
 (dead).
17. N. S. Moonesinghe, substituted in place of Dr. Amara-
 singhe of Colombo, who was substituted in place
 of 15th defendant-respondent Dr. B. E. Fernando
 (dead).
 2nd to 17th defendants-respondent as members of the
 Vidyadhara Sabha of the Vidyodaya Pirivena,
 Maligakande in Colombo... *Defendants- Respondents.*
18. Hon. Mr. Dudley Senanayake is substituted in place
 of 2nd defendant (dead). 40
19. Jothipala Subasinghe is substituted in place of 11th
 defendant.

20. Dr. A. M. Samarasinghe, 7, Reid Avenue, substituted in place of 20th defendant (dead).
21. Gamini Jayasuriya of 494/6, Galle Road, Colombo 3, substituted in room of 6th defendant (deceased)..... *Respondents*
- between*
- Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maliagkanda in Colombo.
- 10 *1st Defendant-Respondent-Appellant*
- and*
- Ven. Baddegama Piyaratana Nayaka Thero of Vidyodaya Pirivena, Maligakanda, Colombo.....
- *Plaintiff-Petitioner-Respondent.*
- (Dead) 2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatta Road in Colombo.
3. The Hon. Christopher William Wijeykoon Kannan-gara, M.S.C., of "Cranford", 29, Alfred Place, Kollupitiya in Colombo.
- 20 (Dead) 4. Mr. Jacob Moonesinghe, Proctor, of "Winton", Dickmans Road in Colombo.
5. Mr. Henry Woodward Amarasuriya, M.S.C., of No. 9, Gower Street in Colombo.
- (Dead) 6. Mr. Willorage Henry William Perera, Proctor, of "Vijitha", 335, Timbirigasyaya Road in Colombo.
7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace in Colombo.
8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya in Colombo.
- 30 9. Mr. Rajah *alias* Rajasinghe Hewavitarne, M.S.C., of "Nimalka", Kollupitiya in Colombo.
10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya in Colombo.
11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road in Colombo.
12. Mudaliyar Egodage Alfred Abayasekara of Karagam-pitiya Road, Dehiwela.
13. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratna-tunga of "Sagala", Chapel Lane, Wellawatte in Colombo.
- 40 (Dead) 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda.

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Continued

- (Dead)
15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant-respondent.
 16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant-respondent (dead).
 17. N. S. Moonesinghe, substituted in place of Dr. Amarasinghe of Colombo, who was substituted in place of 15th defendant-respondent, Dr. B. E. Fernando (dead).
2nd to 17th defendants-respondents as members of 10 the Vidyadhara Sabha of the Vidyodaya Pirivena, Maligakanda in Colombo.....
..... *Defendants- Respondents- Respondents.*
 18. Hon. Mr. Dudley Senanayake is substituted in place of 2nd defendant (dead).
 19. Jothipala Subasinghe is substituted in place of 11th defendant.
 20. Dr. A. M. Samarasinghe of Reid Avenue, substituted in place of 20th defendant (dead).
 21. Gamini Jayasuriya of 494/6, Galle Road, Colombo 3, 20 substituted in room of 6th defendant (deceased)..
..... *Respondents- Respondents.*

To

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

On this 12th day of September, 1955.

The petition of appeal of the 1st defendant-respondent-appellant abovenamed appearing by Felix Joseph Peter Perera, his proctor, states as follows :—

1. The plaintiff-petitioner-respondent filed the above styled 30 action against 1st defendant-respondent-appellant for a declaration that the said plaintiff-petitioner-respondent holds the lands and premises described in the schedule to the plaint in trust for as trustees of a Charitable Trust and for an order to eject the 1st defendant-respondent-appellant from the premises and for the recovery of damages. He claimed that he was duly appointed by a body of 13 persons called the Vidyadhara Sabha as Principal of the Vidyodaya Pirivena established on the premises described in the schedule to the plaint. The 2nd to 17th defendants-respondents-respondents were made parties as members of the Vidyadhara Sabha in order to give them notice of the 40 action.

2. The 1st defendant-respondent-appellant filed answer denying the plaintiff-petitioner-respondent's rights and claimed the said property, which he said constituted the Maligakanda temple upon a

deed of appointment bearing No. 2662 from one Ven. Dewundara Sri Jinaratana Nayake Thera according to the rules of Sisyanusisya Paramparawa. The 1st defendant-respondent-appellant further pleaded that the 2nd to 17th defendant-respondent-respondent were not properly elected members of the Vidyadhara Sabha and that the appointment of the plaintiff-petitioner-respondent was bad.

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3. After trial the learned District Judge delivered judgment declaring that the plaintiff-petitioner-respondent holds the said lands and premises in trust for a Charitable Trust and ordered that the 1st
10 defendant-respondent-appellant be ejected.

4. Being dissatisfied with the said judgment the 1st defendant-respondent-appellant appealed to Your Lordship's Court on the 18th day of October, 1950.

5. While the appeal was pending the 2nd defendant-respondent-respondent died on the 22nd day of March, 1952, the 11th defendant-respondent-respondent resigned on the 30th day of April, 1952, and the 19th defendant-respondent-respondent died on the 12th day of January, 1954. The plaintiff-petitioner-respondent thereafter pur-
ported to substitute the 18th respondent-respondent in place of the
20 2nd defendant-respondent-respondent and 19th respondent-respondent in place of the 11th defendant-respondent-respondent on the 18th day of June, 1952, and the 20th respondent-respondent in place of the 19th respondent-respondent on the 15th March, 1954.

6. Thereupon the 1st defendant-respondent-appellant by his objections dated 2nd June, 1954, stated that the aforesaid substitutions were bad in law in that the 1st defendant-respondent-appellant had no notice of the said substitutions and that he had not consented to the said substitutions.

7. Thereupon the objections were inquired into and the Court
30 by its order dated 27th day of July, 1954, upheld the objections of the 1st defendant-respondent-appellant and declared the aforesaid substitutions were bad in law.

8. Thereafter on 24th day of August, 1954, the plaintiff-petitioner-respondent renewed his application to effect the aforesaid substitutions with notice to the 1st defendant-respondent-appellant.

9. Thereupon the 1st defendant-respondent-appellant objected on the 29th day of September, 1954, to the above application on the ground that the persons sought to be substituted had not been properly elected according to and in the manner set out in deed No. 925 of
40 1873 in that a large number of dayakayas who were entitled to vote were kept away from the said meetings due to—

(a) insufficient publicity;

(b) restrictions imposed by the nature and form of the notice;

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(c) misconception of those convening and conducting the said meetings in regard to their own rights and those of the dayakayas.

10. Thereafter the 6th defendant-respondent-respondent died on the 7th day of January, 1955, and the plaintiff petitioner-respondent sought to have Gamini Jayasuriya substituted as 21st respondent-respondent in place of the 6th defendant-respondent-respondent.

11. The 1st defendant-respondent-appellant by his objections dated the 6th day of April, 1955, objected to this application, too, on the ground *inter alia*, that the meeting at which the said Gamini Jayasuriya was alleged to have been elected was not properly con- 10 stituted and that the proceedings of the said meeting are void *ab initio*.

12. Thereupon the learned Trial Judge inquired into the said objections and by his order dated 1st day of September, 1955, held that the persons whom the plaintiff-petitioner-respondent sought to have substituted as defendants-respondents-respondents were duly elected members of the said Vidyadhara Sabha and allowed the application of the plaintiff-petitioner-respondent, for substitution of the said respondents-respondents.

Being aggrieved by the said order the 1st defendant-respondent- 20 appellant begs to appeal to Your Lordship's Court on the following among other grounds which may be urged by Counsel at the hearing of the appeal :

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

(ii) It is submitted with respect that the learned Trial Judge completely misdirected himself when he held that the Vidyadhara Sabha was entirely a " Private Society " and that irregularities in either convening of the meeting or in the conduct of the meetings of the said Sabha could not thereby invalidate the election of the 30 Sabhathies of the said Sabha.

(iii) It is further submitted that the learned Trial Judge was wrong when he held that the formation in 1952 of the Vidyodaya Dayaka Sabha and the consequent restriction of the right to vote only to persons who had been admitted as members of this Dayaka Sabha, the admission to which among other restrictions were subject to the wishes of the members of the Executive Committee was not objectionable.

(iv) The 1st defendant-respondent-appellant states that these restrictions on the hitherto unfettered rights of all persons who were 40 regular supporters of this institution to vote were contrary to the letter and the spirit of the provisions of deed No. 925 of 6th December, 1873.

(v) The 1st defendant-respondent-appellant states that the plaintiff-petitioner-respondent has failed to adduce any legally admissible evidence to prove that Mr. Dudley Senanayake had been properly and lawfully elected as a Sabhapathy and that the learned Trial Judge was wrong in holding that the said Dudley Senanayake had been lawfully elected according to the provisions of clause 6 of deed No. 925 of 1873.

(vi) The election of Jothipala Subasinghe to take the place of B. R. Dias is not lawful as the resignation of B. R. Dias itself was not
 10 regular in that it was not done in accordance with the provisions of the said deed No. 925. In any event the learned Trial Judge was wrong in holding that the said Jothipala Subasinghe had been lawfully elected for the reason that the meeting at which he was alleged to have been elected was not properly constituted in that due and sufficient publicity as contemplated in clause 6 of deed No. 925 of 1873 was not given for the purpose of convening the said meeting.

(vii) The 1st defendant-respondent-appellant further submits that the learned Trial Judge should have held that the election of Dr. A. M. Samarasinghe too, was not proper and lawful in that —

- 20 (a) due and sufficient publicity as contemplated by deed No. 925 was not given for purpose of convening the meeting; and
- (b) restrictions were imposed on the rights of the dayakayas to vote at this meeting.

(viii) The 1st defendant-respondent-appellant further submits that the learned Trial Judge was clearly wrong when he held that Gamini Jayasuriya had been properly and lawfully elected as a Sabhapathy of the said Vidyadhara Sabha. The 1st defendant-respondent-appellant states that there was absolutely no evidence before the
 30 learned Trial Judge to prove that the said Gamini Jayasuriya had been properly elected at a properly constituted “general meeting consisting of dayakayas and the remaining Sabhapathies”.

(ix) The 1st defendant-respondent-appellant, on the other hand, placed before the learned Trial Judge clear and convincing evidence unchallenged by the plaintiff-petitioner-respondent that the meeting at which Gamini Jayasuriya was alleged to have been elected was a complete mockery and a farce.

(x) The 1st defendant-respondent-appellant submits that in as much as a large number of dayakayas who were entitled to vote were
 40 denied the right to participate in the election of Sabhapathies of the said Vidyadhara Sabha by reason of (a) insufficient notice of the meetings of the dayakayas and the remaining Sabhapathies, and (b) restriction of the right to vote only to those whose names appeared in a list prepared by the Secretary of the Vidyodaya Dayaka Sabha, the

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proceedings of the aforesaid meetings at which the aforesaid Sabhapathies were elected are null and void and completely vitiate the said elections.

Wherefore the first defendant-respondent-appellant prays—

- (a) that Your Lordships' Court be pleased to set aside the order of the learned Trial Judge made on 1st September, 1955 ;
- (b) that Your Lordships' Court be pleased to declare that Dudley Senanayake, Jothipala Subasinghe, Dr. A. M. Samarasinghe, and Gamini Jayasuriya were not duly 10 elected and therefore the substitution of the said Dudley Senanayake, Jothipala Subasinghe, Dr. A. M. Samarasinghe and Gamini Jayasuriya as parties defendants in this case is bad in law ;
- (c) that Your Lordships' Court be pleased to refuse the application of the plaintiff-petitioner-respondent for the substitution of the said several persons respectively ;
- (d) for costs and for such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) F. J. P. PERERA, 20
Proctor for 1st Defendant-Respondent-Appellant.

Settled by
(Sgd.) Illegible
(Sgd.) Illegible
Advocates.

No. 58
Affidavit of
Percival
Upajiva
Ratnatunga
3.5.56

No. 58
Affidavit of Percival Upajiva Ratnatunga

IN THE DISTRICT COURT OF COLOMBO

No. 2882/L.

Rev. Baddegama Piyaratana Nayaka Thero as Principal 30
of the Vidyodaya Pirivena, Maligakanda, Colombo . . .
..... *Plaintiff*

vs.

1. Rev. Morantuduwe Sri Naneswara Dhammananda
Nayaka Thero of Maligakanda, Colombo, and
others..... *Defendants.*

In the matter of an application to substitute a member of the Vidyadhara Sabha in place of the 16th defendant deceased

No. 58
Affidavit of
Percival
Upajiva
Ratnatunga
3.5.56—
Continued

between

Rev. Baddegama Piyaratana Nayaka Thero, Principal of the Vidyodaya Pirivena, Maligakanda, Colombo . . .
.....*Petitioner*

and

10 Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty Colombo..... *Respondent.*

I, Percival Upajiva Ratnatunga of No. 84, 5th Lane, Colpetty in Colombo, do hereby solemnly, sincerely and truly declare and affirm as follows :—

1. I am the acting Secretary of the Vidyadhara Sabha duly elected and appointed to carry out the duties of the said office in the absence of Dr. G. P. Malalasekera, the Honorary Secretary of the said Sabha.

20 2. Daya Hewavitarne who was a member of the Vidyadhara Sabha and the 16th defendant in the above case departed this life on the 22nd day of March, 1956, and at a special general meeting of the said Vidyadhara Sabha and the Vidyodaya Dayaka Sabha held on 11th April, 1956, I the respondent abovenamed was unanimously elected as a member of the said Vidyadhara Sabha in place of the said deceased.

3. It has become necessary for the purpose of above case to substitute me the respondent abovenamed in place of Daya Hewavitarne the 16th defendant deceased.

Signed and affirmed to at Colombo on
this 3rd day of May, 1956.

30 (Sgd.) P. U. RATNATUNGA.

Before me

(Sgd.) P. D. Ratnatunga,
Justice of the Peace.

No. 59

Petition of Rev. Baddegama Piyaratana Nayaka Thero

IN THE DISTRICT COURT OF COLOMBO

Rev. Baddegama Piyaratana Nayaka Thero, Principal of the Vidyodaya Pirivena, Maligakanda, Colombo . . .
.....*Plaintiff*

No. 59
Petition of Rev:
Baddegama
Piyaratana
Nayaka Thero
4.5.56

No. 59
 Petition of Rev.
 Baddegama
 Piyaratana
 Nayaka Thero
 4.5.56—
Continued

No. 2882/L.

vs.

1. Rev. Morontuduwe Sri Naneswara Dhammananda
 Nayaka Thero of Maligakanda, Colombo, and
 others..... *Defendants.*

In the matter of an application to substitute a member
 of the Vidyadhara Sabha in place of the 16th defendant
 deceased.

between

Rev. Baddegama Piyaratana Nayaka Thero, Principal
 of the Vidyodaya Pirivena, Maligakanda, Colombo.... 10
 *Plaintiff-Petitioner.*

and

Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty,
 Colombo..... *Respondent.*

On this 4th day of May, 1956.

The petition of the petitioner abovenamed appearing by William
 Henry Senanayake, his proctor, states as follows :—

1. The petitioner is the plaintiff abovenamed.

2. Daya Hewavitarne who was a member of the Vidyadhara
 Sabha and the 16th defendant in the above case departed this life on 20
 the 22nd day of March, 1956, and at a special general meeting of the
 said Vidyadhara Sabha and the Vidyodaya Dayaka Sabha held on
 11th April, 1956, the respondent abovenamed was unanimously
 elected as a member of the said Vidyadhara Sabha in place of the 16th
 defendant deceased.

3. It has become necessary for the purpose of the above case
 to substitute the respondent abovenamed in place of the said 16th
 defendant deceased.

Wherefore the petitioner prays —

- (a) that the respondent abovenamed be substituted in place 30
 of the 16th defendant deceased ;
 (b) for costs in this behalf incurred ; and
 (c) for such other and further relief as to this Court shall
 seem meet.

(Sgd.) W. H. SENANAYAKE,
Proctor for Plaintiff-Petitioner.

No. 60

Statement of Objections of the 1st Defendant

IN THE DISTRICT COURT OF COLOMBO

No. 60
Statement of
objections of
the 1st
Defendant
4.7.56

Rev. Baddegama Piyaratana Nayaka Thero and Princi-
pal of the Vidyodaya Pirivena, Maligakanda, Colombo. .
..... *Plaintiff*

No. 2882/L.

vs.

10

1. Rev. Morontuduwe Sri Naneswara Dhammananda
Nayaka Thero of Maligakanda, Colombo, and
others..... *Defendants.*

In the matter of an application to substitute a member of
the Vidyadhara Sabha in place of the 16th defendant
deceased

between

Rev. Baddegama Piyaratana Nayaka Thero, Principal
of the Vidyodaya Pirivena, Maligakanda, Colombo. . . .
..... *Plaintiff-Petitioner*

and

20

Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty,
Colombo..... *Respondent.*

On this 4th day of July, 1956.

The statement of objections of the 1st defendant abovenamed
appearing by Felix Joseph Peter Perera, his proctor, states as
follows :—

1. The 1st defendant admits paragraph 1 of the petition.
2. The 1st defendant admits that Daya Hewavitarne was the
16th defendant in the above case, and that the said Daya Hewa-
vitarna departed this life on the 22nd March, 1956, but denies the
other averments in paragraph 2 of the petition.
- 30 3. The 1st defendant states that the Special General Meeting
alleged to have been held on 11th April, 1956, was not properly
constituted in terms of the provisions of deed No. 925 of 6th December,
1873, read together with deed No. 1259 of 9th March, 1876, which
prescribe the method of election of the members of the Vidyadhara
Sabha and that as such the proceedings of the said meeting are null
and void and that the election of the said P. U. Ratnatunga is of no
force or avail in law.
- 40 4. The 1st defendant denies that the said P. U. Ratnatunga is
the acting Secretary of the Vidyadhara Sabha and puts the plaintiff-
petitioner to the strict proof thereof; and denies that the said P. U.
Ratnatunga has any right or status to swear the affidavit dated 3rd
May, 1956, annexed to the petition of the plaintiff.

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Statement of
objections of
the 1st
Defendant
4.7.56—
Continued

5. The 1st defendant states that the petitioner cannot have and maintain this application in law.

Wherefore the first defendant prays —

- (i) that the petitioner's application be dismissed ;
- (ii) for costs ; and
- (iii) for such other and further relief as to this Court shall seem meet.

(Sgd.) F. J. P. PERERA,
Proctor for 1st Defendant.

Settled by :—

Mr. P. RANASINGHE,
Advocate.

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No. 61
Proceedings
before the
District Court
9.8.56

No. 61

Proceedings before the District Court

9th August, 1956.

Mr. Advocate Herat for plaintiff-petitioner instructed.

Mr. Advocate A. B. Perera with Mr. Advocate Ranasinghe for 1st defendant instructed.

Mr. Advocate Kottegoda for 3rd, 5th 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th, 20th, 21st and 22nd defendants instructed. 20

Mr. Herat states that the matter before Court is the application for substitution in place of a deceased member Mr. Daya Hewavitarne. The deed by which the 13 members formed themselves into the body known as the Vidyadhara Sabha is the deed P1, No. 925. He refers to paragraph 6. Ordinarily a dayakaya is a person who is a regular contributor or person who regularly gives alms to the temple. It means helper. The dayakaya may be even a non-Buddhist taking it in its loose sense, but an organisation cannot be run on such loose lines. When in 1952 Dr. G. P. Malalasekera came to be the Secretary of this Vidyadhara Sabha, he drew up a list of persons who, after due inquiry, he found were the people who regularly helped the temple either by offering alms to the priests or by giving monetary or other aid to the temple. At an earlier inquiry Mr. Sirimanne held that a dayakaya is a regular contributor or supporter. The question is whether the substitution in place of Mr. Daya Hewavitarne is correct. Mr. Daya Hewavitarne was the 16th defendant. He himself was elected in place of the original 4th defendant Mr. Jacob Munasinghe, proctor. The petitioner is moving to substitute in place of Mr. Daya Hewavitarne the 22nd defendant. The 22nd defendant has been

elected at a meeting. Paragraph 6 of P1 indicates how the election should be held. Mr. Daya Hewavitarne's death has been admitted in paragraph 2 of the objections of the 1st defendant.

Mr. Perera states that the 1st defendant does not grant the validity of P1 for more than one reason. P1 should be read in conjunction with P2. P2 contemplates not a Sabha of 13 members but 16 members. There had been various substitutions. All those notices were published by the Secretary of the Vidyadhara Sabha as contemplated by P1. In this particular instance the notice on which the
 10 petitioner comes to Court is a notice published by Dr. Malalasekera as Secretary of the Vidyadhara Sabha and one Attanayake signing as the Secretary of the Vidyodaya Dayaka Sabha. P1 does not contemplate a Vidyodaya Dayaka Sabha. This is an attempt to introduce or import some Dayaka Sabha which was not in existence.

Mr. Herath calls :—

Dr. G. P. MALALASEKERA. Affirmed. Professor in Pali and Buddhism, University of Ceylon, Peradeniya.

I am the Secretary of the Vidyadhara Sabha. The Vidyadhara Sabha is the name of the association which controls the administration of the Vidyodaya Pirivena. I refer to deed 925 of 1873 (P1) and to clause 6 of P1. Mr. Daya Hewavitarne, who was a member of this
 20 Sabha and the original 16th defendant in this case, died on 22.3.56 in England. Mr. Hewavitarne had been substituted earlier in place of the original 4th defendant Mr. Jacob Munasinghe, proctor. It was necessary to hold a meeting to elect someone as a member of the Vidyadhara Sabha in place of the late Mr. Daya Hewavitarne. There has been a list of dayakayas always in the temple. What we did in 1952 was to constitute that into a regular association with office-bearers and continue that list. The association was the Vidyodaya
 30 Dayaka Sabha. A dayakaya etymologically means a person who gives. When it is a matter of a temple, a dayakaya is a supporter of a temple and somebody who contributes regularly for the maintenance and upkeep and development of the temple would be a dayakaya. In the case of a normal temple, a dayakaya is generally understood to be a person who gives regularly dana during the rainy season, the "Vas" season. The meals of the reverend priests should be supplied by rotation by certain families and the heads of those families are considered normally the dayakayas. Even a non-Buddhist can in a sense be a dayakaya if he supports a temple occasionally. In connection with the substitution in place of Mr. Daya Hewavitarne I first of
 40 all sent notices to the remaining members of the Vidyadhara Sabha. Then I got Mr. Attanayake of the Vidyodaya Dayaka Sabha to send notices to the members on his list and thirdly I got a notice published in the "Dinamina". I sent notices myself to the other eleven members of the Vidyadhara Sabha. I sent the notice by post card on 1.4.56.

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I got Mr. Attanayake, who was the Secretary of the Vidyodaya Dayaka Sabha, to send notices to all the members of the Dayaka Sabha. Those notices were sent on the same day. I caused a notice to be published in the Dinamina. I produce Z1 the notice in the "Dinamina" of 4.4.56 and the translation Z1a. Z1 has been signed by me as Secretary of the Vidyadhara Sabha and by Mr. Attanayake as Secretary of the Vidyodaya Dayaka Sabha. Accordingly the meeting was duly held on 11.4.56 at 5 p.m. at the Vidyodaya Pirivena, Maligakande, and there were present some of the remaining members of the Vidyadhara Sabha and members of the Vidyodaya Dayaka Sabha. 10 I have the Minutes before me. (Witness reads the minutes.) The Minutes were recorded by me. I produce marked Z2 the Minutes and the translation Z2a. Those minutes have been confirmed on 8.7.56 signed by Mr. H. W. Amarasuriya. Thereafter my position is that Mr. P. U. Ratnatunga was elected a Sabhapathi in place of the late Mr. Daya Hewavitarne. On the same day, a little while later, there was a meeting of the Vidyadhara Sabha at which the election of Mr. Ratnatunga in place of Mr. Daya Hewavitarne was reported. Those Minutes are also in the Minute Book and I produce Z3 those Minutes and the translation Z3a. (Shown Z2.) Nine members of 20 the Vidyadhara Sabha were present at that meeting. Ten dayakayas of the Vidyodaya Dayaka Sabha were also present at that meeting.

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Cross-examination.

Since the Vidyodaya Dayaka Sabha was constituted, they have got a separate book for Minutes. The Book I produced is not that. Z2 refers to a joint meeting of the Vidyadhara Sabha and the Vidyodaya Dayaka Sabha.

Q. There is no such provision in deed 925 for the Vidyadhara Sabha and the Vidyodaya Dayaka Sabha ?

A. It has been the custom that the records of those joint 30 meetings are stated in the Minutes Book of the Vidyadhara Sabha.

Q. There is no provision under deed P1 for a Sabha known as the Vidyodaya Dayaka Sabha ?

A. Yes.

Q. P1 refers to the supporters ?

A. The dayakayas of the Pirivena.

Q. In the previous Minutes kept by you have there been joint meetings of the Vidyodaya Dayaka Sabha and the Vidyadhara Sabha ?

A. Yes, several.

40

I remember the meeting summoned to appoint a Sabhapathi in place of the late Mr. W. H. W. Perera. I was not present at that

meeting. I was present immediately after the meeting. The notice in respect of that meeting was published under my name.

(Mr. Perera reads X1.)

Q. In notice X1 there was no question of the Vidyodaya Dayaka Sabha ?

A. Not in that notice, but for that meeting notices were sent both by me and by Mr. Attanayake separately.

Q. That meeting was held after you had constituted the Vidyodaya Dayaka Sabha sometime in June, 1952.

10 A. Yes.

Q. What in fact had happened was that the dayakayas of the temple used to meet with the Vidyadhara Sabha when such occasion did arise ?

A. When due notice was given there was a joint meeting of the dayakayas and the remaining members of the Vidyadhara Sabha.

Q. Was Z1 the first meeting where you got Attanayake to sign a notice ?

A. I was trying to save without publishing two separate notices. We thought it best to publish a press notice also.

20 Q. Deed P1 requires that you give publicity to such a meeting under Clause 6 in the press ?

A. Also.

(Mr. Perera reads X5.)

Q. In that notice you did not think it fit to get Attanayaka to sign as Secretary of the Vidyodaya Dayaka Sabha ?

30 A. I did not think it necessary. I am also familiar with the notice which convened the meeting to appoint a Sabhapathi in place of the Rt. Hon. D. S. Senanayake. That was summoned at a time when Mr. Rajah Hewavitrane was Secretary. At that time there was no Dayaka Sabha as such. I am familiar with the notice where appointment was to be made in place of Jothipala Subasinghe which I signed as Secretary. Only I signed that notice. In June, 1952, the Dayaka Sabha was constituted by my efforts. Prior to that there had been a list of dayakayas of the temple.

Q. In fact, the committing of the names to paper took place after the Sabha was constituted by you ?

A. No. The list was on paper. There was a list of the persons who were considered to be the members of the Dayaka Sabha, but they formally constituted themselves into an association in June,

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1952. On that occasion a list of the dayakayas was drawn up. Certain conditions were laid down in regard to payment of the subscriptions.

Q. Prior to that there had been dayakayas of the temple who without paying any subscriptions were dayakayas of the temple?

A. They were all persons who gave "vas dana" to the temple. There was nobody else.

Q. Even outside the vas season there were dayakayas who used to give dana to the temple?

A. Yes. 10

Q. And who used to support the temple in respect of giving assistance for repairs to buildings and minor requirements?

A. Yes.

Q. And that was being done by people who did not subsequently come on to the list subsequently prepared by you?

A. I do not think so. Of those who were alive, all were in the list of June, 1952. There may have been people who brought an occasional meal but not a regular dayakaya in the sense I was explaining.

Q. Is it correct to say that what you did in June, 1952, was to 20 restrict arbitrarily the people who should be dayakayas?

A. No, only to clarify and to make regular the list of subscribers so that we may know when summoning a meeting who should be summoned. There was no restriction at all. Even now anybody who wants to join the Dayaka Sabha can do so by applying.

Mr. P. U. Ratnatunga is the Treasurer now. I cannot remember whether he was the original Treasurer. He was Treasurer for a long time. He will know who and who have paid the subscriptions.

Q. At the meeting held on 11.4.56 the dayakayas who were entitled to be present were people who paid the subscriptions? 30

A. Yes. Only they were summoned.

Q. Only people who paid the subscriptions could be summoned for a meeting and could be present at the meeting?

A. Yes.

At the meeting to elect a Sabhapathi in place of Mr. W. H. W. Perera there were some persons who claimed the right to be present. They wanted to propose other names in place of Mr. W. H. W. Perera and the Chairman prevented that. For the meeting of 11.4.56 I did not publish a press notice separately as Secretary of the Vidya-dhara Sabha. I sent notices to the members. 40

Q. As regards the dayakayas the only notice was the notice under your name and in the name of Attanayake ?

A. And the notices sent out by Mr. Attanayake. I sent 11 post cards to the Sabhapathies. It was the same as the press notice. It had the same wording. At the meeting of 11th April there were members of the Vidyodaya Dayaka Sabha.

Q. Were those people all qualified to vote ?

A. To the best of my ability, yes. No question arose.

Q. Were they checked ?

10 *A.* No. No question arose.

Q. In respect of Mr. W. H. W. Perera's vacancy, the position taken up was that no one except the members who were qualified and whose names were on that list could take part in the proceedings ?

A. If I see the names I can say whether they were qualified or not.

(Witness refers to the Minute Book.) They were qualified. They were people who had paid subscriptions. They were present and were reported as having paid their subscriptions by the Treasurer.

Q. At this meeting the Treasurer did not report that they 20 had paid their subscriptions and were qualified ?

A. No.

Q. You draw the inference from the fact that they had been present at the previous meetings ?

A. That is right.

Prior to this there were several meetings of the Dayaka Sabha. There was a meeting for arrangements for repairs to electric lights and white-washing. It was a couple of months earlier. Attanayake keeps a separate record of the Dayaka Sabha.

Q. As far as the meeting of 11th April was concerned, you were 30 acting on information given to you that those persons present were qualified to vote ?

A. Yes.

The Treasurer gave me the report.

Q. Was that report given on the 11th April itself ?

A. No question was asked at this meeting.

That question was not raised. I could not say exactly when the minutes of the meeting of 11.4.56 were made. They were confirmed on 8.7.56. I may add that before I left for America the copy of the minutes was certified as being a correct record of the proceedings by 40 the Chairman of that meeting, Dr. Kannangara. That copy was made on the 11th before I left for America.

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(*To Court :*

I left on the 12th.)

The minutes of 11.4.56 were confirmed on 8.7.56 by Mr. H. W. Amarasuriya at the Vidyadhara Sabha meeting.

Q. But the translation which you have produced has been certified as correct by Mr. C. W. W. Kannangara, who was the Chairman ?

A. I wanted a record of that meeting in case it was necessary for the purpose of this case. I got that done before I left for America.

The translation also was made on the 11th. The certified copy 10 of Mr. Kannangara was an English recording of the minutes and I wanted that to serve for Court purposes if that was necessary. The confirmation on 8th July was by Mr. W. H. Amarasuriya. On that occasion also I was present.

Q. Prior to the meeting of 11th April when was the previous meeting of the Vidyadhara Sabha ?

A. I cannot say from memory.

Since the meeting in respect of Mr. W. H. W. Perera was held, no formal meeting was held. Sometimes we have meetings of the Sub-Committees of the Sabha but no full meeting was held after the 20 meeting in respect of Mr. W. H. W. Perera.

(Shown Z3.) On 11th April, subsequently a meeting was held and at that meeting it was reported that Mr. Ratnatunga had been elected. It was at that meeting that Mr. Ratnatunga was elected to act as Secretary for me. Both these minutes were confirmed by Mr. Amarasuriya.

The Sabhathies of the Vidyadhara Sabha are ex-officio members of the Dayaka Sabha. They are also dayakayas who pay subscriptions under the rules. They give vas dana and pay subscriptions.

Q. Under the rules you provided for certain categories of 30 members. Some are honorary members ?

A. Yes.

Q. The condition to being a dayakaya is not restricted to payment of subscriptions only ?

A. They can be elected honorary members.

Generally they are people who make large donations for the Pirivena. We have provided for that. The power of electing a dayakaya lies with the Committee of the Dayaka Sabha. The Committee alone could determine who should be a dayakaya.

Q. According to P1 a dayakaya is a supporter of the temple ? 40

A. I do not think the word "dayakaya" is defined there. They are just called dayakayas.

Q. According to the rules framed by you in June, 1952, it is the Committee of the Dayaka Sabha who can determine or elect a person to be a dayakaya?

A. Yes.

Q. You will grant that the spirit of deed P1 never contemplated a restriction in regard to dayakayas?

A. I do not think I can answer that question.

10 Q. You are familiar with deed P1?

A. I do not think so.

Q. I put it to you that the purport of the rules which were framed in June, 1952, of which you were the draftsman—

A. One of the draftsmen.

Q. Was to restrict the category of dayakayas?

A. No.

Q. That the purport of those rules was for a small body to arrogate to itself powers and thereby restrict as to who should be dayakayas?

20 A. Again the answer is No.

(Lunch).

A.D.J.

9.8.56.

(Resumed after lunch. Same appearances.)

Dr. G. P. MALALASEKERA. Affirmed. Recalled.

Cross-examination—(Contd.).

Notice convening the Vidyadhara Sabha has to be published in a newspaper or published in some other ways. The practice has been for a notice to be published in the papers also.

30 Q. During the period you have been Secretary and prior to that, always, on such occasions, when a vacancy has been filled, notice has been published in the newspapers?

A. When I was Secretary, yes.

I believe it has been published earlier also. The purport of giving notice through the press is to inform the dayakayas of the meeting. Even after the Dayaka Sabha was constituted in June, 1952, notice of a meeting of this nature has been published in the newspapers. A dayakaya is a regular supporter of the temple. I

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also said, more particularly, he is a man who gives Vas dana. I am familiar with the rules. We have provided for various categories of members. Subscription for ordinary members was Re. 1/- every month. Deed 925 provided that the dayakayas of the temple should have the right to vote.

Q. Could a person, a regular supporter, without paying Re. 1/- a month to the Society, also vote?

A. Hypothetically, no.

Q. Could a person be a regular supporter of the temple without paying Re. 1/- a month?

10

A. Yes. There are ordinary members as well as Life members.

Q. Could he give Vas dana without giving Re. 1/- a month to the Dayaka Sabha?

A. Yes. Such a dayakaya would have the right to vote at the elections. Assuming a man who was a regular supporter had the right to vote, even though he would not pay Re. 1/- a month, he could vote. I am generally familiar with deed No. 1259 dated 9.3.1876 (P2), the second deed. I read the deed, but not recently. I have not seen this document for some time.

Q. You know the deed which provides for 16 Sabhapathies?

20

A. I am not quite clear about that. I do not know of such a deed.

Q. By deed 1259, which refers to the original deed 925 there were 16 members who have been referred to as forming members of the Vidyadhara Sabha?

A. I should like to study the deed before I answer the question. I have not seen the deed for sometime. (Shown copy of deed 1259.) I find it very difficult to understand the first paragraph, and should like to be excused answering the question now. I would like to study the document for some time. The notice was published on the 4th of April, 1956. We held the meeting on the 11th of April, 1956. Under clause 6 of deed 925 (P1) 8 days notice must be given, but not necessarily through the press. I am not producing a copy of the notice sent out to the various members.

Q. As regards Mr. Ratnatunga who was appointed to the vacancy in place of Mr. Daya Hewavitarne, have you got the book which gives Ratnatunga as a member of the Dayaka Sabha?

A. If it is the list you refer to, that is in the Court. He is a Life member, according to the list. His subscription was paid on 31.5.1952. His application for enrolment is numbered 3. It must have been before 12.6.52. His name appeared under 3.6.1952. He

40

seems to have been enrolled a member on 3.6.1952. The Sabha functioned in June, 1952. I could not give the actual date. The first meeting was held on 1.6.1952.

(Shown notice marked R1—allowed subject to proof.) I have not seen this notice before. (Translation of R1 is marked R1A.)

(R1 read.)

Cross-examined by Mr. Kottegoda.

On the last occasion, the Minute Book, the Application form, the Subscription Book were produced as belonging to the Dayaka Sabha. Application forms are filed in Y6, and in that you find the Subscription Book with receipts. Mr. Ratnatunga's name appears on the second leaf as having paid Rs. 250/-. The Minutes Book of the Dayaka Sabha is produced Y7, with the constitution marked Y4. The list of members is marked Y2, and I draw the attention of Court to Mr. Ratnatunga's name appearing as having been a member on the 1st of June, 1952.

Re-examined.

As regards the meeting on the 11th of April, 1956, there was no dispute at all. No person claiming to be a dayakaya was excluded at such meeting. The Dayaka Sabha was formed to ascertain the regular helpers of the temple.

(Sgd.)

A.D.J.

Mr. Perera states that he does not want formal proof of the copy of the "Dinamina" (Z1) produced in evidence.

Mr. Herat closes his case reading in evidence Z1 to Z3.

Mr. Kottegoda calls no evidence.

Mr. A. B. Perera calls :— .

D. A. TALAGALA. Affirmed. 51. Teacher, Maligakanda.

I am a Senior Assistant Teacher in the Government School, Maligakande. I have been a teacher there since 1922. I am a Buddhist and I resided in a house almost opposite the Maligakande Temple; I am now living about 200 yards away from the temple. I have been a dayakaya of the Maligakande Pirivena since 1922. I have been a regular supporter of the Pirivena.

Q. In point of fact you have been a dayakaya of the Pirivena ?

A. Yes. I know that there was notice published in the "Dinamina" on the 4th of April, 1956. (Shown Z1.) This was the notice.

Q. Did you receive any written notice from the Secretary, Dr. Malalasekera, that there was going to be a meeting ?

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A. No. Mr. Attanayake too did not send any notice. Prior to 1952, there was no Vidyodaya Dayaka Sabha.

Q. You were a dayakaya who was present at the meeting of the Dayaka Sabha in 1955, last year, to fill the vacancy caused by the death of Mr. W. H. W. Perera ?

A. Yes.

Prior to that meeting, I was present at the meeting that elected Mr. Dudley Senanayake in place of Rt. Hon. D. S. Senanayake. I voted at that meeting.

Q. (Shown R1.) In regard to the April, 1956, meeting, with 10 other dayakayas, did you issue this leaflet ?

A. Yes. I am one of the signatories. I was one of the men responsible for issuing the leaflet. The draft was given to the printers not by me but by some others—by Albert Perera. Albert Perera signed it. I accepted that as correct.

Q. According to R1, you all dispute the rights of the Vidyodaya Sabha ?

A. Yes.

I did not attend the meeting which was held on 11th April, 1956. I did not go for that meeting because, previously, there was no 20 Sabha such as Vidyodaya Dayaka Sabha. I saw Z1.

Q. Before Z1, has there been any notice published in the Press where anyone purporting to be Secretary, Vidyodaya Dayaka Sabha, has signed as a convenor ?

A. No.

Cross-examined by Mr. Herat.

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I saw the notice Z1. That notice states that for the purpose of electing a substitute for the late Mr. Daya Hewavitarne a meeting of dayakayas and remaining Sabhapathies will be held.

Q. If you claim to be a dayakaya, that was a notice to you to 30 attend that meeting ?

A. As this notice has been signed by the Secretary, Vidyodaya Dayaka Sabha, the notice was inviting only members of the Sabha. (Witness reads Z1.) It was a meeting of dayakayas and remaining Sabhapathies.

There is no restriction placed on the attendance of dayakayas who were not members of the Vidyodaya Dayaka Sabha.

Q. Nowhere does the notice Z1 say that the dayakayas who are noticed are only dayakayas who are members of any Sabha ?

A. Yes; previous to this, in order to fill a vacancy a notice used to be published only by the Secretary of the Vidyadhara Sabha, but in this notice there is the Secretary of the Dayaka Sabha also signing. Therefore, what I understood was that only members of that Sabha could be present at that meeting. I gave evidence for the 1st defendant at the last inquiry before Mr. Sirimanne. There I said I attended the meeting but that I was not allowed to vote. It is because of that that I did not attend this meeting also. That was the meeting where Gamini Jayasuriya was elected by Mr. Kannangara —
 10 that was the meeting which I attended. That substitution was upheld.

Q. Substitution of P. U. Ratnatunga has not been challenged by any others in any legal proceedings ?

A. I do not know.

Q. You as a dayakaya, or any other dayakaya, has not challenged that election ?

A. I have not challenged but I do not know whether any others would. If I had been requested to give Vas dana I would have given. After this case I have not been asked to give. Since 1942 I have not
 20 given.

Q. Nor have you contributed anything to the temple by way of money donations since 1942 ?

A. I have given the temple. I have given alms to priests but not Vas dana. On the 11th of April, 1956, nobody prevented me from attending this meeting.

Q. You, of your own accord, did not want to attend this meeting ?

A. Yes, after the publication of this notice R1.

Cross-examined by Mr. Kottegoda :

30 At the meeting where Gamini Jayasuriya was elected I was prevented from voting.

Q. After that meeting you did not apply to join the Vidyodaya Dayaka Sabha ?

A. No.

Q. Meetings were held from 1.6.52 of the Vidyodaya Dayaka Sabha. Did you attend ?

A. I have nothing to do with any of the meetings held at the instance of the Vidyodaya Dayaka Sabha.

Q. You did not pay any subscriptions ?

40 A. I do not know to whom to pay.

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I do not know anything about the Vidyodaya Dayaka Sabha. From the time of the death of Dr. Hewavitarne there had not been any Vidyodaya Dayaka Sabha. It used to be a notice published in the press by the Vidyadhara Sabha to attend meetings to fill a vacancy of Sabhathies and the dayakayas and I used to attend.

Re-examined.

Vidyadhara Sabha has been formed by some gentlemen.

(Sgd.) V. SIVA SUPRAMANIAM,

A.D.J.

Mr. Perera closes his case reading in evidence R1. Mr. Perera 10 does not wish to address the Court except to say that the burden is on the petitioner to satisfy Court of conformity as regards the election. There is no evidence as to when the notices were sent—no copy has been produced, except Z1. There has been no compliance with clause 6 of deed 925. Calculation of days of notice should be according to the Interpretation Ordinance.

Mr. Herat heard :

Dr. Malalasekera stated that the notices were sent on 1st April, 1956. *Re* publication in the papers, deed P1 does not say that it should be published in only one manner. Publication in newspapers 20 is only one of the modes of publication. Eight days referred to in P1 should not be calculated according to Interpretation Ordinance, which is for interpretation of Statutes. P1 is a private document. The "Dinamina" notice appeared on the 4th morning. There is no expression like "8 clear days" in P1. The reference is "8 days previously". It is merely directory. Proprietary rights of nobody are affected. Notice was sent to all the dayakayas and the remaining Sabhathies. There was no one who sought a vote who was excluded. Substitution must be upheld.

(Sgd.) V. SIVA SUPRAMANIAM, 30

A.D.J.

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ORDER

Sixteenth defendant died on 22nd March, 1956, during the pendency of these proceedings and the plaintiff applies to have certain P. U. Ratnatunga substituted in his place. This was an action filed by plaintiff claiming to be the Principal of the Vidyodaya Pirivena at Maligakanda to be declared a Trustee of the said Pirivena and to have the 1st defendant ejected therefrom. According to the plaintiff, 40

he had been duly appointed the Principal of the Pirivena by the Vidyadhara Sabha, which had the right to appoint the Principal of the Pirivena. After trial, judgment was entered in favour of the plaintiff, and the 1st defendant has appealed. The appeal is still pending. The 1st defendant objects to the substitution of P. U. Ratnatunga in place of the 16th defendant on the ground that he has not been lawfully appointed a Sabhapathi in place of the deceased.

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The appointment of Sabhapathies to fill vacancies caused in the membership of the Vidyadhara Sabha is provided for in deed No. 925 dated 6.12.1873. Clause 6 of that deed is as follows : —

“ It is further agreed that if any member of this Sabha happens to pass away, within a month of his passing away, the fact having been published 8 days previously in such suitable manner as through newspapers, etc., a General Meeting consisting of dayakayas and the remaining Sabhapathies shall be convened and, in accordance with the decision of the majority at such meeting a Sabhapathi shall be elected.”

The 2nd to 14th defendants were the members of the Vidyadhara Sabha at the time of the institution of this action and had been made parties in order that they might have notice of this action. No relief was claimed against them by the plaintiff. During the pendency of this action, some of the members of the Sabha died from time to time, and those who were elected as Sabhapathies in their place were substituted. The 16th defendant himself had been elected a Sabhapathi in place of one Jacob Munasinghe who was originally the 4th defendant. After his election as a Sabhapathi in place of Jacob Munasinghe, he was substituted a defendant.

The only question for decision at this inquiry is whether P. U. Ratnatunga has been duly elected a Sabhapathi in place of the deceased 16th defendant, Daya Hewavitarne. According to plaintiff, P. U. Ratnatunga was duly elected a Sabhapathi in place of the 16th defendant Daya Hewavitarne at a meeting held on 11th April, 1956. The Secretary of the Vidyadhara Sabha is Dr. Malalasekera. He has given evidence and stated that on the 11th of April there was a joint meeting of the dayakayas and the surviving members of the Vidyadhara Sabha, and, at that meeting, P. U. Ratnatunga was elected a Sabhapathi in place of Daya Hewavitarne. He has produced in evidence the minutes of that meeting as well as of the subsequent meeting confirming the earlier minutes (Z2 and Z3). Dr. Malalasekera further states that notice of the meeting was given by him individually to each member of the Vidyadhara Sabha on the 1st of April, 1956, and similar notice was given to the dayakayas by Mr. Attanayake, the Secretary of the Vidyodaya Dayaka Sabha. I accept the evidence of Dr. Malalasekera in regard to the giving of notice to the members of the Vidyadhara Sabha and the dayakayas who were members of the Vidyodaya Dayaka Sabha. Notice of the meeting

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Continued

was also published in the Sinhalese newspaper called "Dinamina" on the 4th of April, 1956. According to Dr. Malalasekera, the notices sent individually were in the same terms as the notice published in the "Dinamina", Z1.

The 1st defendant does not recognise the Vidyodaya Dayakya Sabha and his Principal objection to the election of P. U. Ratnatunga is that the notice convening the meeting that was published in the "Dinamina" was signed not only by Dr. Malalasekera as Secretary of the Vidyadhara Sabha but also by Attanayake as Secretary of the Vidyodaya Dayaka Sabha. It is submitted on behalf of the 1st 10 defendant that this was an attempt by certain persons to gain recognition for the Vidyodaya Dayaka Sabha. According to Dr. Malalasekera, there had always been a list of persons who were the dayakayas of the temple, but, in 1952, it was thought desirable that the dayakayas should form themselves into a regular association, and, accordingly, the Vidyodaya Dayaka Sabha was formed in July, 1952. All those who were dayakayas of the temple on that date became members of the Vidyodaya Dayaka Sabha and certain office-bearers were elected. No one who was a dayakaya of the temple was excluded from the membership of the Vidyodaya Dayaka 20 Sabha. The notice convening the meeting for the purpose of election of a member in place of Mr. Daya Hewavitarne (Z1) was as follows :—

"A meeting of dayakayas and the remaining Sabhapathies of the Vidyadhara Sabha which manages the Vidyodaya Pirivena, Maligakande, Colombo, will be held at 5 p.m. on the 11th instant at the Vidyodaya Pirivena for the purpose of electing a member for the Vidyadhara Sabha in place of the late Mr. Daya Hewavitarne who was a member of the said Vidyadhara Sabha."

It is clear from the terms of the notice that no one who was a dayakaya of the temple was excluded from the meeting on the 30 ground of his not being a member of the Vidyodaya Dayaka Sabha. The mere fact that one of the signatories to the notice had described himself as Secretary of the Vidyodaya Dayaka Sabha would not necessarily mean that any dayakaya who was not a member of the Vidyodaya Dayaka Sabha would be excluded from the meeting. A point was taken by learned counsel for the 1st defendant that under deed 925 eight days notice had to be given of the meeting, whereas the notice was published on the 4th and the meeting was held on the 11th. Deed 925 does not prescribe notices in the newspapers as the only means of giving notice to the members and the dayakayas. 40 According to Dr. Malalasekera, whose evidence I accept, every dayakaya and every member of the Sabha had been individually notified of the meeting on the 1st of April, 1956. They had all adequate notice, even if the notice published in the newspaper did not give 8 clear days notice of the meeting.

According to D. A. Talagala, who was called by the 1st defendant, he was a dayakaya of the Pirivena but had not received individual notice. He was, however, aware of the notice published in the "Dinamina", but did not attend the meeting as he assumed that the meeting was restricted to the members of the Vidyodaya Dayaka Sabha. He also stated that on a previous occasion, when a meeting was held for the election of a Sabhapathi, he had not been allowed to vote on the ground that he was not a member of the Dayaka Sabha. What-
 10 ever his reason may have been, this witness did not attend the meeting and, consequently, he is not in a position to say whether the election took place duly or not. Dr. Malalasekera states that there was no complainc from anyone that any dayakaya had been excluded from the meeting or that anyone who was not a dayakaya had been admitted to the meeting. I am unable to agree with learned counsel for the 1st defendant that the meeting that was held on the 11th of April ceased to be a meeting of the dayakayas merely because one of the signatories of the notice had described himself as Secretary of the Vidyodaya Dayaka Sabha.

On the evidence led I am satisfied that P. U. Ratnatunga had
 20 been duly elected a Sabhapathi in place of the deceased 16th defendant Daya Hewavitarne at the meeting held on 11th April, 1956. The plaintiff is therefore entitled to have the said P. U. Ratnatunga substituted in this case in place of the 16th defendant Daya Hewavitarne. In my opinion, the objections raised by the 1st defendant to the plaintiff's application are without any merit at all. I dismiss the 1st defendant's objections and allow the plaintiff's application. Let P. U. Ratnatunga be substituted in place of the deceased 16th defendant Daya Hewavitarne. The 1st defendant will pay the plaintiff the costs of this inquiry.

30 Documents to be stamped and filed.

(Sgd.) V. SIVA SUPRAMANIAM,
A.D.J.

Order pronounced in open Court.

(Sgd.) V. SIVA SUPRAMANIAM,
A.D.J., 9.8.56.

No. 63

Petition of Appeal to the Supreme Court

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

Ven. Baddegama Piyaratana Nayaka Thero as Principal
 of the Vidyodaya Pirivena, Maligakanda, Colombo . . .
 *Plaintiff*

40

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 Order of the
 District Court
 9.8.56--
Continued

No. 63
 Petition of
 Appeal to the
 Supreme Court
 21.8.56

No. 63
Petition of
Appeal to the
Supreme Court
21.8.56—
Continued

No. 2882/Land.

vs.

D.C.
Colombo.

D.C. (Inty.)
192/1956

(Dead)

(Dead)

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo.
 2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatta Road in Colombo.
 3. The Hon. Mr. Christopher William Wijekoon Kanangara, M.S.C., of "Cranford", 29, Alfred Place, Kollupitiya, Colombo.
 4. Mr. Jacob Moonesinghe, Proctor, of "Winton", 10 Dickman Road, in Colombo.
 5. Mr. Henry Woodward Amarasuriya, M.S.C., of No. 9, Gower Street in Colombo.
 6. Mr. Willorage Henry William Perera, Proctor, of "Vijitha", 335, Timbirigasyaya Road, Colombo.
 7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace in Colombo.
 8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya in Colombo.
 9. Mr. Rajah *alias* Rajasinghe Hewavitarne, M.S.C., 20 of "Nimalka", Kollupitiya in Colombo.
 10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya in Colombo.
 11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road, Colombo.
 12. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala.
 13. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratnatinga of "Sagala", Chapel Lane, Wellawatte in Colombo. 30
 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda
 15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant (dead).
 16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant (dead).
 17. N. S. Moonesinghe, substituted in place of Dr. Amarasinghe of Colombo, who was substituted in place of 15th defendant, Dr. B. E. Fernando (dead). 40
- 2nd to 17th defendants as members of the Vidyadhara Sabha of the Vidyodaya Pirivena, Maligakanda in Colombo.....*Defendants.*

Ven. Baddegama Piyaratana Nayaka Thera as Principal
of the Vidyodaya Pirivena, Maligakanda in Colombo...
.....*Plaintiff-Petitioner*

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Petition of
Appeal to the
Supreme Court
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Continued

and

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara
Dhammandna Nayaka Thera of Vidyodaya Piri-
vena, Maligakanda in Colombo.
2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of
“ Woodlands ”, Kanatta Road in Colombo.
- 10 3. The Hon. Mr. Christopher William Wijekoon Kan-
nangara, M.S.C., of “ Cranford ”, 29, Alfred Place,
Kollupitiya in Colombo.
4. Mr. Jacob Moonesinghe, Proctor, of “ Winton ”, Dick-
man Road in Colombo.
5. Mr. Henry Woodward Amarasuriya, M.S.C., of No. 9,
Gower Street in Colombo.
6. Mr. Willorage Henry William Perera, Proctor, of
“ Vijitha ”, 335, Timbirigasyaya Road in Colombo.
- 20 7. Dr. Gunapala Piyasena Malalasekera of “ Samanala ”,
16, Longden Terrace in Colombo.
8. Mr. D. L. F. Pedris of “ Pedris Villa ”, Alfred Place,
Kollupitiya in Colombo.
9. Mr. Rajah *alias* Rajasinghe Hewavitarne, M.S.C., of
“ Nimalka ”, Kollupitiya in Colombo.
10. Mr. Wimala Dharma Hewavitarne of “ Sri Nagar ”,
Kollupitiya in Colombo.
11. Mr. B. R. Dias of “ Kenilworth ”, Dematagoda Road
in Colombo.
- 30 12. Mudaliyar Egodage Alfred Abayasekara of Karagam-
pitiya Road, Dehiwala.
13. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratna-
tunga of “ Sagala ”, Chapel Lane, Wellawatte
Colombo.
14. Dr. D. B. Perera of No. 40, High Level Road,
Nugegoda.
15. Dr. B. E. Fernando of Colombo, substituted in place
of 14th defendant-respondent (dead).
16. Daya Hewavitarne of Alfred Place Avenue,
Colombo, substituted in place of 4th defendant-
respondent (dead).
- 40 17. N. S. Moonesinghe, substituted in place of Dr. Amara-
singhe of Colombo, who was substituted in place
of 15th defendant-respondent, Dr. B. E. Fernando
(dead).

No. 63
 Petition of
 Appeal to the
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 21.8.56—
Continued

2nd to 17th defendants-respondents as members of the
 Vidyadhara Sabha of the Vidyodaya Pirivena,
 Maligakanda in Colombo.....
 *Defendants- Respondents.*

18. Hon. Mr. Dudley Senanayake is substituted in place
 of the 2nd defendant (dead).
 19. Jothipala Subasinghe is substituted in place of 11th
 defendant.
 20. Dr. A. M. Samarasinghe of Reid Avenue, substituted
 in place of 19th defendant (dead). 10
 21. Gamini Jayasuriya of 494/6, Galle Road, Colombo,
 3, substituted in room of 6th defendant (deceased)
 *Respondents.*

between

Ven. Vagisvarachariya Morontuduwe Sri Naneswara
 Dhammananda Nayaka Thera of Vidyodaya Pirivena,
 Maligakanda in Colombo.....
 *1st Defendant-Respondent-Appellant.*

and

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya 20
 Pirivena, Maligakande, Colombo.....
 *Plaintiff-Petitioner-Respondent.....*

- (Dead) 2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of
 "Woodlands", Kanatta Road in Colombo.
 3. The Hon. Mr. Christopher William Wijekoon Kan-
 nangara, M.S.C., of "Cranford", 29, Alfred Place,
 Kollupitiya in Colombo.
 (Dead) 4. Mr. Jacob Moonesinghe, Proctor. of "Winton",
 Dickman Road in Colombo.
 5. Mr. Henry Woodward Amarasuriya, M.S.C., of 9, 30
 Gower Street in Colombo.
 (Dead) 6. Mr. Willorage Henry William Perera, Proctor, of
 "Vijitha", 335, Timbirigasyaya Road in Colombo.
 7. Dr. Gunapala Piyasena Malalasekera of "Samanala",
 16, Longden Terrace in Colombo.
 8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place,
 Kollupitiya in Colombo.
 9. Mr. Rajah *alias* Rajasinghe Hewavitarne, M.S.C., of
 "Nimalka", Kollupitiya in Colombo.
 10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", 40
 Kollupitiya, Colombo.

11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road, Colombo.
12. Mudaliyar Egodage Alfred Abayasekara of Karagam-pitiya Road, Dehiwala.
13. Mudaliyar Piyadasa Dharmasiri Abeyawardena Ratnatunga of "Sagala", Chapel Lane, Wellawatte, Colombo.
- (Dead) 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda.
- 10 (Dead) 15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant-respondent (dead).
16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant-respondent (dead).
17. N. S. Moonesinghe, substituted in place of Dr. Amarasinghe of Colombo, who was substituted in place of 15th defendant-respondent Dr. B. E. Fernando (dead).
- 20 2nd to 17th defendant-respondents as members of the Vidyadhara Sabha of the Vidyodaya Pirivena, Maligakanda in Colombo.....
..... *Defendant-Respondents-Respondents.*
18. Hon Mr. Dudley Senanayake is substituted in place of 2nd defendant (dead).
19. Jothipala Subasinghe is substituted in place of 11th defendant.
20. Dr. A. M. Samarasinghe of Reid Avenue, substituted in place of 19th defendant (dead).
- 30 21. Gamini Jayasuriya of 494/6, Galle Road, Colombo 3, substituted in room of 6th defendant (deceased).
22. Percival Upajiva Ratnatunga of 84, 5th Lane, Kollupitiya, Colombo, substituted in room of 16th defendant (dead)..... *Respondents-Respondents.*
23. Dr. A. D. P. A. Wijegoonewardene of Colombo, substituted in place of 9th Defendant (deceased). (vide S. C. order of 27.1.59 re S. C. Application No. 335/58.)

To :

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

The petition of appeal of the 1st defendant-respondent-appellant abovenamed appearing by Felix Joseph Peter Perera, his proctor, states as follows :—

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Petition of
Appeal to the
Supreme Court
21.8.56—
Continued

1. The plaintiff-petitioner-respondent filed the above styled action against the 1st defendant-respondent-appellant for a declaration that the said plaintiff-petitioner-respondent holds the land and premises described in the schedule to the plaint in trust for as trustee of a Charitable Trust and for an order to eject the 1st defendant-respondent-appellant from the premises and for the recovery of damages. He claimed that he was duly appointed by a body of 13 persons called the Vidyadhara Sabha as Principal of the Vidyodaya Pirivena established on the premises described in the schedule to the plaint. The 2nd to 17th defendants-respondents-respondents were 10 made parties as members of the Vidyadhara Sabha in order to give them notice of the action.

2. The 1st defendant-respondent-appellant filed answer denying the plaintiff-petitioner-respondent's rights and claimed the said property, which he said constituted the Maligakande Temple upon a deed of appointment bearing No. 2662 from one Ven. Dewundara Sri Jinaratana Nayaka Thera according to the rules of Sisyanusisya Paramparawa. The 1st defendant-respondent-appellant further pleaded that the 2nd to 17th defendant-respondents-respondents were not properly elected members of the Vidyadhara Sabha and the 20 appointment of the plaintiff-petitioner-respondent was bad.

3. After trial the Learned District Judge delivered judgment declaring that the plaintiff-petitioner-respondent holds the said lands and premises in trust for a Charitable Trust and ordered that the 1st defendant-respondent-appellant be ejected.

4. Being dissatisfied with the said judgment the 1st defendant-respondent-appellant appealed to Your Lordships' Court on the 18th day of October, 1950.

5. While the appeal was pending the 2nd defendant-respondent-respondent died on the 22nd day of March, 1952, the 11th defendant- 30 respondent-respondent resigned on the 30th day of April, 1952, and the 19th defendant-respondent-respondent died on the 12th day of January, 1954. The plaintiff-petitioner-respondent thereafter purported to substitute the 18th respondent-respondent in place of the 2nd defendant-respondent-respondent and 19th respondent-respondent in place of the 11th defendant-respondent-respondent on the 18th day of June, 1952, and the 20th respondent-respondent in place of the 19th respondent-respondent on the 15th March, 1954.

6. Thereupon the 1st defendant-respondent-appellant by his objections dated 2nd June, 1954, stated that the aforesaid sub- 40 stitutions were bad in law in that the 1st defendant-respondent-appellant had no notice of the substitutions and that he had not consented to the said substitutions.

7. Thereupon the objections were inquired into and the Court by its order dated 27th July, 1954, upheld the objections of the 1st defendant-respondent-appellant and declared the aforesaid substitutions were bad in law.

8. Thereafter on the 24th day of August, 1954, the plaintiff-petitioner-respondent renewed his application to effect the aforesaid substitutions with notice to the 1st defendant-respondent-appellant.

9. Thereupon the 1st defendant-respondent-appellant objected on the 29th day of September, 1954, to the above application on the 10 ground that the persons sought to be substituted had not yet been properly elected according to and in the matter in deed No. 925 of 1873 in that a large number of dayakayas who were entitled to vote were kept away from the said meeting due to —

(a) insufficient publicity ;

(b) restrictions imposed by the nature and form of the notice ;

(c) Misconception of those convening and conducting the said meeting in regard to their own rights and those of the dayakayas.

10. Thereafter the 6th defendant-respondent-respondent died on 20 the 7th day of January, 1955, and the plaintiff-petitioner-respondent sought to have Gamini Jayasuriya substituted as 21st respondent-respondent in place of the 6th defendant-respondent-respondent.

11. The 1st defendant-respondent-appellant by his objections dated the 6th day of April, 1955, objected to this application, too, on the ground *inter alia*, that the meeting at which the said Gamini Jayasuriya was alleged to have been elected was not properly constituted and that the proceedings of the said meeting are void *ab initio*.

12. Thereupon the learned Trial Judge inquired into the said 30 objections and by his order dated 1st day of September, 1955, held that the persons whom the plaintiff-petitioner-respondent sought to have substituted as defendant-respondent-respondent were duly elected members of the said Vidyadhara Sabha and allowed the application of the plaintiff-petitioner-respondent for substitution of the said respondents-respondents which order the 1st defendant-respondent-appellant states is now in appeal.

13. Thereafter the 16th defendant in the above case, Daya Hewavitarane, departed this life on the 22nd day of March, 1956, and the plaintiff-petitioner-respondent by his application dated 4th May, 40 1956, sought to substitute one Percival Upajiva Ratnatunga in place of the 16th defendant aforesaid.

14. Thereupon the 1st defendant-respondent-appellant by his objections dated 4th July, 1956, stated "*inter alia*" that the application of the plaintiff-petitioner-respondent was bad in law.

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 Petition of
 Appeal to the
 Supreme Court
 21.8.56—
Continued

15. Thereupon the objections were inquired into and the Court by its order dated 9th August, 1956, held that the said Percival Upajiva Ratnatunga whom the plaintiff-petitioner-respondent sought to have substituted in place of the 16th defendant deceased, had been duly elected a member of the Vidyadhara Sabha and allowed the application of the plaintiff-petitioner-respondent for the substitution of the said 22nd defendant-respondent-respondent.

16. Being aggrieved by the said order the 1st defendant-respondent-appellant begs to appeal to Your Lordships' Court on the following among other grounds which may be urged by Counsel at the 10 hearing of the appeal.

(i) The said order is contrary to law and against the weight of evidence adduced in this case.

(ii) It is submitted that the notice " Z1 " was not in conformity with the requirements of deed 925 (P1) and therefore the meeting convened on 11th April, 1956, was irregular.

(iii) It is further submitted that 925 (P1) makes no provision for a Vidyodaya Dayaka Sabha and therefore the meeting of 11th April, 1956, was unwarranted in law.

(iv) (a) It is also submitted that the meeting convened for 11th 20 April, 1956, was unlawful in that eight days notice as demanded by clause six of deed 925 (P1) was not given to the remaining Sabhapathies and other dayakayas.

(b) It is submitted that the evidence of Dr. Malalasekera as regards the individual notifications given on 1st April, 1956, was inadmissible by reason of the failure to produce any copy of the notice and to call any recipients of the said notices. It is submitted that this notice not even being listed or referred to in any of the pleadings the evidence of Dr. Malalasekera on this point was a belated attempt to fill an admitted gap in the plaintiff-petitioner-respondent's 30 case for substitution.

(v) It is respectfully submitted that the learned Trial Judge has misdirected himself in holding that the formation in June, 1952, of the Vidyodaya Dayaka Sabha and the consequent restriction of the right to vote only to persons who had been admitted as members of this Dayaka Sabha, the admission to which among other restrictions were subject to the wishes of the members of the Committee of the said Dayaka Sabha was not objectionable.

(vi) The 1st defendant-respondent-appellant states that these restrictions on the hitherto unfettered rights of all persons who were 40 regular supporters of this institution to vote were contrary to the letter and spirit of deed 925 (P1) of 6th December, 1873.

(vii) The learned Trial Judge has erred in holding that “ the mere fact that one of the signatories to the notice had described himself as Secretary of the Vidyodaya Dayaka Sabha would not necessarily mean that any dayakaya who was not a member of the Vidyodaya Dayaka Sabha would be excluded from the meeting ”. It is respectfully submitted that this finding is a contradiction in terms, more specially in view of the admission by Dr. Malalasekera that this was the first occasion that the notice of meeting (Z1) had been signed jointly by him and the Secretary of the Vidyodaya Dayaka Sabha.

10 (viii) It is respectfully submitted that the learned Trial Judge has failed to consider the 1st defendant-respondent-appellant’s submission based on evidence that this meeting of 11th April, 1956, and the application based thereon was an attempt to create and/or give form and substance and/or to import a Dayaka Sabha never provided for in deed 925 (P1) or deed 1259 (P2).

(ix) The learned Trial Judge has failed to consider the purport of deeds 925 (P1) and 1259 (P2) in either their joint or several aspects.

Wherefore the 1st defendant respondent-appellant prays—

- 20 (a) that Your Lordships’ Court be pleased to set aside the order of the learned District Judge made on 9th August, 1956 ;
- (b) that Your Lordships’ Court be pleased to declare that Percival Upajiva Ratnatunga was not duly elected and therefore the substitution of the said Percival Upajiva Ratnatunga as a party defendant in this case is bad in law ;
- (c) that Your Lordships’ Court be pleased to refuse the application of the plaintiff-petitioner-respondent for the substitution of the said Percival Upajiva Ratnatunga ;
- 30 (d) for costs and for such other and further relief as to Your Lordships’ Court shall seem meet.

(Sgd.) F. J. P. PERERA,
Proctor for 1st Defendant-Respondent-Appellant.

Settled by :—

(Sgd.) A. B. PERERA,
 (Sgd.) Illegibly.

Advocates.

No. 64

Judgment of the Supreme Court

S.C. 26 (Final) of 1952. D.C. Colombo 2882/L.
 (with S.C. No. 73 (Inty.) of 1956.
 and S.C. No. 192 (Inty.) of 1956.

Parties : Morontuduwe Sri Nanessara Dhammananda Nayaka
 Thero..... 1st Defendant-Appellant

vs.

Baddegama Piyaratana Nayaka Thero.....
Plaintiff-Respondent 10
 and the members of the Vidyadhara Sabha...
2nd to 17th Defendant-Respondents.

Present : H. N. G. Fernando, J., and T. S. Fernando, J.

Counsel : H. W. Jayawardene, Q.C. (with him P. Ranasinghe and
 N. R. M. Daluwatte), for 1st defendant-appellant.

K. Herat (with him Stanley Perera), for the plaintiff-
 respondent.

E. B. Wikramanayake, Q.C. (with him H. A. Kottegoda),
 for the 3rd, 5th, 7th to 10th, 12th, 13th, 17th, 18th, 20th
 to 22nd defendants-respondents. 20

Argued on : 21st to 25th, 28th to 30th January and 5th and 6th
 February, 1957.

Decided on : 13th February, 1958.

T. S. FERNANDO, J. :

These appeals arise out of a distressing dispute which began in
 the courts in 1943 between two Buddhist monks, both holding high
 rank in the Buddhist hierarchy in the Island, over the control of a
 religious institution established in Colombo and referred to in this
 case sometimes as Vidyodaya Pirivena, and at other times as Vidycdaya
 Pirivena Vihare or Maligakanda Temple. 30

On 26th July, 1943, the plaintiff instituted this action alleging
 that he is the duly appointed principal of a Buddhist teaching institu-
 tion known as the Vidyodaya Pirivena established on premises des-
 cribed in the schedules marked "A" and "B" attached to his plaint
 and seeking (i) a declaration that he holds the premises so described
 in trust for and as trustee of the members of an unincorporated body
 of persons called the Vidyadhara Sabha (hereinafter referred to as the
 Sabha) and (ii) the ejection of the 1st defendant (the appellant on
 all three appeals and hereinafter referred to as the appellant). The
 members of the Sabha referred to above were added as defendants in 40
 the case although, of course, no relief was claimed against them.

These members who were the original 2nd to 14th defendants filed answer supporting the position taken up by the appellant in his plaint. The appellant in his answer, while conceding the fact of a bare appointment by the Sabha of the plaintiff as Principal of the Vidyodaya Pirivena, alleged that the appointment of the plaintiff by the persons who claimed to be members of the Sabha was unlawful, and asserted that the land described in the plaint and the buildings thereon form a "temple" within the meaning of the Buddhist Temporalities Ordinance. He claimed to be the lawful incumbent or

10 Viharadhipathi of that temple, having been appointed by an instrument dated 22nd June, 1941, by one Jinaratana Nayaka Thero who was alleged to have become the lawful Viharadhipathi under the rule of succession known to the Buddhist ecclesiastical law as *Sisyanusisya Paramparawa* on the death of the monk to whom the premises had been transferred at the time they were dedicated to the Sangha, viz. Hikkaduwe Sri Sumangala Nayaka Thero.

The case came up for trial for the first time on 6th November, 1944, and, on that occasion, after a large number of issues had been framed by counsel and accepted by the Court, the learned District

20 Judge before whom the trial commenced decided to try three of the issues, being issues of law, as preliminary matters "on the assumption but without conceding the truth of the allegations in the plaint". That judge by his order made on 20th November, 1944, decided the preliminary issues against the plaintiff and dismissed the action on the ground that the plaintiff had no status to maintain it as trustee of the Pirivena inasmuch as he had not been duly appointed in the manner set out in section 113 (2) and (3) of the Trusts Ordinance (Cap. 72). On an appeal preferred by the plaintiff to the Supreme Court, this Court by *its judgment*¹ delivered on 25th October, 1946,

30 set aside the order dismissing the action and sent the case back to the District Court for the determination of the other issues in the case.

Before the trial could be resumed in the District Court the plaintiff on 2nd April, 1947, amended his plaint alleging that he, as Principal of the Pirivena, is a trustee of a charitable trust for establishing and maintaining in the premises described in the schedule to the plaint a Pirivena for the purpose of teaching Buddhism. The trial was eventually resumed only on 15th May, 1950, and, after very lengthy proceedings in the course of which a number of witnesses were examined for both sides, the District Judge by his judgment delivered

40 on 17th October, 1950, held with the plaintiff on most of the material issues and entered judgment for him as prayed for in the amended plaint and ordered the ejection of the appellant from the premises. Decree was entered accordingly. The main appeal of the appellant (Appeal No. 26 —Final of 1952) is against this judgment and decree.

Before the appeal could come up for argument certain of the defendants who had been added as parties as being members of the Sabha—viz. the 2nd, the 6th and 11th defendants—died and the plaintiff sought to substitute in their places the 18th the 21st and the 19th defendants respectively. The 19th defendant himself died and in his place the plaintiff then sought to substitute the 20th defendant. In spite of objections raised by the appellant to these substitutions on the ground that the defendants sought to be substituted had not been duly elected as members of the Sabha the District Judge on 1st September, 1955, held that the elections were valid and that the 10 substitutions were proper. Interlocutory appeal No. 73 of 1956 is against this order of the District Judge.

Thereafter, again before Appeal No. 26 could be set down for argument another defendant, the 16th defendant died and the plaintiff sought to substitute the 22nd defendant in his place. The appellant again objected, and the District Judge before whom the matter was argued held on 9th August, 1956, that the election of the 22nd defendant as a member of the Sabha was valid and that he had been correctly substituted. Interlocutory Appeal No. 192 of 1956 is against this last mentioned order. 20

At the hearing before us, counsel for the appellant argued that the substitutions had not been properly made and urged the same reasons that had been urged on behalf of the appellant in the District Court. It soon became apparent, however, that any success of the appellant in the two interlocutory appeals would necessarily involve a bar to the hearing by us of the main appeal (No. 26), and we were informed by counsel that the parties had reached an agreement that *for the purposes of Appeal No. 26 final of 1952* the substitution of the 18th to the 22nd defendants be accepted as duly made and that the two interlocutory appeals be dismissed without costs and that neither party be 30 entitled to the costs of the inquiries in the District Court relating to the substitutions. In terms of that agreement I would therefore direct that the two interlocutory appeals be dismissed without costs and that neither party is entitled to the costs of the inquiries in the Court below relating to the substitutions.

I can now turn to Appeal No. 26. To appreciate the questions that arise thereon, it is necessary to examine the cases for the plaintiff and the appellant in some detail. At the time of the institution of the action there were on the land of about $2\frac{1}{2}$ acres in extent described in Schedules "A" and "B" or in Schedule "C" to the plaint a 40 large number of buildings which are depicted in plan No. 786 dated 10th July, 1943—marked P8 made by licensed surveyor Indatissa. They are described in the plan as a dagoba, a vihare, Sri Sumangaladharmasalawa, the Principal's quarters (with bathroom, garage and driver's room attached), four separate sets of rooms, two separate sets

of living quarters, kitchen and dining hall, library, and Sri Sumangala Memorial building. There is also a bo-tree on the premises. No attempt has been made to find out definitely which of the buildings stand on the land described in Schedule "A" and which on the land described in Schedule "B". The point is not of any importance in the present dispute as both the plaintiff and the appellant claim both lands; the plaintiff asserting that together they form the grounds of the Pirivena of which he is the Principal, while the appellant claims that they are lands belonging to the Vidyodaya Pirivena Vihare or
 10 Maligakanda temple of which he is the Viharadhipathi.

The plaintiff's claim is based on a notarial deed—No. 1259 of 9th March, 1876—P2, but to understand the circumstances in which this deed came to be executed one has to go back nearly two and a half years to 6th December, 1873, when a notarial agreement—No. 925 of that date—P1 was entered into by thirteen persons in which these persons declared, *inter alia*, (a) their determination to collect and be responsible for collecting a sum of Rs. 6,000/- for purchasing a land and for other work in order to establish a Pirivena for imparting a knowledge of Buddhism to bhikkus as well as laymen, (b) that a Sabha
 20 or Society capable of receiving and safeguarding that sum of money is necessary, and (c) that the thirteen persons are appointed as the Sabha with the name of Vidyadhara Sabha given to it by the people assembled at Maligakandawatta belonging at the time of this agreement P1 to L. Andris Perera, one of the thirteen persons who constituted the Sabha. By P1 the thirteen persons referred to entered into sixteen covenants designed to further the establishment and maintenance of a Pirivena on a land to be purchased by the Sabha.

Three parties took part in the execution of the deed P2 referred to above, the three parties being L. Andris Perera as the party of the
 30 first part, sixteen persons (among whom L. Andris Perera himself was one) forming members of the Sabha in 1876 as the party of the second part, and Hikkaduwe Sri Sumangala (described as the Nayaka Thero of Sripadasthanaya and Principal of Vidyodaya Pirivena, Colombo) as the party of the third part. This deed recites that the Sabha has established for the purpose of teaching Buddhism and imparting knowledge both to bhikkus and laymen an educational institution called Vidyodaya Pirivena in the halls built on the land called Maligakanda, valued at Rs. 6,000/- belonging to L. Andris Perera, and that the Sabha has been able to collect only Rs. 2,070/-
 40 out of the sum of Rs. 6,000/- expected to be collected. Other recitals show that Andris Perera (the owner of the land) in consideration (i) of the payment to him of the sum of Rs. 2,070/- and (ii) of his devotion to Buddhism and other reasons has, with the approval of the Sabha, agreed to dedicate the land with the buildings standing thereon to Sri Sumangala Nayaka Thero, Principal of the Vidyodaya Pirivena and, on his demise, to the Sangha including the monks who succeed

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to the office of Principal of the said Pirivena as *sanghika* property, so long as they live in accordance with Buddhist doctrine, for the maintenance of a Pirivena to impart knowledge not only to Buddhist monks and laymen but also to all "religionists" of all countries with no difference in treatment so long as they conduct themselves in good manner, *subject always to the protection and orders of the said Vidyadhara Sabha* constituted upon agreement P1, viz. the gentlemen forming the parties of the second part, and on their death those joining the said Sabha. After a further recital that Sri Sumangala Nayaka Thero as Principal of the said Pirivena and on behalf of the Principals 10 *who may be appointed on his demise by the said parties of the second part and on their death by those succeeding them* has agreed to accept this as a deed of trust *subject to all the aforesaid directions, stipulations and conditions*, the habendum clause of the deed gives and assigns to Sri Sumangala Nayaka Thero, and, on his demise, to the Principals who may be appointed to the Pirivena from time to time *by the Sabha* the premises described in Schedule "A" to the plaint *as and by way of a dedication absolute and irrevocable and as sanghika property.*

The deed also contains two clauses, one providing for the framing of rules and regulations by the Sabha and conferring authority on the 20 Sabha with the approval of a Sangha Sabha to remove Principals who transgress such rules and regulations, and the other declaring that the Sabha shall have no right to give directions or frame rules regarding the *internal affairs* of the Pirivena and that the monks who from time to time hold the office of Principal shall have the right to attend to internal affairs without interference or obstruction from the Sabha.

Eight years after the execution of P2 there was executed transfer No. 2134 of 4th April, 1884—P3—by which certain premises called "Palm House" adjoining the land dealt with by P2 was transferred by one Dharmagoonewardene to Mabotuwane Siddhartha Thero. 30 This is the land described in Schedule "B" to the plaint, and it is not disputed that buildings of the present Vidyodaya Pirivena or Maligakanda Temple, whichever name one gives to the institution, stand on the premises transferred by P3. It was the plaintiff's case that Siddhartha Thero held this property in trust for the charitable trust created by deed P2. Siddhartha Thero, it may here be stated was a pupil of Sri Sumangala Nayaka Thero, but predeceased his tutor. The appellant did not deny that the land described in Schedule "B" was not the pudgalika or private property of Siddhartha Thero. His contention was that the premises were being treated as sanghika 40 property of the Maligakanda Temple, and that the legal title thereto vested on Siddhartha's death on the Viharadhipati, Sri Sumangala Nayaka Thero, and on the latter's death passed according to the rule of *Sisyanusisya Paramparawa*.

There is no dispute in this case that Sri Sumangala Nayaka Thero performed the duties of Principal of the Vidyodaya Pirivena from about 1876 to the time of his death in 1911. The plaintiff claimed that in 1911 the Sabha appointed Nanissara Nayaka Thero to succeed Sri Sumangala Nayaka Thero as Principal and that the former held this office until his own death in 1922 whereupon the Sabha appointed Ratanasara Nayaka Thero as Principal. It is not without some significance in the dispute arising in this case that Ratanasara Nayaka Thero was not a monk belonging to the line of succession or param-
10 parawa of the first Principal, Sri Sumangala, whom the appellant claims was not only Principal but also the Viharadhipathi at Maligakanda. Ratanasara Nayaka Thero held office as Principal until 1936, when he himself died, and the Sabha thereupon by letter P19 of 7th March, 1936, invited the plaintiff, who was at this time Vice-Principal of the Pirivena, to act as Principal in addition to his duties as Vice-Principal. By the letter P20 of the same date the Sabha invited the views of the tutors of the Pirivena on the question of a suitable successor to the deceased Ratanasara. It should be mentioned at this
20 stage that the appellant had been a tutor at this Pirivena for some time prior to 1934. He appears to have fallen ill in 1934 and spent some months in hospital. He does not appear to have been assigned any teaching work on his return from hospital, and the plaintiff's evidence indicates that this was due to the fact that the appellant had incurred the displeasure of Ratanasara. However that may be, the appellant addressed the Sabha letter P13 of 28th March, 1936, which is an application for the post of Principal. The Sabha at a meeting held on 6th April, 1936, unanimously decided to appoint the plaintiff to the permanent office of Principal and informed him accordingly by letter P26 of 7th April, 1936. In this letter the Sabha
30 informed the plaintiff that they thought "it would be good if the appellant who had been a tutor at the Pirivena could again be appointed as a tutor". Notwithstanding this suggestion of the Sabha the plaintiff did not appoint the appellant as a tutor, and the appellant who was residing in the premises of the Pirivena or vihare addressed the Sabha no less than four letters (P14 to P17) between 22nd May, 1936, and 13th May, 1941. In one of these letters P16 of 7th May, 1940, the appellant wrote :—" Even now I am maintained as a teacher of the Pirivena by the Vidyadhara Sabha which supplies all my needs. In the circumstances I most kindly request you to consider whether it is
40 fair or just not to get a Bhikkhu of my standing to render the service that should be given through this Pirivena to the religion." By the next letter P17 of 13th May, 1941, the appellant sought an interview with the Sabha with a view to his reappointment as a tutor. It has to be noted that the appellant addressed not only the Sabha on this matter but within a period of one month wrote repeated letters, viz. P27 to P30 of 28th June to 28th July, 1940, to the plaintiff himself to the same end. These requests were ignored by the plaintiff and it

may not be irrelevant to notice that the appellant had incurred the displeasure, as mentioned earlier, of Ratanasara Nayaka Thero and also of the Sabha by reason of a fast he had undertaken at the Pirivena premises in protest against the levy by the Sabha of certain fees from pupil monks on account of electricity and municipal rates. The letters P14 to P17 and P27 to P30 are eloquent evidence of the feeling of frustration from which the appellant, himself a monk of learning and the incumbent of the very important temple of Sri-padaasthanaya suffered at this time by reason of what he appears to have considered a deliberate affront to his dignity. 10

While in this state of frustration the appellant received what purported to be an appointment P7 of 22nd June, 1941—as Viharadhipathi of the Vidyodaya Pirivena Vihare at Maligakanda. The appointor was Jinaratana Nayaka Thero who claimed in the document to be the lawful Viharadhipathi. The plaintiff and the witnesses called on his behalf were emphatic that Jinaratana Nayaka Thero who was the aged incumbent of a temple at Hunupitiya in Colombo had nothing to do with the Vidyodaya Pirivena or Maligakanda temple, whichever name is preferred, and that any visits he paid to Maligakanda were few and far between and were limited to conversations with one Pema- 20 nanda Thero who held the office of *Kruthyadhikari* or Manager of the Pirivena, an office to which he had been appointed by Sri Sumangala Nayaka Thero. Armed with the deed P7 the appellant began to conduct himself in such a way as to make it at first difficult and later impossible for the Pirivena to function as a teaching institution in the way the plaintiff wanted or believed he had a right to conduct it. The result was the institution of this action in July, 1943.

The answer of the appellant to the plaintiff's claim may be summarised shortly as follows:—There is in these premises a “temple” 30 within the meaning of the Buddhist Temporalities Ordinance (Cap. 222) known as Vidyodaya Pirivena Vihare or as Maligakanda Temple with a Viharadhipathi controlling it, and also a Pirivena or teaching institution known as Vidyodaya Pirivena with a Principal or Parivenadhipathi at its head who is appointed with the approval of the Viharadhipathi. He claimed to be the Viharadhipathi while conceding to the plaintiff the appointment as Parivenadhipathi and contended that the Pirivena is carried on as a part of the temple. The premises, he contended, were dedicated to Sri Sumangala Nayaka Thero by way of a *sanghika* gift with the result that the dedicator and every member of the laity ceased immediately to have any control over the premises, 40 and that P2 constituted a dedication in general *sanghika* or, in other words, to the entire body of the Buddhist clergy. Being *sanghika* property, so the argument proceeded, the property attracted to itself the rules of succession known to Buddhist ecclesiastical law as the *Sisyanusisya Paramparawa* and that the office of Viharadhipathi

devolved in 1911 on the death of the first Viharadhipathi Sri Sumangala, on his senior pupil, Jinaratana, and then in 1941 by appointment from the latter—*vide* P7—on him the appellant.

Admittedly, there were at the time of the institution of this action and there are now in the premises the subject of this action all the buildings and equipment associated with a large Buddhist Pirivena as well as with the average Buddhist temple found in this country. The plaintiff contends that the Pirivena was established first and, as it apparently began as a residential teaching institution, the erection of
 10 buildings and the growth of other things helpful in assisting the pupils and tutors to engage themselves in worship which is a necessary part of the life of Buddhist monks was only natural, and that the institution did not thereby become converted into a temple even as a Christian residential college does not lose its principal characteristics of a teaching institution merely because a chapel is erected to enable the students to attend divine worship. The appellant, on the other hand, contended that an *aramaya* or dwelling-place of Buddhist monks existed on the land with sufficient characteristics of a temple before a Pirivena came to be established by Sri Sumangala Nayaka Thero with
 20 the assistance of the Vidyadhara Sabha, and that the Pirivena was merely an adjunct of the temple.

The trial judge has found that the Pirivena came up first or, at any rate, the aramaya came up with it but in either case the aramaya was an adjunct of the Pirivena ; he has also found that the Pirivena was established by the Sabha and not by Sri Sumangala Nayaka Thero. These findings have been criticised by appellant's counsel. There was no witness available at the time of the trial who was living about the year 1876 and able to give evidence on the question of what came first—a Pirivena or an aramaya, but a close examination of
 30 the old deeds, P1, P2 and P3 shows that these findings of the trial judge are correct. It is significant that in P1 the earliest of the three deeds there is no mention whatsoever of an aramaya or, indeed, even of Sri Sumangala Nayaka Thero. If this learned monk was resident in an aramaya on this land in 1873 or had decided to erect a Pirivena thereon with the help of the Sabha, mention of the fact in the deed was almost inevitable. On the contrary, P1 indicates that the Sabha which had met on this very land was then on the look out not only for a suitable land for establishing the Pirivena, but also for a suitable monk of learning to be installed as principal. There is no doubt
 40 raised that, of the monks living at the time, Sri Sumangala Nayaka Thero enjoyed unquestioned pre-eminence as a scholar and was the obvious choice for the office of Principal, if he was willing. If an aramaya had existed on this land in 1873, and Sri Sumangala had any connection with it, it would have been highly probable that his name would have appeared prominently in this deed. Two and a half years later, when this very land on which the members of the Sabha

met in 1873 was dedicated to Sri Sumangala, there is a reference to the fact that an aramaya had come into existence. Since P2 constituted the dedication, whatever the implications or the extent of the dedication may be, it is self-evident that at the time of its execution, viz. March, 1876, it was private property and not *sanghika*. According to the evidence whatever meaning the word aramaya bore originally, it began to attract to itself the special meaning of a residence of monks. Therefore, even if the aramaya that existed in 1876 was a residence of monks, it was such a residence on private premises which had hitherto not been the subject of a gift to monks in any form. When the 10 adjoining premises, "Palm House", were gifted to Siddhartha Thero in 1884 by deed P3, the Northern and Eastern boundaries of "Palm House" are referred to as land belonging to the temple. The reasonable conclusion from these facts is that between 1873 and 1876 the land earmarked for dedication for the purpose the Sabha formed in 1873 contemplated had been utilised for the erection of certain buildings as residences for the monks who would be pupils and teachers at the Pirivena.

Before I consider the soundness of the plaintiff's claim that P2 created a charitable trust for religious education, it would be useful 20 to examine the contentions advanced by or on behalf of the appellant. One of them is the claim that there exists on these premises a "temple" within the meaning of the Buddhist Temporalities Ordinance. Section 2 of that Ordinance defines a "temple" as meaning a vihare, dagoba, dewale, kovila, avasa or any place of Buddhist worship, and including the Dalada Maligawa, the Sripadasthanaya and the Athamasthana of Anuradhapura.

The importance to the appellant of this claim is that, if it is a "temple", then, not being a temple exempted from the operation of the Ordinance by proclamation as indicated in Section three, the property 30 belonging to the "temple" and the Management thereof is by sections four (2) and 20 of the Ordinance vested in the Viharadhipathi which office he claims he holds by virtue of P7.

It is correct to say that the definition of "temple" in the Ordinance is very wide and, as has been observed in *Romanis Fernando vs. Wimalasiri Thero*² "no particular type of building or buildings is necessary to constitute a temple". At the same time, the essential character of a "temple" is that it is a place dedicated primarily for Buddhist worship. The evidence shows that the Pirivena on these premises has grown from very modest beginnings until it had on its 40 rolls, at the time of the present suit, about 800 pupils from all parts of the Island, and even from foreign countries. A place where such a large number of monks foregather must sooner or later, especially if it is at least partly residential, make facilities available for worship which one understands to be an important part of the Buddhist religion.

The evidence suggests that quite early such facilities were made available, and in the course of the years a dagoba, an image-house and a bo-tree appeared on these premises. The place also attracted lay Buddhists from the neighbourhood who it may be assumed came there, particularly on full moon days, only for worship. The evidence places the number of lay devotees coming there on full moon days at over a thousand. They attend at the dagoba, image-house or bo-tree for worship. It has been suggested to one witness that some of these devotees go even to the *avasa* or living quarters of the monks for the

10 purpose of worship, but it seems to me that the witness was here treating mere obeisance as synonymous with worship. However that may be, the fact that the monk or monks in charge of the Pirivena permitted or acquiesced in lay Buddhists attending the premises on certain days for worship at the spots or places originally intended for monks does not in my opinion have the effect of converting the Pirivena the object of which was religious education into a temple which is a place established for worship. The question whether it was for the furtherance of religious education or for worship by Buddhist monks that the premises were dedicated must, in my opinion,

20 as the trial judge has rightly apprehended, be determined by an interpretation of the terms of the deed P2 itself. P2 is specific on the point that the dedication by the owner of the property and by the Sabha was for the establishment and continuance of a Pirivena to impart knowledge to Buddhist monks and laymen and even to people of other religions. It does not even refer to worship as one of the purposes of the dedication, although no one can deny that worship will not be opposed to the avowed purpose of the dedication. I am therefore of opinion that the institution that was carried on in the premises at the time of the filing of the action was not a "temple" within the

30 meaning of the Buddhist Temporalities Ordinance.

It was next contended that the dedication, whatever its purpose may have been, was by way of a *sanghika* gift and, therefore, according to the Buddhist ecclesiastical law as accepted by our courts over a fairly long period, the title to the property conveyed by P2 passed to the grantee who would hold it for the benefit of the entire *sangha*, and that on the grantee's death the title passed to the grantee's pupils according to the customary rule of succession. The plaintiff does not dispute that the *Sisyanusisya Paramparawa* rules will apply in regard to succession if (a) the premises had been dedicated to establish a

40 place of worship, and (b) such dedication was unqualified. I have already expressed the opinion that there was no "temple" in existence at the time of dedication. It will therefore be convenient now to consider whether the dedication was what might be called, for want of a better expression, a pure *sanghika* dedication.

In an old case of 1879, *Rathanapala Unnanse vs. Kewitiagala Unnanse*³, Phear, C.J. (with Stewart, J. and Clarence, J. agreeing)

stated the following principles after an examination of certain authorities :—

(1) That the general rule of succession to temple property has two branches, viz. the *Sisya Paramparawa* and the *Siwuru Paramparawa*, and that it is the first branch of the rule which is to be presumed to apply to a given case in the absence of evidence that it is the other ;

(2) That there are exceptional cases in which the succession to temple property is in the appointment of the Government or even of private individuals ; 10

(3) That it is the terms of the original dedication that primarily impose the rule which is to govern the case ;

(4) That in the absence of direct evidence of those terms, usage may be looked to and accepted as evidence thereof.

These principles have been consistently followed by our courts and I might with advantage here refer to the following observations of Fernando, A.J. in the case of *Sumanatissa vs. Gunaratne*⁴ in regard to them :—

“ If I may venture to formulate the position as governed by these principles as applying to the present case, the law is that 20 the rule of succession is governed by the terms of the original dedication, or by one of the two rules of succession, and 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 *Sisyanusisya Paramparawa* rule of succession applies unless it can be established that the succession is governed by the *Siwuru Paramparawa*.”

I might also refer to the observations of Pereira, A.J. in *Dharmapala Unnanse vs. Medagama Sumana Unnanse*⁵ that “ it is undoubtedly open to a person who at his own expense founds and endows a vihare 30 to make provision by deed or otherwise regulating the succession to the institution, but when it is not shown that a particular vihare has been so founded or endowed, or that the succession to the incumbency has been so provided for, it has been laid down by this Court in unmistakable terms that the succession should be presumed to be in accordance with the rule of descent known as *Sisyanusisya Paramparawa*”. Again, Jayewardene, A.J., in the course of his judgment in *Gunananda Unnanse vs. Dewarakhita Unnanse*⁶ in summarising the rules regulating the succession to temples as laid down in the authorities stated, *inter alia*, that succession to an incumbency is regulated 40 by the terms of the original dedication, and that, if the original dedication is silent as to the mode of succession, then the succession is presumed to be in accordance with the rule of *Sisyanusisya*

Paramparawa. Even on the assumption that there is a “ temple ” constituted in the premises, the terms of P2 show that the dedication, although expressed to be absolute and irrevocable and as *sanghika* property, is nevertheless subject to the directions, stipulations and conditions laid down therein. One of these conditions is that the appointment of a Principal of the Pirivena is reserved to the Sabha and the removal of a Principal is also similarly reserved, except that in the latter case there is a requirement that the approval of a Sangha Sabha should be obtained. *Sanghika* property means property belonging to the entire priesthood, that is to say, to the temple as distinguished from the private property of the priestly incumbent,—per Sampayo, J. in *Charles vs. Appu*⁷; but it must be remembered that these observations were made by that learned Judge in reference to an institution which was indisputably and admittedly a temple. Mr. Jayewardene referred us also to the case of *Dhammajoty Unnanse vs. Sarananda Unnanse*⁸ where Dias, J. stated that “ when a *pansala* or other property is dedicated in *sanghika*, the dedicators or grantors cease to have any right or control over it, and the right to the property so granted is regulated by a well-known tenure called *Sisyanusisya Paramparawa* ”. This is also a case in which the instrument of dedication contained no conditions or restrictions governing succession to the title and, therefore, is distinguishable from the present case. No authority has been quoted for the proposition of law that there cannot be a *sanghika* gift where the succession to the title has been specifically provided for, nor has any rule of the *Vinaya* been advanced in support of such a proposition. On the contrary, the authorities, some of which I have referred to above contain specific references to the rule that succession is regulated by the term of the original dedication. Mr. Jayewardene argued that a donation to the *Sangha* in the sense of general *sanghika* cannot be accepted subject to a condition that the dedicator retains the right to regulate the succession. The oral and presumably “ expert ” evidence bearing on this argument varied according as the witness was one called for the plaintiff or one called for the appellant. The best answer to the argument is, in my opinion, found in the circumstance that Sri Sumangala Nayaka Thero accepted the donation subject to the condition. As the appellant’s own witness, Sri Deelananda Nayaka Thero, who was incidentally one of the expert witnesses examined in the case of *Dhammaratana Unnanse vs. Sumangala Unnanse*⁹, himself stated under cross-examination in the present case, “ Sri Sumangala was a very great scholar. In fact, he was a world-famous scholar. He was a “ shining light ”, particularly in regard to *Vinaya* rules. Apart from his eminence in learning he was also a very pious priest. It is not at all likely that he would have done anything during his lifetime against the *Vinaya* rules.” This same witness, when questioned by the trial Judge towards the conclusion of his evidence, stated that, “ if a land is to be dedicated to the *Sangha* and the right to appoint a *Viharadhipathi* to succeed the

original Viharadhipathi is reserved to the dedicator, such a dedication is not accepted. If such a dedication is accepted by a monk, the property is not sanghika.” If this be a true assessment of the legal position in Buddhist ecclesiastical law, the appellant’s case to be Viharadhipathi of a temple in these premises, as the trial judge has observed, ceases to have any foundation. I am unable to agree with Mr. Jayewardene’s argument that the condition regarding the appointment by the Sabha of a successor to Sri Sumangala Nayaka Thero has to be ignored because the gift has been declared to be by way of sanghika. The Sabha had the right, in my opinion, to appoint 10 the plaintiff as principal in 1936 in the same way as it had appointed Nanissara Nayaka Thero in 1911 and Ratanasara Nayaka Thero in 1922. Looked at in another way, the existence of this very condition is indicative of the absence of an intention by the dedicator to establish a temple or other place of worship. A letter 1D67 written by Sri Sumangala Nayaka Thero a short time before the latter’s death in 1909 to Siddhartha Thero in whom was vested the title to the property known as “ Palm House ” and described in Schedule B to the plaint serves to throw some light on the opinion held by Sri Sumangala him- 20 self in regard to the nature of the gift made by P2. There had appa- 20 rently been a suggestion that Siddhartha should convey the premises to Sri Sumangala in such a way that title would descend according to pupillary succession. Sri Sumangala in 1D67 cautioned his pupil against transferring the property to the Sabha and indicated that that should be done only after the Pirivena is included within the temple. For what it may be worth here was an opinion by a person who should have been in a good position to understand the nature of the dedica- tion in P2 that the *Sisyanusisya Paramparawa* rules did not apply at that time to the property and that the Pirivena was something quite distinct from the temple. 30

Another argument advanced for the appellant was that, even if the plaintiff is the Principal of a Pirivena established by the Sabha, he (the appellant) was the Viharadhipathi of a temple established in the same premises. It was pointed out that Sri Sumangala in a letter written to a monk in Siam had described himself as the Viharadhipathi of the Pirivena Vihare and that there are other references to Sri Sumangala as Viharadhipathi of Maligakanda Temple. I do not think that such references in letters and laudatory addresses and the like can carry any serious weight in determining whether there was in law an office of Viharadhipathi in the institution established in 40 the premises in question in the year 1876. It is not without point that nearly a quarter of a century later, Sri Sumangala Nayaka Thero, giving evidence in the case of *Ratanapala Unnanse vs. Appuhamy*¹⁰ described himself as the “ Chief High Priest of the Adam’s Peak Temple (Sripadasthanaya) and Nayaka of the Colombo District and Principal of the Vidyodaya College ”. Referring in that case to

the premises in question, he said “the bulk of the property of this College is sanghika. The deeds for the land are in my name as manager.” Sri Sumangala died in 1911. It is claimed that Jinaratana Nayaka Thero succeeded him as Viharadhipathi of the Maligakanda Temple. There is no reliable evidence that Jinaratana did anything at all to evidence his right of control. While the appellant’s case is that principals have to be approved by the Viharadhipathi before their appointment, there is nothing to show that Jinaratana’s approval was sought at the time Nanissara and Ratanasara were

10 appointed in 1911 and 1922 respectively. The minutes of the Sabha between 1911 and 1922 are not available. It has been stated that during the riots in 1915, when Buddhist leaders were imprisoned and when Martial Law was in force, all the papers belonging to the Sabha were removed by military officials and were never traceable thereafter. Certainly in 1936—the minutes of the Sabha of this year are available—no approval was sought from Jinaratana before the plaintiff was appointed as Principal. It is surprising that, if the appellant’s argument on this point is correct, the appellant who is a learned monk and who was a candidate for the office of Principal himself

20 raised no doubts as to the legality of the plaintiff’s appointment. Far from questioning the plaintiff’s status, the evidence shows that he accepted the validity of the appointment and repeatedly requested the plaintiff to assign him work as a teacher at the Pirivena. He did not see fit to offer a challenge to plaintiff’s authority until after June, 1941, when P7 was obtained by him from Jinaratana. At the time of execution of P7 Jinaratana was 86 years old. He is still alive, but has not been called as witness at the trial. The appellant himself was not a witness in this case. The inference is somewhat strong that the execution of P7 was a step in an attempt to create some sort

30 of title for the appellant at a time when he was desperate to find himself, if I may so term it, a place with honour at the Pirivena. It is, no doubt, true that the Malwatta Chapter at Kandy has in certain documents referred to Jinaratana Thero as the Viharadhipathi of the Maligakanda Temple. There is no evidence that the Sabha ever accepted the tenuous claim of the Malwatta Chapter to exercise some measure of control over the Vidyodaya Pirivena. A summons, or an invitation (if that word be considered more polite) to the Sabha to attend a meeting of the Executive Committee of the Malwatta Chapter at Kandy to discuss the situation created in 1933 by the first of some

40 four fasts undertaken by the appellant was ignored by the Sabha. As counsel for the plaintiff appears to have submitted at the trial, an appearance at Kandy before the Malwatta Chapter by or on behalf of the Sabha in response to this invitation would have gone some way in placing the Malwatta Chapter in a position of authority over the Sabha.

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Support for the appellant's case was also sought to be based on the fact that one Pemananda Thero had functioned in the office of *Kruthyadhikari* or manager at Vidyodaya Pirivena. It is not disputed that this monk had been appointed *Kruthyadhikari* by Sri Sumangala Nayaka Thero. The evidence is that a *Kruthyadhikari* is an agent for the Principal who appoints him. It was argued that an appointment like that of a *Kruthyadhikari* is appropriate only to a Vihare. There was no evidence justifying the inference that a like appointment in respect of a Pirivena is inappropriate and no good reason appears or has been urged why a right to appoint a manager should be denied 10 to a Parivenadhipathi or Principal. Pemananda Thero was *Kruthyadhikari* not only under Sri Sumangala Nayaka Thero; he functioned in that capacity during the principalship of Nanissara and Ratanasara Nayaka Theros and continued to perform the same function even after the appointment of the plaintiff. It was urged for the appellant that the continuation of Pemananda in this office was made possible by reason of his appointment as *Kruthyadhikari* by Jinaratana in 1911. There is no documentary evidence of such an appointment; Jinaratana, as I have said already, was not called as a witness in this case, and Pemananda himself had died by the time the case came to be 20 tried. That Pemananda himself did not acquiesce in Jinaratana's claim, if any, to the Viharadhipathiship is evidenced by deed 1D12 whereby on 16th January, 1940, Pemananda claiming to be Viharadhipathi of Vidyodaya Pirivena Vihare nominated one Sorata Thero as his successor in that office. The appellant sought to make out at the trial that this deed 1D12 came to be executed as a result of a conspiracy on the part of Sorata, Pemananda and the plaintiff himself. The trial Judge had found that the plaintiff was no party to any such conspiracy. There is no reason to disturb this finding, and one possible inference is that Sorata Thero who is now a Vice-Principal of 30 Vidyodaya Pirivena is preparing the ground for a claim the exact nature of which he may himself find it difficult to formulate at the moment.

It was also contended that even if the right to appoint a Principal or Parivenadhipathi is in the laity, such a right cannot be interpreted as giving to the laity a right to appoint a Viharadhipathi as well. The true answer to this contention appears to me to be that there was no office of Viharadhipathi contemplated for the institution established on the premises in question.

I have examined above the appellant's contentions in support of 40 his claim to be Viharadhipathi of the institution established in the premises in suit and indicated my reasons for rejecting that claim. I have now to consider the validity of the plaintiff's claim to be the trustee of a charitable trust created by P2. Counsel for the plaintiff contended that (a) what has been created is not a religious trust

regulated by the Buddhist Temporalities Ordinance and, (b) even if it was such a trust, and there was a *sanghika* gift in the narrow sense of the word, there was no bar, according to the Buddhist ecclesiastical law as administered by our Courts, to the dedicator (Andris Perera) laying down the mode of devolution of title to the property. He argued also that there was no reason why a Buddhist should be precluded from making a valid charitable trust for a religious purpose without recourse to a gift in the strict *sanghika* tradition, and submitted that the fallacy of the argument on behalf of the appellant was that it assumed that if there is a *sanghika* gift there must perforce be a Viharadhipathi. Other contentions advanced for the plaintiff were : (1) that it was quite open to the dedicator to create a Parivenadhipathi line of succession to the property inasmuch as he could lay down the mode of devolution and (2) that, if the premises were *sanghika* property, the title thereto would have become vested in the Parivenadhipathi on the execution of P2 in 1876 and it was not competent to the Parivenadhipathi to divest himself of title in favour of lay heirs which appears to have been one of the purposes of deed 5193 of 8th May, 1907 (P25A).

At the time P2 was executed the Trusts Ordinance (Cap. 72) had not been enacted and the law of trusts in force was the English Law. According to that law Andris Perera or the Sabha or both could have created a charitable trust. I can find no good reason for concluding that a Buddhist was excluded from exercising the right to create such a trust. P2 in my opinion created a valid charitable trust for the advancement of religion or religious education. The devolution of the office of trustee of this trust being regulated by section 113(1) of the Trusts Ordinance, the person appointed by the Sabha as Principal in place of Sri Sumangala Nayaka Thero succeeded to the office of trustee on Sri Sumangala's death. I am in agreement with the main contention advanced by Mr. Herat for the plaintiff and hold that the trial Judge reached a correct finding that P2 created a valid charitable trust and that the office of trustee devolves on the person appointed from time to time by the Sabha. In view of the opinion I have formed on this main contention it is hardly necessary to deal with the alternative argument of Mr. Herat that if there was no charitable trust created, there was a valid *sanghika* gift although not one in respect of which the Buddhist Temporalities Ordinance had any application inasmuch as that Ordinance applied only to temples and temple property strictly so called. I have earlier in this judgment adverted to the fact that religious education was the primary purpose for which the institution established on the premises in question came into existence, and that worship was merely incidental to such purpose. I may add however that, in my opinion, this alternative argument is also sound.

It may perhaps be convenient at this stage to consider the legal position that arises in regard to the title to the premises described in Schedule B to the plaint, *i.e.* to "Palm House". The title to these premises passed absolutely to Siddhartha Thero in 1884, and all the evidence goes to show that the premises were used from that date onwards up to the time of the present suit for no purpose other than that of the Vidyodaya Pirivena. The trial Judge has stated that the reasonable conclusion is that the Sabha supplied the money for the purpose in 1884. However that may be, the trustee on P2 has possessed "Palm House" as a part of the Pirivena property since 10 1884, *i.e.* for a period of nearly 60 years. In these circumstances the trustee has clearly obtained a prescriptive title to the premises. I may in this connection refer to the case of *Ranasinghe vs. Dhammananda*¹¹ (affirmed by the Privy Council - see 39 N.L.R. 569) where it was held that even a *de facto* trustee for a vihare can acquire title by prescription for the benefit of a vihare. The plaintiff has therefore legal title as trustee to the premises described in both schedules "A" and "B".

The plaintiff's claim to maintain this action against the appellant was finally attacked on the ground that the Sabha that appointed 20 him at a meeting held on 6th April, 1936, was not validly constituted, and this point formed one of the issues at the trial. The learned trial Judge in his consideration of the issue which he has answered against the appellant has pointed out that the validity of the constitution of the Sabha in 1936 was not attacked by anyone, not even by the appellant until he did so in this very case. He thought that if there had been anything wrong in the election of members there would have been protest meetings and demonstrations held, particularly as there was such a meeting over a shortage of funds collected in connection with the funeral of one of the Principals of the Pirivena. 30 As only nine persons were present at the meeting of 6th April, 1936, it has been argued that the appointment of the plaintiff was bad for want of quorum for a meeting of the Sabha. Mr. Jayewardene for the appellant contends that the quorum necessary was 13 members, while Mr. Herat claims that a quorum of seven was sufficient. Mr. Jayewardene has contended that, even of the nine present at the meeting in question, four persons have not been themselves validly elected as members, thereby reducing the number of members present to five. Deed P2 makes no mention of the manner in which the Sabha should set about the appointment of a Principal, and even if the earlier deed 40 P1 be regarded as indicating that manner, it seems to me that a quorum of seven is sufficient. Mr. Jayewardene relies on clause five of P1 which recites that the Sabha should always consist of a full complement of 13 persons, and that a Sabha consisting of any number less than that shall not be regarded as perfect, and that such imperfect Sabha shall not do or cause to do at the Sabha's expense any important work other

than that of supplying “the four needs” of monks. It seems to me however that clause 12 is the clause more relevant to the point in issue, viz. the clause which embodies the agreement that if out of the 13 members of the Sabha seven or more attend a meeting, those present shall exercise the power of the whole Sabha. I am therefore of opinion that a quorum of seven was sufficient to constitute a valid meeting. It has however been pointed out that on 12th December, 1887, a further agreement—1D16—was entered into by the Sabha whereby the quorum for a meeting purports to be fixed by clause nine thereof at 13.

10 This document has been executed not only by 13 persons referred to as members of the Sabha but also by some 32 others referred to as “advisers”. It is not easy to apprehend the role of these advisers and clause 9 (assuming that 1D16 was a valid agreement) may well mean that a quorum of less than seven members of the Sabha was sufficient if there were present office-bearers and “advisers” making altogether a total of 13 persons. In these circumstances I am unable to hold that a quorum of more than seven members was necessary for a valid decision on the question of the appointment of a Principal. In regard to the argument that, out of the nine persons present at the meeting in question,

20 four were persons not validly elected, it is right to add that a good deal of evidence in the form of minutes of meetings etc. was led at the trial. The trial Judge upon a consideration of this evidence has found that the meeting was validly constituted and I do not consider that the evidence on the point and the arguments placed before us are of sufficient weight as to justify us, sitting in appeal, in disturbing this finding of fact.

There remains for consideration the last matter that arises on this appeal, viz. the claim of the plaintiff that the appellant was liable to be ejected from the premises of the Pirivena. This matter has

30 received my very anxious consideration, particularly because of the appellant’s position among the Buddhist monks in the Island today and of his long association with this very institution. Counsel for him has referred us to the legal principals governing the expulsion or ejection of a monk from a vihare. Jayewardena, A.J. in *Gunananda Unnanse vs. Dewarakhita Unnanse*⁶ (supra)—*vide* page 275—in summarising the rules regulating the succession to temples and vihares as laid down in the authorities states:—“(1) all priests who are pupils of a previous incumbent and pupils of such priests are entitled to reside in the vihare and to be maintained from the income.” This

40 right is, however, lost if the pupil has been guilty of *parajika* or contumacious conduct; see *Dhammajoty Unnanse v. Parenthale*¹²; *Saranankara Unnanse vs. Indajoty Unnanse*¹³; *Sirinivase vs. Sarananda*¹⁴.

In the case before us there is a body of unimpeachable evidence, to a large extent unchallenged, that the appellant has made a portion of the teaching halls of the Pirivena living quarters for himself, has

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wrongly obtained the keys of the teaching hall and the library from a monk who was a temporary substitute for the *Kruthyadhikari* who had fallen ill, has withheld these keys from the Principal who requested that they be delivered back to him, has prevented the use of the dining hall by pupils and tutors, has diverted to himself letters (including a packet of certificates of pupils forwarded by the Department of Education) addressed to the plaintiff as Principal, has locked up the library preventing its use by others, removed the collection tills or boxes and generally disrupted the work of the teaching institution to such an extent that teaching has become impossible for the Principal 10 and his staff. To complete his “victory” over the plaintiff he appears now to be conducting classes at these premises himself, including classes in English! The appellant’s record of conduct has been such that, even if this institution had been a vihare proper and the plaintiff had been the incumbent, a case has been made out for his ejection on the ground of *parajika* conduct. It is apparent, however, that it is quite unnecessary to consider the Buddhist ecclesiastical law in regard to expulsion from a temple of monks who are guilty of *parajika* conduct where the finding reached by the Court is that the plaintiff is the legal title holder of premises subject to a charitable trust, not 20 being a religious trust governed by the Buddhist Temporalities Ordinance. It has been amply demonstrated that the trustee is unable to perform his duties and exercise his powers by reason of the acts of usurpation of office—the conduct of the appellant amounts to no less than that—and the duty of the Court to order the ejection of the appellant in this case is therefore clear.

For the reasons which I have endeavoured to set out above and which are substantially the same reasons as those that found favour with the learned trial Judge, I would dismiss the appeal with costs.

In the result Final Appeal No. 26 of 1952 is dismissed with costs, 30 and the Interlocutory Appeals Nos. 73 and 192 of 1956 are dismissed without costs. Neither party will be entitled to the costs of the inquiries in the Court below relating to the substitution of parties.

(Sgd.) T. S. FERNANDO,
Puisne Justice.

H. N. G. FERNANDO, J.

I am in full agreement with the conclusions reached by my brother, and cannot add anything useful to the reasons he has given. I wish only to state that the delay in the preparation of the judgment

in this appeal was due to a misunderstanding for which I was responsible.

(Sgd.) H. N. G. FERNANDO,
Puisne Justice.

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1. (1946) 47 N.L.R. 537.
 2. (1951) 53 N. 245.
 3. (1879) 2 S.C.C. 26.
 4. (1947) 39 N.L.R. 253.
 5. (1910) 2 Curr. L.R. 82.
 6. (1924) 26 N.L.R. 274.
 7. (1914) 19 N.L.R. 242.
 8. (1881) 5 S.C.C. 8.
 9. (1910) 14 N.L.R. 400.
 10. (1900) 14 N.L.R. 167.
 11. (1935) 37 N.L.R. 19.
 12. (1881) 4 S.C.C. 121.
 13. (1918) 20 N.L.R. 398.
 14. (1921) 22 N.L.R. 320.

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D.C. (Final) 26/L.
1952

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

Ven. Baddegama Piyaratana Nayaka Thera as Principal
of the Vidyodaya Pirivena, Maligakanda, Colombo...
.....*Plaintiff*

vs.

30 Ven. Vagisvarachariya Morontuduwe Sri Naneswara
Dhammananda Nayaka Thera of Vidyodaya Pirivena,
Maligakanda, Colombo and others.....*Defendants.*

Ven. Vagisvarachariya Morontuduwe Sri Naneswara
Dhammananda Nayaka Thera of Vidyodaya Pirivena,
Maligakanda, Colombo.....*1st Defendant-Appellant*
against

Ven. Baddegama Piyaratana Nayaka Thera as Principal
of the Vidyodaya Pirivena, Maligakanda, Colombo.
.....*Plaintiff-Respondent.*

40 (Dead) The Hon. Mr. Don Stephen Senanayake, M.S.C., of
"Woodlands", Kanatta Road, Colombo.

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The Hon. Mr. Christopher William Wijekoon Kannan-
gara, M.S.C., of "Cranford", 29, Alfred Place, Kollu-
pitiya, Colombo and others.....
.....*Defendants- Respondents.*
Hon. Mr. Dudley Senanayake is substituted in place of
2nd defendant (dead), and others.....*Respondents.*

Action No. 2882/L.

District Court of Colombo

This cause coming on for hearing and determination on the 21st to 25th, 28th to 30th January, and 5th and 6th February, 1957, and 10 13th February, 1958, and on this day, upon an appeal preferred by the 1st defendant-appellant before the Hon. H. N. G. Fernando, Puisne Justice and the Hon. T. S. Fernando, Q.C., Puisne Justice, of this Court, in the presence of Counsel for the 1st defendant-appellant, plaintiff-respondent, 3rd, 5th, 7th to 10th, 12th, 13th, 17th, 18th, 20th to 22nd defendants-respondents.

It is considered and adjudged that this appeal be and the same is hereby dismissed.

It is further decreed that the appellant do pay the plaintiff respondent, 3rd, 5th, 7th to 10th, 12th, 13th, 17th, 18th, 20th to 20 22nd defendants-respondents the taxed costs of this appeal.

(*Vide* copy of judgment attached.)

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice, at Colombo, the 19th day of February, in the year One thousand Nine hundred and Fifty-eight and of Our Reign the Seventh.

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

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1956

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

Ven. Baddegama Piyaratana Nayaka Thera as Principal
of the Vidyodaya Pirivena, Maligakanda, Colombo....
.....*Plaintiff*

vs.

Ven. Vagisvarachariya Morontuduwe Sri Naneswara
Dhammananda Nayaka Thera of Vidyodaya Pirivena,
Maligakanda, Colombo and others.....*Defendants.*

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Ven. Vagisvarachariya Morontuduwe Sri Naneswara
Dhammananda Nayaka Thera of Vidyodaya Pirivena,
Maligakanda, Colombo.....*1st Defendant-Appellant*
against

10 Ven. Baddegama Piyaratana Nayaka Thera as Principal
of the Vidyodaya Pirivena, Maligakanda, Colombo....
.....*Plaintiff-Respondent.*

(Dead) The Hon. Mr. Don Stephen Senanayake, M.S.C., of
“ Woodlands ”, Kanatta Road, Colombo.

The Hon. Mr. Christopher William Wijekoon Kannan-
gara, M.S.C., of “ Cranford ”, 29, Alfred Place, Kollu-
pitiya, Colombo and others.....
.....*Defendants-Respondents.*

Hon. Mr. Dudley Senanayake is substituted in place of
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30 It is considered and adjudged that this appeal be and the same is hereby dismissed. There will be no costs of this appeal.

It is further directed that neither party will be entitled to the costs of the inquiries in the Court below relating to the substitution of parties.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice, at Colombo, the 19th day of February, in the year One thousand Nine hundred and Fifty-eight and of Our Reign the Seventh.

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

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

Ven. Baddegama Piyaratana Nayaka Thera as Principal
of the Vidyodaya Pirivena, Maligakanda, Colombo...
.....*Plaintiff* 10

vs.

Ven. Vagisvarachariya Morontuduwe Sri Naneswara
Dhammananda Nayaka Thera of Vidyodaya Pirivena,
Maligakanda, Colombo and others.....*Defendants.*

Ven. Vagisvarachariya Morontuduwe Sri Naneswara
Dhammananda Nayaka Thera of Vidyodaya Pirivena,
Maligakanda, Colombo.....*1st Defendant-Appellant*
against

Ven. Baddegama Piyaratana Nayaka Thera as Principal
of the Vidyodaya Pirivena, Maligakanda, Colombo... 20
.....*Plaintiff-Respondent.*

(Dead) The Hon. Mr. Don Stephen Senanayake, M.S.C., of
“ Woodlands ”, Kanatta Road, Colombo.

The Hon. Mr. Christopher William Wijekoon Kannan-
gara, M.S.C., of “ Cranford ”, 29, Alfred Place, Kollu-
pitiya, Colombo and others.....
.....*Defendants-Respondents.*

Hon. Mr. Dudley Senanayake is substituted in place of
2nd defendant (dead), and others.....*Respondents.*

Action No. 2882/L.

30

District Court of Colombo

This cause coming on for hearing and determination on the 21st to 25th, 28th to 30th January and 5th and 6th February, 1957 and 13th February, 1958 and on this day, upon an appeal preferred by the 1st defendant-appellant before the Hon. H. N. G. Fernando, Puisne Justice and the Hon. T. S. Fernando, Q.C., Puisne Justice, of this Court, in the presence of Counsel for the 1st defendant-appellant, plaintiff-respondent, 3rd, 5th, 7th to 10th, 12th, 13th, 17th, 18th, and 20th to 22nd defendants-respondents.

It is considered and adjudged that this appeal be and the same is hereby dismissed. There will be no costs of this appeal.

It is further directed that neither party will be entitled to the costs of the inquiries in the Court below relating to the substitution of parties.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice, at Colombo, the 19th day of February, in the year One thousand Nine hundred and Fifty-eight and of Our Reign the Seventh.

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

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No. 68

Petition of the 1st Defendant-Appellant for the Stay of Execution
IN THE DISTRICT COURT OF COLOMBO

No. 68
Petition of the
1st Defendant-
Appellant for
the Stay of
Execution
14.2.58

In the matter of an application in Case
No. 2882/Land of the District Court of
Colombo.

Venerable Baddegama Piyaratana Nayaka
Thera of Vidyodaya Pirivena, Maligakanda,
Colombo..... *Plaintiff*

D.C. No. 2882/L.

20 S.C. No. 26(F).

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.
- (Dead) 2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatta Road, Colombo.
3. The Hon. Mr. Christopher William Wijekoon Kannangara, M.S.C., of "Cranford", 29, Alfred Place, Kollupitiya, Colombo.
- (Dead) 4. Mr. Jacob Moonasinghe, Proctor, of "Winton", Dickman Road, Colombo.
5. Mr. Henry Woodward Amarasuriya, M.S.C., of 9, Gower Street, Colombo.
- (Dead) 6. Mr. Willorage Henry William Perera, Proctor, of "Vijitha", 335, Timbirigasyaya Road, Colombo.
7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo.

30

No. 68
 Petition of the
 1st Defendant-
 Appellant for
 the Stay of
 Execution
 14.2.58—
Continued

8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.
9. Mr. Rajah alias Rajasinghe Hewavitarne, M.S.C., of "Nimalka", Kollupitiya, Colombo.
10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
- (Resigned) 11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road, Colombo.
12. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala. 10
13. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Lane, Wellawatta, Colombo.
- (Dead) 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda.
- (Dead) 15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant (deceased).
- (Dead) 16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant (deceased). 20
17. N. S. Moonasinghe of 10, Layards Road, Colombo, substituted in place of Dr. Amarasinghe of Colombo, who was substituted in place of 15th defendant Dr. B. E. Fernando (deceased).
18. Hon. Mr. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo, substituted in place of 2nd defendant (deceased).
- (Dead) 19. Jothipala Subasinghe of Deal Place, Colombo, substituted in place of 11th defendant 30 (resigned).
20. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo, substituted in place of 19th defendant (deceased).
21. Gamini Jayasuriya of 494/6, Galle Road, Colombo, substituted in place of 6th defendant (deceased).
22. Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty, Colombo, substituted in place of 16th defendant (deceased)..... *Defendants.* 40

and

Ven. Vagisvarachariya Morontuduwe Sri Nanewara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo
 *1st Defendant-Appellant-Petitioner*

No. 68
 Petition of the
 1st Defendant-
 Appellant for
 the Stay of
 Execution
 14.2.58—
Continued

vs.

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo
 *Plaintiff-Respondent.*

- 10 1. Christopher William Wijekoon Kannangara of 98/2, Havelock Road, Colombo.
2. Henry Woodward Amarasuriya of "Amargiri", 28th Lane, Flower Road, Colombo.
3. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo, presently of Ceylon Embassy, Hotel Leningradskaya, Moscow.
4. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.
- 20 5. Rajah Hewavitarne, C.B.E., "Romford", Albert Crescent, Colombo.
6. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
7. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala.
8. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Lane, Wellawatta, Colombo.
- 30 9. N. S. Moonesinghe of 10, Layards Road, Colombo.
10. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo.
11. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo.
12. Gamini Jayasuriya of 494/6, Galle Road, Colombo.
13. Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty, Colombo.
- 40 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th, 20th, 21st and 22nd
 *Defendants-Respondents.*

No. 68
 Petition of the
 1st Defendant-
 Appellant for
 the Stay of
 Execution
 14.2.58—
Continued

On this 14th day of February, 1958.

The petition of the abovenamed petitioner appearing by Felix Joseph Peter Perera, his proctor, states as follows :—

1. The petitioner abovenamed is the 1st defendant-appellant in the aforementioned case which went up in appeal to Their Lordships' Court and Their Lordships' Court delivered judgment on 13th February, 1958, dismissing the 1st defendant-appellant's appeal with costs.

2. The petitioner being desirous of appealing to Her Majesty in Council from the said judgment of Their Lordships' Court delivered on 13th February, 1958, have already sent notices to the aforesaid 10 respondents of his intended application to Their Lordships' Court for Conditional Leave to appeal to Her Majesty in Council in terms of Rule 2 of the Schedule to the Privy Council Ordinance (Chapter 85) and is taking other steps required by law to enable him to prosecute the said appeal to Her Majesty in Council.

3. The petitioner states that the petitioner has today made an application to Their Lordships' Court under Rule 5 of the Appellate Procedure (Privy Council) Order 1921 to have the notices of his intended application served on the respondents by and through Their Lordships' Court. 20

4. The petitioner states that the plaintiff-respondent is likely to take steps to apply to this Court to execute the decree entered by Their Lordships' Court in this case.

5. Therefore the petitioner states that the petitioner is entitled to a stay of the execution of the decree entered in this case by Their Lordships' Court till such time as his appeal to Her Majesty in Council is finally determined.

Wherefore the petitioner prays —

- (a) that this Court be pleased to stay the execution of the decree entered by Their Lordships' Court in this case till such time 30 as this case is finally determined by Her Majesty in Council ;
- (b) for costs ; and
- (c) for such other and further relief as to this Court shall seem meet.

(Sgd.) F. J. P. PERERA,
Proctor for 1st Defendant-Appellant-Petitioner.

No. 69

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

No. 69
Application for
Conditional
Leave to
Appeal to the
Privy Council
8.3.58

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application under
the Appeals (Privy Council) Ordinance
Chapter 85 for Conditional Leave to
Appeal to Her Majesty the Queen-in-
Council.

10 S.C. No. 26(F).
D.C. Col. No. 2882/L.
S.C. No. 73(I) of 1956.
S.C. No. 192(I) of 1956.

Ven. Baddegama Piyaratana Nayaka
Thera of Vidyodaya Pirivena, Maliga-
kanda, Colombo..... .. *Plaintiff*
vs.

- | | | |
|----|--------|--|
| | | 1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo. |
| 20 | (Dead) | 2. The Hon. Mr. Don. Stephen Senanayake, M.S.C., of "Woodlands", Kanatta Road, Colombo. |
| | | 3. The Hon. Mr. Christopher William Wijekoon Kannangara, M.S.C., of "Cranford", 29, Alfred Place, Kollupitiya, Colombo. |
| | (Dead) | 4. Mr. Jacob Moonesinghe, Proctor, of "Winton", Dickman Road, Colombo. |
| | | 5. Mr. Henry Woodward Amarasuriya, M.S.C., of 9, Gower Street, Colombo. |
| 30 | (Dead) | 6. Mr. Willorage Henry William Perera, Proctor, of "Vijitha", 335, Timbiri-gasyaya Road, Colombo. |
| | | 7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo. |
| | | 8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo. |
| | (Dead) | 9. Mr. Rajah alias Rajasinghe Hewavitarne, M.S.C., of "Nimalka", Kollupitiya, Colombo. |
| 40 | | 10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo. |

No. 69
Application for
Conditional
Leave to
Appeal to the
Privy Council
8.3.58—
Continued

- (Resigned) 11. Mr. B. R. Dias of “Kenilworth”,
Dematagoda Road, Colombo.
12. Mudaliyar Egodage Alfred Abayasekara
of Karagampitiya Road, Dehiwala.
13. Mudaliyar Piyadasa Dharmasiri Abeye-
wardena Ratnatunga of “Sagala”,
Chapel Lane, Wellawatta, Colombo.
- (Dead) 14. Dr. D. B. Perera of No. 40, High Level
Road, Nugegoda.
- (Dead) 15. Dr. B. E. Fernando of Colombo, sub- 10
stituted in place of 14th defendant
(deceased).
- (Dead) 16. Daya Hewavitarne of Alfred Place
Avenue, Colombo, substituted in place
of 4th defendant (deceased).
17. N. S. Moonesinghe of 10, Layards Road,
Colombo, substituted in place of Dr.
Amarasinghe of Colombo, who was
substituted in place of 15th defendant
Dr. B. E. Fernando (deceased). 20
18. Hon. Mr. Dudley Senanayake of “Wood-
lands”, Kanatta Road, Colombo, sub-
stituted in place of 2nd defendant
(deceased).
- (Dead) 19. Jothipala Subasinghe of Deal Place,
Colombo, substituted in place of 11th
defendant (resigned).
20. Dr. A. M. Samarasinghe of 104, Reid
Avenue, Colombo, substituted in place
of 19th defendant (deceased). 30
21. Gamini Jayasuriya of 494/6, Galle Road,
Colombo, substituted in place of 6th
defendant (deceased).
22. Percival Upajiva Ratnatunga of 84, 5th
Lane, Colpetty, Colombo, substituted
in place of 16th defendant (deceased).
23. Dr. A. D. P. A. Wijegoonewardene of
Colombo, substituted in place of 9th
defendant (deceased) (vide Supreme
Court Order of 27.1.59 re Supreme 40
Court Application No. 335/'58).
..... *Defendants.*

Ven. Vagisvarachariya Morontuduwe Sri
Naneswara Dhammananda Nayaka
Thera of Vidyodaya Pirivena, Maliga-
kanda, Colombo.....
.....1st Defendant-Appellant-Petitioner

No. 69
Application for
Conditional
Leave to
Appeal to the
Privy Council
8.3.58—
Continued

vs.

Ven. Baddegama Piyaratana Nayaka
Thera of Vidyodaya Pirivena, Maliga-
kanda, Colombo.....
..... Plaintiff-Respondent.

10

1. Mr. Christopher William Wijekoon Kan-
nangara of 17, Murugan Place, off
Havelock Road, Colombo.
2. Mr. Henry Woodward Amarasuriya of
“Amaragiri”, 28th Lane, Flower
Road, Colombo 7.
3. His Excellency Dr. G. P. Malalasekera
of “Samanala”, 16, Longden Terrace,
Colombo, presently of the Ceylon
Embassy, Hotel Leningradskaya, Mos-
cow.

20

(Dead)

4. Mr. D. L. F. Pedris of “Pedris Villa”,
Alfred Place, Kollupitiya, Colombo.
5. Mr. Rajah Hewavitarne of “Rom-
ford”, Albert Crescent, Colombo.
6. Mr. Wimala Dharma Hewavitarne of
“Sri Nagar”, Kollupitiya, Colombo.
7. Mudaliyar Egodage Alfred Abayasekara
of Karagampitiya Road, Dehiwala.
8. Mudaliyar Piyadasa Dharmasiri Abeye-
wardena Ratnatunga of “Sagala”,
Chapel Lane, Wellawatta, Colombo.
9. N. S. Moonesinghe of 10, Layards Road,
Colombo.
10. Mr. Dudley Senanayake of “Woodlands”,
Kanatta, Road, Colombo.
11. Dr. A. M. Samarasinghe of 104, Reid
Avenue, Colombo.
12. Gamini Jayasuriya of 494/6, Galle Road,
Colombo.
13. Percival Upajiva Ratnatunga of 84, 5th
Lane, Colpetty, Colombo.

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No. 69
 Application for
 Conditional
 Leave to
 Appeal to the
 Privy Council
 8.3.58—
Continued

14. Dr. A. D. P. A. Wijegoonewardene of
 Colombo, substituted in place of 9th
 defendant (deceased).

3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th,
 17th, 18th, 20th, 21st, 22nd and 23rd
 *Defendants-Respondents-Respondents.*

To :

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

On this 8th day of March, 1958.

10

The petition of the petitioner abovenamed appearing by Felix
 Joseph Peter Perera, his proctor, states as follows :—

1. The petitioner is the 1st defendant-appellant in the above-
 mentioned case.

2. That feeling aggrieved by the judgment of Your Lordships'
 Court pronounced on 13th February, 1958, dismissing the appeal of
 the petitioner, the petitioner is desirous of appealing therefrom to
 Her Majesty the Queen-in-Council.

3. The said judgment is a final judgment and the appeal involves
 directly or indirectly a claim or question to or respecting property or 20
 a civil right amounting to or of the value of over five thousand rupees.

4. The petitioner has within fourteen (14) days from the 13th
 day of February, 1958, given to each of the respondents abovenamed
 notice of the petitioner's intended application to Your Lordships'
 Court for Conditional Leave to appeal to Her Majesty the Queen-in-
 Council from the judgment delivered by Your Lordships' Court on
 13th February, 1958, in the above case. The petitioner annexes
 hereto an affidavit dated the 8th day of March, 1958, and marked
 " A " setting out the manner in which the said notice was given to
 each of the aforesaid respondents. 30

Wherefore the petitioner prays—

- (a) for Conditional Leave to appeal from the judgment pronounced
 on 13th February, 1958, by Your Lordships' Court in the
 above case to Her Majesty the Queen-in-Council upon
 such terms and conditions as Your Lordships' Court deems
 fit ;
- (b) for costs ; and
- (c) for such other and further relief as to Your Lordships' Court
 seems meet.

(Sgd.) F. J. P. PERERA,
Proctor for 1st Defendant-Appellant-Petitioner.

No. 69
 Application for
 Conditional
 Leave to
 Appeal to the
 Privy Council
 8.3.58—
Continued

Settled by :

Mr. P. RANASINGHE,
 Mr. H. W. JAYEWARDENE, Q.C.,
Advocates.

No. 70

**Application of the Plaintiff-Respondent for the Execution
 of the Supreme Court Decree**

No. 70
 Application of
 the Plaintiff-
 Respondent for
 the Execution
 of the Supreme
 Court Decree
 11.3.58

10 IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application under
 Rule 7 of the Rules in the schedule to
 the Appeals (Privy Council) Ordinance,
 Cap. 85.

S.C. 26(F) 1952.
 S.C. 73 (Inty.) 1956.
 S.C. 192 (Inty.) 1956.
 D.C. Colombo.

For an order for execution of the Judgment
 and Decree of the Honourable the
 Supreme Court notwithstanding an
 appeal to Her Most Excellent Majesty
 in Privy Council.

20 No. 2882/L.

Ven. Baddegama Piyaratana Nayaka Thero
 as Principal of the Vidyodaya Pirivena,
 Maligakanda in Colombo.....
 *Plaintiff-Respondent-Petitioner*
vs.

Ven. Vagisvarachariya Morontuduwe Sri
 Naneswara Dhammananda Thero of
 Vidyodaya Pirivena, Maligakanda in
 Colombo.....
 *1st Defendant-Appellant-Respondent*

- 30** (Dead) 2. The Hon. Mr. D. S. Senanayake of Kanatta
 Road, Colombo.
 3. The Hon. Mr. C. W. W. Kannangara of
 Alfred Place, Colombo.
 (Dead) 4. Jacob Moonesinghe of Dickmans Road,
 Colombo.
 5. H. W. Amarasuriya of Gower Street,
 Colombo.

No. 70
Application of
the Plaintiff-
Respondent for
the Execution
of the Supreme
Court Decree
11.3.58—
Continued

- (Dead) 6. W. H. W. Perera of Timbirigasyaya Road, Colombo.
7. Dr. G. P. Malalasekera of Longden Terrace, Colombo.
8. D. L. F. Pedris of Alfred Place, Colombo.
9. Rajah alias Rajasinghe Hewavitarne of Colpetty, Colombo.
10. Wimala Dhrama Hewavitarne of Colpetty, Colombo.
11. B. R. Dias of Dematagoda Road, Colombo. 10
12. Mudaliyar E. A. Abayasekara of Dehiwala.
13. Mudaliyar P. D. A. Ratnatunga of Wellawatta, Colombo.
- (Dead) 14. Dr. D. B. Perera of High Level Road, Nugegoda.
- (Dead) 15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant, deceased.
- (Dead) 16. Daya Hewavitarne of Alfred Place, Colombo, substituted in place of 4th defendant, deceased. 20
17. N. S. Moonesinghe, substituted in place of Dr. Amarasinghe of Colombo, who was substituted in place of 15th defendant, deceased.
18. Hon. Mr. Dudley Senanayake of Kanatta Road, Colombo, substituted in place of 2nd defendant, deceased.
- (Dead) 19. Jothipala Subasinghe, substituted in place of 11th defendant, deceased.
20. Dr. A. M. Samarasinghe of Reid Avenue, 30 Colombo, substituted in place of 19th defendant, deceased.
21. Gamini Jayasuriya of Galle Road, Colombo, substituted in place of 6th defendant, deceased.
22. P. U. Ratnatunga of 5th Lane, Colpetty, Colombo, substituted in place of 16th defendant, deceased.....
..... *Added Defendants- Respondents.*

To :

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

On this 11th day of March, 1958.

The petition of the plaintiff-respondent-petitioner abovenamed appearing by William Henry Senanayake, his proctor, states as follows :—

No. 70
Application of
the Plaintiff-
Respondent for
the Execution
of the Supreme
Court Decree
11.3.58—
Continued

1. The plaintiff-respondent-petitioner brought this action on the 26th day of July, 1943, and later amended the plaint on the 2nd of April, 1947, to have it declared that the plaintiff-respondent-petitioner holds the lands and premises described in the plaint in trust as a trustee of a charitable trust, and to have the 1st defendant-appellant-respondent ejected therefrom.

2. The trial started on the 15th May, 1950, and concluded on the 15th September, 1950, and the learned Trial Judge by his judgment and order delivered on the 17th October, 1950, entered judgment as prayed for and for ejection of the 1st defendant-appellant-respondent from the premises in suit.

3. No relief was claimed from the added defendants-respondents and parties substituted in place of deceased added defendants-respondents but were added as parties having been constituted under P1 of 1873 and P2 of 1876 for a charitable purpose.

4. The 1st defendant-appellant-respondent filed this appeal on the 18th of October, 1950, and thereafter certain added defendants-respondents died and the 1st defendant-appellant-respondent objected to the substitution of added defendants-respondents at every turn and filed appeals 73 (Inty.) of 1956 and 192 (Inty.) of 1956 from the said orders of substitution though he had not objected to the substitution of added defendants-respondents who died pending trial.

5. There was a large amount of unimpeachable evidence led which was unchallenged at the trial and held so by Your Lordships' Court that :—

- (a) the 1st defendant-appellant-respondent was not a teacher or a pupil at the Pirivena entitled to residence therein ;
- (b) that he fermented strikes, indiscipline among the students and fasted making it a nuisance to the authorities after he failed in his attempts to get re-admitted as a teacher and later when he failed to get some higher appointment at the Pirivena ;
- (c) There was no doubt at all that he committed parajika and was guilty of contumacious conduct in that—
- (d) he had made a portion of the Teaching Hall of the Pirivena living quarters for himself ;

No. 70
Application of
the Plaintiff-
Respondent for
the Execution
of the Supreme
Court Decree
11.3.58—
Continued

- (e) had wrongfully obtained the keys of the Teaching Hall and
- (f) the Library ;
- (g) withheld the said keys from the plaintiff-respondent-petitioner who is the Principal of the Institution ;
- (h) he had prevented from 1943 upto now the use of the Dining Hall by the pupils and the teachers who are residing monks ;
- (i) taken delivery of letters addressed to the plaintiff-respondent-petitioner ;
- (j) forcibly taken Certificates sent by the Education Department 10 addressed to the Principal ;
- (k) locked up the Library preventing its use by the pupils and teachers ;
- (l) appropriated and removed the collection boxes or tills in the premises ;
- (m) disrupted the work of teaching in the Institution in order to make it impossible for the Principal and the staff to do their work.

6. The plaintiff-respondent-petitioner submits that there was amply corroborated evidence that the 1st defendant-appellant- 20 respondent was running a mixed School and a Night School in the Sri Sumangala Memorial Hall put up by the added defendants-respondents with their money and public subscriptions.

7. These buildings which are in the unlawful possession of the 1st defendant-appellant-respondent have not been repaired since 1943 and if the possession of same is not handed over to the plaintiff-respondent-petitioner irreparable loss and damage will be caused to the Institution if allowed to collapse in the present state of the buildings.

8. The 1st defendant-appellant-respondent has given notice of 30 Intended Application to appeal to Her Majesty in Privy Council to the plaintiff-respondent-petitioner and to some of the added-defendants-respondents.

9. The plaintiff-respondent-petitioner begs that directions may be given to execute the Judgment and Decree of Your Lordships' Court in favour of the plaintiff-respondent-petitioner by ejecting the 1st defendant-appellant-respondent from the premises in suit.

10. The buildings concerned have been put up by the Predecessors in office of the plaintiff-respondent-petitioner and the predecessors of the added defendants-respondents and their successors in office 40 and not by any tutor or predecessor of the 1st defendant-appellant-respondent.

11. The plaintiff-respondent-petitioner is willing to give good and sufficient security for the due performance of such order as Her Majesty in Privy Council shall think fit to make on the appeal of the 1st defendant-appellant-respondent.

12. The plaintiff-respondent-petitioner is willing to enter into good and sufficient security as Your Lordships' Court be pleased to order in the circumstances of this case.

13. No loss or damage will be caused to the 1st defendant-appellant-respondent from an order of possession given to the plaintiff-respondent-petitioner.

Wherefore the plaintiff-respondent-petitioner prays that Your Lordships' Court be pleased to—

- (a) direct that Judgment and Decree of Your Lordships' Court be executed;
- (b) fix, if necessary, the security to be given by the plaintiff-respondent-petitioner;
- (c) for costs; and
- (d) for such other and further relief as to Your Lordships' Court shall seem meet.

20

(Sgd.) W. H. SENANAYAKE,
Proctor for Plaintiff-Respondent-Petitioner.

No. 71

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

ELIZABETH THE SECOND, Queen of Ceylon and of Her Other Realms and Territories, Head of the Commonwealth

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application by the 1st defendant dated 8.3.58 for Conditional Leave to appeal to Her Majesty the Queen-in-Council against the judgment and decree of this Court dated 13th February, 1958

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....*Plaintiff*

vs.

Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo, and others.....*Defendants.*

30

No. 70
Application of the Plaintiff-Respondent for the Execution of the Supreme Court Decree 11.3.58—
Continued

No. 71
Decree of the Supreme Court Granting Conditional Leave to the Privy Council 12.3.58

No. 71
Decree of the
Supreme Court
Granting Condi-
tional Leave to
Appeal to the
Privy Council
12.3.58—
Continued

Ven. Vagisvarachariya Morontuduwe Sri Naneswara
Dhammananda Nayaka Thera of Vidyodaya Pirivena,
Maligakanda, Colombo.....
.....1st *Defendant-Appellant-Petitioner*

vs.

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya
Pirivena, Maligakanda, Colombo.....
..... *Plaintiff-Respondent.*

Mr. Christopher William Wijekoon Kannangara of 17,
Murugan Place off Havelock Road, Colombo, and 10
others..... *Defendants-Respondents.*

Action No. 2882/L.

District Court of Colombo.

This cause coming on for hearing and determination on the 12th day of March, 1958, before the Hon. H. W. R. Weerasooriya, Puisne Justice, and the Hon. M. C. Sansoni, Puisne Justice of this Court, in the presence of Counsel for the 1st defendant-petitioner.

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

20

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

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

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

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice, at Colombo, the 24th day of March, in the year One thousand Nine hundred and Fifty-eight and of Our Reign the Seventh.

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

No. 72**Application for Final Leave to Appeal to the
Privy Council**

No. 72

Application for
Final Leave to
Appeal to the
Privy Council
22.3.58

To :

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

On this 22nd day of March, 1958.

The petition of the abovenamed 1st defendant-appellant-petitioner
appearing by Felix Joseph Peter Perera, his proctor, states as
10 follows :—

1. That the 1st defendant-appellant-petitioner on the 12th day
of March, 1958, obtained Conditional Leave from Your Lordships'
Court to appeal to Her Majesty the Queen-in-Council against the
judgment of Your Lordships' Court pronounced on the 13th day of
February, 1958.

2. That the 1st defendant-appellant-petitioner in compliance
with the conditions on which such leave was granted has —

(a) deposited with the Registrar of Your Lordships' Court a
sum of Rs. 3,000/- as security for the due prosecution of
20 the said appeal and the payment of all such costs as may
become payable to the respondents in the event of the
1st defendant-appellant-petitioner not obtaining an order
granting Final Leave to appeal or if the appeal being
dismissed for non-prosecution or if Her Majesty the
Queen-in-Council ordering the 1st defendant-appellant-
petitioner to pay the respondents' costs of appeal (as the
case may be) ;

(b) duly hypothecated the said sum of Rs. 3,000/- by a bond
dated 19th day of March, 1958, to and in favour of the
30 said Registrar ;

(c) deposited with the said Registrar a further sum of Rs. 300/-
in respect of the amounts and fees mentioned in Section
4(2)(b) and (c) of the Privy Council Appeals Ordinance
No. 31 of 1909 (Chap. 85).

3. Notice of this application has been given to all the above-
named respondents in the manner set out in the affidavit filed here-
with and pleaded as part and parcel of this application.

Wherefore the first-defendant-appellant-petitioner prays —

(a) that the 1st defendant-appellant-petitioner be granted Final
40 Leave to appeal to Her Majesty the Queen-in-Council
against the judgment pronounced by Your Lordships'
Court on the 13th day of February, 1958 ;

No. 72
Application for
Final Leave to
Appeal to the
Privy Council
22.3.58—
Continued

(b) for such other and further relief as Your Lordships' Court
deems fit.

(Sgd.) F. J. P. PERERA,
Proctor for First Defendant-Appellant-Petitioner.

Settled by :—

Mr. P. RANASINGHE.
Mr. H. W. JAYEWARDENE, Q.C.,
Advocates.

No. 73
Decree of
the Supreme
Court Granting
Final Leave to
Appeal to the
Privy Council
25.3.58

No. 73
Decree of the Supreme Court Granting Final Leave to 10
Appeal to the Privy Council

S.C. Application No. 111.

ELIZABETH THE SECOND, Queen of Ceylon and of Her
Other Realms and Territories, Head of the
Commonwealth

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Final Leave to
appeal to Her Majesty the Queen-in-Council under
the provisions of the Privy Council Appeals
Ordinance (Chapter 85). 20

Ven. Vagisvarachariya Morontuduwe Sri Naneswara
Dhammananda Nayaka Thera of Vidyodaya Piri-
vena, Maligakanda, Colombo.....
..... *1st Defendant-Appellant-Petitioner*
against

Ven. Baddegama Piyaratana Nayaka Thera of
Vidyodaya Pirivena, Maligakanda, Colombo.....
..... *Plaintiff-Respondent*

C. W. Wijekoon Kannangara of No. 17, Murugan
Place, off Havelock Road, Colombo, and others. 30
3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th,
20th, 21st and 22nd.....
..... *Defendants-Respondents-Respondents.*

Action No. 2882/L.

District Court of Colombo.

This cause coming on for hearing and determination on the 25th
day of March, 1958, before the Hon. M. C. Sansoni, Puisne Justice,

and the Hon. T. S. Fernando, Q.C., Puisne Justice of this Court, in the presence of Counsel for the 1st defendant-appellant-petitioner and there being no appearance for the respondents.

It is considered and adjudged that the 1st defendant-appellant-petitioner's application for Final Leave to appeal to Her Majesty the Queen-in-Council be and the same is hereby allowed.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice, at Colombo, the 28th day of March, in the year One thousand Nine hundred and Fifty-eight and of Our Reign the Seventh.

10

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

No. 73
Decree of
the Supreme
Court Granting
Final Leave to
Appeal to the
Privy Council
25.3.58—
Continued

No. 74

**Application for Permission to Serve the List of Documents
on the 7th Defendant-Respondent by Registered
Air Mail**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for leave to appeal to Her Majesty the Queen-in-Council under the Appeals (Privy Council) Ordinance (Chapter 85).

20

Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo.....
.....*1st Defendant-Appellant-Petitioner.*

Application

No. 84 of 1958.

S.C. No. 26
(Final).

D.C. Col.

No. 2882/Land.

vs.
Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo....
.....*Plaintiff-Respondent*

30

1. Christopher William Wijekoon Kannangara of 17, Murugan Place off Havelock Town, Colombo and 12 others.....
.....*Defendants-Respondents-Respondents.*

I, Felix Joseph Peter Perera of No. 1, Park Avenue, Borella, Colombo, make oath and say as follows :—

1. I am the Proctor for the 1st defendant-appellant-petitioner.

2. Final Leave to appeal to Her Majesty the Queen-in-Council was granted to the 1st defendant-appellant-petitioner by Your Lordships' Court on the 25th day of March, 1958, in terms of order 10 of the Appellate Procedure (Privy Council) Order 1921.

No. 74
Application for
Permission to
Serve the List
of Documents
on the 7th
Defendant-
Respondent by
Registered Air
Mail
28.3.58

No. 74
Application for
Permission to
Serve the List
of Documents
on the 7th
Defendant-
Respondent by
Registered Air
Mail
28.3.58—
Continued

3. The 1st defendant-appellant-petitioner has to serve within ten (10) days of the 25th day of March, 1958, on the plaintiff-respondent and the defendants-respondents-respondents a list of all such documents as the 1st defendant-appellant-petitioner may consider necessary for the due hearing of the appeal.

4. Neither the plaintiff-respondent nor the other defendants-respondents-respondents are represented by proctors and their proxies have not been filed in these proceedings and it is therefore necessary that the list of documents referred to above be served on the plaintiff-respondent and the other defendants-respondents-respondents. 10

5. His Excellency Dr. G. P. Malalasekera the 7th defendant-respondent-respondent is now residing at the Ceylon Embassy, Hotel Leningradskaya, Moscow. All notices given to him in connection with the 1st defendant-appellant-petitioner's appeal to Her Majesty the Queen-in-Council have been sent by Cable and Registered Post.

6. It is not possible to effect personal service on the 7th defendant-respondent-respondent. In the circumstances it is necessary that some other mode of service be prescribed.

7. I submit with respect that I be permitted to serve the said 20 list of documents on the said 7th defendant-respondent-respondent by sending the same to him by Registered Air Mail Post within twenty-four (24) hours of the order of Your Lordships' Court prescribing the mode of service.

Signed and sworn to at Colombo }
this 28th day of March, 1958. } (Sgd.) F. J. P. PERERA

Before me :

(Sgd.) Illegibly.

J.P.

No. 75
Order of the
Supreme Court
on the Applica-
tion referred to
in No. ~~74~~ 74
28.3.58

No. 75

30

**Order of the Supreme Court on the Application referred
to in No. ~~74~~ 74**

S.C. Application No. 124.

Date : 28.3.58.

Listed before the Honourable T. S. Fernando, J.

Mr. Advocate H. W. Jayewardene, Q.C., in support.

ORDER

28.3.58.

I order that the list of documents be served on the plaintiff-respondent and the other respondents through Court, except in the 40

case of the 3rd respondent. In the case of the 3rd respondent I prescribe that the list of documents be sent to him by cablegram at the expense of the petitioner.

(Intld.) Illegibly.
Bench Clerk.

No. 75
Order of the
Supreme Court
on the Applica-
tion referred to
in No. 81
28.3.58—
Continued

No. 76

Proceedings before the District Court

2882/L.

30.4.58.

10 Advocate E. B. Wikramanayake, Q.C., with Advocate Kottegoda for plaintiff instructed by Mr. Senanayake.

Advocate Kottegoda for defendants 3rd, 5th, 7th to 10th, 12th, 13th, 17th, 18th, 20th to 22nd instructed by Mr. D. L. Gunasekera.

1st defendant is absent.

His Proctor is also absent.

Mr. Wikramanayake addresses Court. He says that this action was filed in 1942. 1st defendant has been keeping the plaintiff out of possession since 1942. Judgment was given in favour of the plaintiff in 1950 in this Court. There had been a preliminary objection taken
20 and appeal therefrom and proceedings were held up. It was the 1st defendant who was creating the dispute. The 2nd to 14th defendants in the original plaint were members of a Sabha who had to be made parties to give notice of this action. Some of these people died pending the hearing and every time a substitution was made the 1st defendant objected to the substitution and when it was allowed, appealed against that order and thus held up proceedings.

Mr. Wikramanayake submits that the premises are in a dilapidated state and that the 1st defendant is neglecting the premises. The appeal of the 1st defendant in regard to the judgment itself was
30 ultimately dismissed on the 13th February, 1958. He refers to page 32 of the Supreme Court judgment. As soon as the Supreme Court delivered its order the plaintiff applied for writ of execution. 1st defendant objected and the matter has been fixed for inquiry today. The 1st defendant is absent. He moves that his application for execution of decree be allowed.

1st defendant has made an application for leave to appeal to the Privy Council.

Mr. Wikramanayake submits that the proper court for him to make an application for execution of the decree is this Court and
40 cites 12 N.L.R. page 35. He also cites 19 N.L.R. page 50. He has given notice to the other side and the other side is absent. It would

No. 76
Proceedings
before the
District Court
30.4.58

No. 76
 Proceedings
 before the
 District Court
 30.4.58—
continued

be open to the 1st defendant to make an application to the Supreme Court if his application for leave to the Privy Council is granted.

Mr. Kottegoda supports Mr. Wikramanayake's application.

ORDER

On the submissions made by Counsel I am satisfied that the plaintiff is entitled to execution of decree he has obtained against the 1st defendant and his application to execute the decree is allowed.

(Sgd.)

A.D.J.

No. 77
 Petition of the
 1st Defendant-
 Appellant to
 Vacate the
 Order of the
 District Judge
 regarding
 Execution
 5.5.58

No. 77

10

Petition of the 1st Defendant-Appellant to Vacate the Order of the District Judge regarding Execution

IN THE DISTRICT COURT OF COLOMBO

No. 2882/L.

Ven. Baddegama Piyaratana Nayaka Thera of
 Vidyodaya Pirivena, Maligakanda, Colombo
 *Plaintiff*

vs.

1. Ven. Vagiswarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo, and others..... *Defendants.* 20

Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo..... *1st Defendant-Petitioner*

vs.

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo, *Plaintiff-Respondent.* 30

1. Christopher William Wijekoon Kannangara 17, Murugan Place off Havelock Road, Colombo and others..... *Defendants-Respondents.*

On this 5th day of May, 1958.

The petition of the first defendant-petitioner abovenamed appearing by Felix Joseph Peter Perera, his proctor, states as follows :—

1. The petitioner was the 1st defendant in the above action in which the plaintiff sued the 1st defendant for a declaration that the premises which are the subject-matter of this action were held in Trust by the plaintiff as a Trustee of a Charitable Trust and that the 1st defendant-petitioner be ejected therefrom and be ordered to pay damages to the plaintiff-respondent.

2. The District Court by its decree dated 17th October, 1950, granted the prayer of the plaintiff-respondent.

3. On appeal to the Supreme Court against the aforesaid decree the Supreme Court by its decree dated 19th February, 1958, dismissed the 1st defendant-petitioner's appeal and affirmed the decree of the District Court.

4. On the 12th March, 1958, the Supreme Court granted the 1st defendant-petitioner Conditional Leave to appeal against the decree of the Supreme Court dated 19th February, 1958, to Her Majesty the Queen-in-Council and thereafter Final leave to appeal to Her Majesty the Queen-in-Council was granted to the 1st defendant-petitioner by the Supreme Court on 25th March, 1958.

5. By petition dated 11th March, 1958, the plaintiff-respondent applied to the Supreme Court for execution of the said Decree and the Supreme Court on 26th March, 1958, directed that notice of this application be served on the 1st defendant-petitioner and the said notice was served on the 1st defendant-petitioner on 25th April, 1958, to show cause on 12th May, 1958, why the plaintiff-respondent's application for execution of the said decree should not be granted. The said notice is filed herewith marked "A".

6. The 1st defendant-petitioner states that he through his proctor filed papers in the District Court of Colombo on 15th February, 1958 (that is to say two days after the Supreme Court delivered its judgment but before the Supreme Court entered its decree) intimating to the said Court that the 1st defendant-petitioner apprehended that an application for writ might be made and praying that execution be stayed till such time as the case was finally determined by Her Majesty the Queen-in-Council as notice of the 1st defendant-petitioner's application for Conditional Leave to appeal to Her Majesty the Queen-in-Council had already been given to the plaintiff-respondent and the other defendants-respondents.

7. The 1st defendant-petitioner now finds that the plaintiff-respondent had by application dated 14th February, 1958 (*i.e.* even prior to the entering of the decree of the Supreme Court) applied for execution of the decree of the Supreme Court and that the papers filed by the 1st defendant-petitioner on 15th February, 1958, have been regarded as objections to the application for writ which the 1st defendant-petitioner states that he was informed by his proctor had not in fact been made at the time such papers were filed and further

No. 77

Petition of the
1st Defendant-
Appellant to
Vacate the
Order of the
District Judge
regarding
Execution
5.5.58—
Continued

No. 77
 Petition of the
 1st Defendant-
 Appellant to
 Vacate the
 Order of the
 District Judge
 regarding
 Execution
 5.5.58—
Continued

understands that after an inquiry held on the 30th April, 1958, at which the 1st defendant-petitioner was not represented the plaintiff-respondent's application to execute the Supreme Court decree has been allowed.

8. The 1st defendant-petitioner states that he was not represented on 30th April, 1958, because no notice of any application for writ by the plaintiff-respondent had been given to the 1st defendant-petitioner nor was he aware of any such application.

9. The 1st defendant-petitioner submits that the plaintiff-respondent does not appear to have disclosed to the District Court 10 the fact that he had in this very matter moved the Supreme Court as he was in law bound to do in accordance with rule 7 of the rules in the schedule to the Privy Council Appeals Ordinance (Cap. 85) for execution of the said decree and that the 1st defendant-petitioner had been directed by the Supreme Court to show cause on 12th May, 1958.

10. The 1st defendant-petitioner submits that by reason of the foregoing the order on the plaintiff-respondent's application for writ has been made without jurisdiction or alternatively per incuriam.

Wherefore the 1st defendant-petitioner prays that the Court 20 be pleased—

- (a) to vacate the said order allowing the plaintiff-respondent's application for execution of the said decree ;
- (b) for costs ; and
- (c) for such other and further relief in the premises as to this Court shall seem meet.

(Sgd.) F. J. P. PERERA,
Proctor for 1st Defendant-Petitioner.

Settled by :

Mr. P. RANASINGHE,
 Mr. D. S. JAYAWICKREMA, Q.C.,
Advocates.

30

No. 78
 Affidavit of
 F. J. P. Perera,
 Proctor S.C.
 5.5.58

No. 78

Affidavit of Mr. F. J. P. Perera, Proctor S.C.

IN THE DISTRICT COURT OF COLOMBO

No. 2882/L.

S.C. No. 26 (F) Ven. Baddegama Piyaratana Nayake Thera of Vidyodaya Pirivena, Maligakanda, Colombo..... *Plaintiff*

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo, and others....
..... *Defendants.*

Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo..... *1st Defendant-Petitioner*

vs.

10 Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
..... *Plaintiff-Respondent.*

1. Christopher William Wijekoon Kannangara, 17, Murugan Place off Havelock Road, Colombo and others..... *Defendants-Respondents.*

I, Felix Joseph Peter Perera of No. 1, Park Avenue, Borella, Colombo, make oath and say as follows :—

1. I am a Proctor of the Honourable the Supreme Court of the Island of Ceylon and a Notary Public. I swear to the matters herein
20 set out of my personal knowledge.

2. I appear for the 1st defendant-petitioner in this matter.

3. On the 15th February, 1958, I filed papers on behalf of the 1st defendant-petitioner in the District Court intimating to the Court that the 1st defendant-petitioner apprehended that an application for writ might be made by the plaintiff-respondent and praying that execution be stayed till such time as the case was finally determined by Her Majesty the Queen-in-Council as notice of the 1st defendant-petitioner's application for conditional leave to Her Majesty the Queen-in-Council had already been given to the plaintiff-respondent
30 and the other defendants-respondents.

4. At the time I filed the aforesaid papers I was informed that the record in this case was still in the Supreme Court Registry.

5. I made further inquiries from the Record-keeper of the District Court of Colombo as to whether any application for writ has been made by the plaintiff-respondent and was informed that no such application had been made up to the time I filed the aforesaid papers.

(Sgd.) F. J. P. PERERA.

Signed and sworn to at Colombo
this 5th day of May, 1958.

No. 78

Affidavit of Mr.
F. J. P. Perera,
Proctor S.C.
5.5.58—
Continued

No. 79
Proceedings
before the
District Court
5.5.58

No. 79
Proceedings before the District Court

D.C. 2882/L.

5.5.58.

Mr. Advocate D. S. Jayawickrema, Q.C., with Mr. Advocate T. Ranasinghe instructed by Mr. Felix J. Perera for 1st defendant.

Mr. Jayawickrema addresses Court in support of the 1st defendant's petition and affidavit. He states that the plaintiff made an application to execute this decree to the Supreme Court and the Supreme Court ordered notice on the 1st defendant returnable on 12.5.58. He produces marked "A" the notice served on his client to show cause why the decree should not be executed notwithstanding the appeal to the Privy Council which is returnable on 12.5.58. He cites 37 N.L.R. 133.

Mr. Jayawickrema states that he has already obtained final leave to appeal to the Privy Council. Mr. Jayawickrema stresses the fact that his client had no notice of this application to execute decree made to this Court by the plaintiff.

ORDER

When I made order on 30.4.58 on the application of the plaintiff I was not aware that the plaintiff had made an application to execute the decree to the Supreme Court and that the Supreme Court had issued notice of that application on the 1st defendant returnable on 12.5.58. I was also under the impression that the 1st defendant who was absent on that date had had notice of the plaintiff's application to this Court to execute the decree. Mr. Jayawickrema now points out that his client has obtained final leave to appeal to the Privy Council—that he had no notice of the application to this Court to execute the decree, and further cites 37 N.L.R. 133 where it was held that a party is not entitled to obtain from the District Court execution of a decree passed in appeal and against which the Supreme Court has granted conditional leave to appeal to the Privy Council. I set aside the *ex parte* order allowing execution of the decree made on 30.4.58 on the facts placed before me now. Since the question of execution of the decree will be decided by the Supreme Court after notice is served on the 1st defendant, I do not think it is necessary to give notice of this application to the plaintiff.

Let the record be forwarded to the Supreme Court now.

(Sgd.)

A.D.J. 40
5.5.58.

No. 80

**Statement of Objections of the 1st Defendant-Appellant to
the Application made by the Plaintiff-Respondent for
Execution on 11.3.58, with Documents filed
with the Objections**

No. 80
Statement of
Objections of
the 1st
Defendant-
Appellant to
the Application
made by the
Plaintiff-
Respondent for
Execution on
11.3.58, with the
Documents filed
with the
Objections
23.5.58

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

10 In the matter of an application under Rule 7
of the Rules in the Schedule to the Appeals
(Privy Council) Ordinance Chap. 85 for an
order for execution of the judgment and
decree of the Honourable the Supreme
Court notwithstanding an appeal to Her
Most Excellent Majesty in Privy Council.

Ven. Baddegama Piyaratana Nayaka Thero
as Principal of the Vidyodaya Pirivena,
Maligakanda in Colombo
S.C. No. 26(F) of 1952. *Plaintiff-Respondent-Petitioner*

D.C. Colombo No. 2882/L. *vs.*

20 Application No. 93. Ven. Vagisvarachariya Morontuduwe Sri
Naneswara Dhammananda Thero of Vid-
yodaya Pirivena, Maligakanda, Colombo . .
. *1st Defendant-Appellant-Respondent*

(Dead) 2. The Hon. Mr. D. S. Senanayake of
Kanatta Road, Colombo and others . . .
. *Added-Defendants-Respondents.*

On this 23rd day of May, 1958.

The statement of objections of the first defendant-appellant-respondent abovenamed appearing by Felix Joseph Peter Perera, his proctor, states as follows :—

30 1. Being aggrieved by the judgment pronounced by Your
Lordships' Court on the 13th day of February, 1958, dismissing the
1st defendant-appellant-respondent's appeal with costs, the 1st
defendant-appellant-respondent was desirous of appealing therefrom
to Her Majesty the Queen-in-Council and applied to Your Lordships'
Court for Leave to appeal to Her Majesty the Queen-in-Council.

2. The 1st defendant-appellant-respondent obtained Condi-
tional Leave from Your Lordships' Court on the 12th day of March,
1958, to appeal to Her Majesty the Queen-in-Council and having
complied with the terms and conditions imposed on him by Your
40 Lordships' Court, the 1st defendant-appellant-respondent applied on
the 22nd day of March, 1958, to Your Lordships' Court for Final

No. 80
 Statement of
 Objections of
 the 1st
 Defendant-
 Appellant to
 the Application
 made by the
 Plaintiff-
 Respondent for
 Execution on
 11.3.58, with the
 Documents filed
 with the
 Objections
 23.5.58—
Continued

Leave to appeal to Her Majesty the Queen-in-Council and notices of this application were also served by 1st defendant-appellant-respondent's proctor on the plaintiff-respondent-petitioner and all the other added-defendant-respondents.

3. Thereafter on the 25th day of March, 1958, Your Lordships' Court granted the 1st defendant-appellant-respondent Final Leave to appeal to Her Majesty the Queen-in-Council.

4. Thereupon on the 28th day of March, 1958, the 1st defendant-appellant-respondent obtained directions from Your Lordships' Court under the provisions of the Appellate Procedure (Privy Council) 10 Ordinance No. 1921 for serving on the plaintiff-respondent-petitioner and the other added-defendants-respondents under rule 10 of the said Appellate Procedure (Privy Council) Ordinance No. 1921 the list of documents which the 1st defendant-appellant-respondent considered necessary for the due hearing of this appeal and the 1st defendant-appellant-respondent had in compliance with the directions given by Your Lordships' Court served on the said plaintiff-respondent-petitioner and the added-defendants-respondents a list of documents referred to.

5. Thereafter on the 25th day of April, 1958, the plaintiff- 20 respondent-petitioner served on the 1st defendant-appellant-respondent a copy of an application made by him to Your Lordships' Court to execute the judgment and decree of Your Lordships' Court.

6. The 1st defendant-appellant-respondent is advised and states that the plaintiff-respondent-petitioner cannot have and maintain this application for the reasons that—

- (a) Your Lordships' Court having granted 1st defendant-appellant-respondent Final Leave on the 25th day of March, 1958, to appeal to Her Majesty the Queen-in-Council do not now have the power under Rule 7 of the 30 Rules in the Schedule to the Privy Council Appeals Ordinance (Chap. 85) to allow the plaintiff-respondent-petitioner's application ;
- (b) The judgment pronounced by Your Lordships' Court on the 13th day of February, 1958, is not a judgment which could be carried into execution under the provisions of Rule 7 of the aforesaid Rules ;
- (c) Neither this Court nor the District Court any longer have jurisdiction to execute the decree pending the determination of the 1st defendant-appellant-respondent's appeal to 40 Her Majesty the Queen-in-Council.

7. The 1st defendant-appellant-respondent also states that in any event the application which has been filed by the plaintiff-respondent-petitioner is not a valid application for the reason that the

affidavit in support of the application has not been duly perfected in that the contents of the affidavit have not been read over and duly explained to the plaintiff-respondent-petitioner as required by law. The 1st defendant-appellant-respondent files herewith an affidavit marked " R 1 " dated 3rd April, 1958, from Sammana Panditha Siri Sumana Gnanalankara Ratgama Pannasekara Nayaka Thera in support of the 1st defendant-appellant-respondent's statement.

8. Even if Your Lordships' Court were to overrule the 1st defendant-appellant-respondent's aforesaid objections, the 1st defendant-appellant-respondent further states that for the reasons stated hereinafter real and substantial justice requires that pending the 1st defendant-appellant-respondent's appeal to Her Majesty the Queen-in-Council the execution of the judgment of Your Lordships' Court pronounced on 13th February, 1958, should be stayed. If however Your Lordships' Court so desires the 1st defendant-appellant-respondent is prepared to give sufficient security for the due performance of such order as Her Majesty the Queen-in-Council shall think fit to make in this case.

9. The 1st defendant-appellant-respondent was originally robed and ordained as a priest of the Kotte Branch of the Siamese Sect and joined the Vidyodaya Pirivena in 1911 and completed his studies in 1918 winning seven out of the nine prizes offered for the Final Examination of the said Pirivena. At the special and earnest request of the Ven. Sri Gnaneswara the then Principal of the Pirivena that the 1st defendant-appellant-respondent should become the joint pupil of himself and the Ven. Dewundara Sri Jinaratana, the Chief pupil of the Ven. Hikkaduwe Sri Sumangala, the 1st defendant-appellant-respondent was taken by them in June, 1919, to the Malwatte Vihare and there the 1st defendant-appellant-respondent was disrobed and reroled and reordained on the same day as the joint pupil of Ven. Sri Jinaratana and Ven. Sri Gnaneswara. The 1st defendant-appellant-respondent is now 68 years of age and is the Chief High Priest of both the Western and the Sabaragamuwa Provinces and he is also the Nayaka Thera of Sripadasthana. The 1st defendant-appellant-respondent has been a resident in the rooms which he is now occupying from the year 1919. These are the very rooms which were occupied by the Ven. Hikkaduwe Sri Sumangala, whose direct and only pupillary successor the 1st defendant-appellant-respondent is.

10. Answering paragraph four of the petition, the 1st defendant-appellant-respondent states that he could not object to the substitutions made during the course of the trial for the reasons that the notice of these substitutions were never given to the 1st defendant-appellant-respondent by the plaintiff-respondent-petitioner. Even after the appeal to Your Lordships' Court was filed, the plaintiff-respondent-petitioner purported to effect substitutions without notice

No. 80
Statement of
Objections of
the 1st
Defendant-
Appellant to
the Application
made by the
Plaintiff-
Respondent for
Execution on
11.3.58, with the
Documents filed
with the
Objections
23.5.58—
Continued

No. 80
 Statement of
 Objections of
 the 1st
 Defendant-
 Appellant to
 the Application
 made by the
 Plaintiff-
 Respondent for
 Execution on
 11.3.58, with the
 Documents filed
 with the
 Objections
 23.5.58—
Continued

to the 1st defendant-appellant-respondent at which stage he intervened successfully and the learned Additional District Judge by his order dated 27th July, 1954, held that no substitutions could be validly made by the plaintiff-respondent-petitioner without notice to him.

11. Answering the averments in paragraph five of the plaintiff-respondent-petitioner's petition the 1st defendant-appellant-respondent states that—

(a) As far back as 1919 the Ven. Sri Gnaneswara who was the 1st defendant-appellant-respondent's tutor and also the then Principal of the Pirivena, appointed the 1st defendant- 10
 appellant-respondent as a teacher of the Pirivena and upto date that appointment has not been revoked or cancelled. The 1st defendant-appellant-respondent also states that as the Maligakanda Temple premises on which the Vidyodaya Pirivena was established has been the subject of a permanent, irrevocable sanghika dedication and therefore any pupillary successor of the late Ven. Hikkaduwe Sri Sumangala is entitled to be a permanent resident in these premises.

(b) In 1932 the members of the so-called Vidyadhara Sabha 20
 introduced a new rule whereby a cash levy was to be made from each pupil monk for his lodgings and a receipt issued to them in their respective names. One of the pupil monks who had failed to pay this levy was ejected from his room and was prosecuted by Mr. Rajah Hewavitarne the 9th defendant-respondent in these proceedings in the Magistrate's Court of Colombo for having re-occupied his room. In these circumstances the 1st defendant-appellant-respondent proclaimed that until and unless the said practice was abandoned the 1st defendant-appellant- 30
 respondent would enter upon a fast. Thereupon on the night previous to the day fixed for the commencement of the 1st defendant-appellant-respondent's fast, the two Mahanayaka Theras of Malwatta and Asgiriya came down to the Maligakanda Temple and on their assurance that they would direct that this practice be forthwith abandoned, the 1st defendant-appellant-respondent did not enter upon the fast. The practice itself was thereafter discontinued. That the 1st defendant-appellant-respondent's act was fully justified is borne out by the declaration 40
 1D32 signed by the two Maha Nayaka Theras.

(c) The 1st defendant-appellant-respondent categorically states that up to date neither the plaintiff-respondent-petitioner nor any one else whosoever has made any complaint to the Sangha Sabha at Malwatta, which body alone is the

proper and competent authority to inquire into and make a declaration that the 1st defendant-appellant-respondent has become a "Parajika Priest". The 1st defendant-appellant-respondent also states that the grounds on which a priest becomes "Parajika" are clearly set out in the Vinaya Rules and the 1st defendant-appellant-respondent respectfully states that the performance of his duties as Viharadhipathi of Maligakanda Temple which office the 1st defendant-appellant-respondent held as the Trustee of the Sangha do not amount to "Parajika" or "contumacious conduct" on his part.

10

(d) Without so conceding, the 1st defendant-appellant-respondent submits that, even if the acts alleged by the plaintiff-respondent-petitioner against the 1st defendant-appellant-respondent were held to be true or tantamount to contumacious conduct on the 1st defendant-appellant-respondent's part still such acts does not and cannot under any known rule of the Vinaya Laws constitute "Parajika" conduct on the part of the 1st defendant-appellant-respondent.

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(e) The statements in paragraph 5(a), (b) and (c) are incorrect. The statements contained in paras (d) to (m) involve questions which are the subject-matter for final adjudication by Her Majesty the Queen-in-Council.

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(f) The 1st defendant-appellant-respondent further states that he is prepared to permit the resident bikkhus to have their meals in the Dining Hall. The 1st defendant-appellant-respondent made the same offer to the plaintiff-respondent-petitioner before the learned District Judge at the inquiry into the plaintiff-respondent-petitioner's application for execution of the decree of the District Court. The 1st defendant-petitioner-respondent is however not prepared to hand over the keys to the plaintiff-respondent-petitioner for the reasons that the Danasalawa adjoins his residing rooms and if sole and exclusive control thereof is given to the plaintiff-respondent-petitioner the 1st defendant-appellant-respondent fears that it would give rise to frequent untoward incidents.

12. Answering paragraph six of the plaintiff-respondent-petitioner's petition the 1st defendant-appellant-respondent states that he started these classes about the year 1945 and that Sinhalese, Buddhism and other subjects are taught. There are also a few female students attending only the day classes. Classes are provided right upto the H.S.C. and students are now being prepared for forthcoming examinations. On the other hand, Sunday School classes are being

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conducted in the Sri Sumangala Dharmasalawa (Preaching Hall) which is in the possession of the plaintiff-respondent-petitioner and both male and female students attend such classes. There are about 150 students attending the classes which are being conducted in the Sri Sumangala Memorial Hall and if execution of the decree of Your Lordships' Court were to be ordered the studies of the pupils who are being prepared for the forthcoming examinations will be seriously affected and the 1st defendant-appellant-respondent submits that this would be a loss which cannot be repaired or sufficiently remedied by damages if the 1st defendant-appellant-respondent succeeds in the 10 appeal to Her Majesty the Queen-in-Council. The 1st defendant-appellant-respondent also submits that this was one of the main considerations which influenced the learned District Judge to stay execution of writ in the District Court.

13. Answering paragraph seven of the plaintiff-respondent-petitioner's petition the 1st defendant-appellant-respondent concedes that these buildings except the Sri Sumangala Memorial Hall are very old and the 1st defendant-appellant-respondent have from time to time been effecting repairs to the buildings which are in his occupation. The 1st defendant-appellant-respondent also states that plaintiff- 20 respondent-petitioner has been in receipt of an annual grant from the Government which the 1st defendant-appellant-respondent submits is more than sufficient to enable him to effect necessary repairs to the buildings.

14. Answering paragraph eight of the plaintiff-respondent-petitioner's petition, the 1st defendant-appellant-respondent states that notice both of his intended application for Conditional Leave to Appeal to Her Majesty the Queen-in-Council and notice of his application for Final Leave to appeal to Her Majesty the Queen-in-Council have been duly given not only to the plaintiff-respondent- 30 petitioner but also to all the added-defendants-respondents.

15. Answering paragraph nine of the plaintiff-respondent-petitioner's petition, the 1st defendant-appellant-respondent respectfully submits that for the reasons set out above and for the reasons hereinafter set out that Your Lordships' Court should not exercise its discretion in giving directions for execution of the decree entered by Your Lordships' Court.

16. Answering paragraph 10 of the plaintiff-respondent-petitioner's petition the Viharage (Image House) was constructed by utilizing the monies received by the Ven. Hikkaduwe Sri Sumangala 40 from Sripadasthana (*vide* 1D6) and monies from Sripadasthana were also utilized for the building of the library and the dagoba. The rear portion of the Sri Sumangala Dharmasalawa was constructed at the 1st defendant-appellant-respondent's request with the personal offerings made to the Ven. Sri Gnaneswara. The Sri Sumangala Memorial Hall was constructed with the 1st defendant-appellant-

respondent's permission and approval by the Sri Sumangala Guna-
nusmarana Sabha on the allotment of land referred to in schedule
" B " of the plaint in this case, which said premises were purchased by
Hikkaduwe Sri Sumangala in the name of his pupil M. Siddhartha
with monies he received from the Government for translating the
Maha Vansa into Sinhalese. The 1st defendant-appellant-respondent
states that according to the Vinaya Rules, on the death of M. Sid-
dhartha the said allotment of land became Sanghika property.

17. Answering paragraph 13 of the plaintiff-respondent-peti-
10 tioner's petition, the 1st defendant-appellant-respondent states that
if the judgment of Your Lordships' Court pronounced on 13th
February, 1958, were to be carried into execution real and substantial
loss and damage will be caused to the 1st defendant-appellant-
respondent whilst the delay of another year or two is not likely to
cause any detriment or hardships to the plaintiff-respondent-petitioner
and the pupils and teachers of the Pirivena who have now for a
considerable period of years been carrying on their work uninterrup-
tedly without the use of these buildings.

18. The 1st defendant-appellant-respondent wish further to
20 bring to Your Lordships' notice that on the 15th February, 1958,
(*i.e.* 2 days after the judgment of Your Lordships' Court was delivered)
the 1st defendant-appellant-respondent through his Proctor filed
papers in the District Court of Colombo intimating to the said Court
that the 1st defendant-appellant-respondent apprehended that the
plaintiff-respondent-petitioner would make an application for the
execution of the decree and prayed that in such an event that the
said Court be pleased to stay the execution of writ as the 1st defendant-
appellant-respondent was taking steps to appeal to Her Majesty the
Queen-in-Council against the judgment pronounced by Your Lord-
30 ships' Court and that notice of his such intended application had
been given to the plaintiff-respondent-petitioner and all the other
added-defendants-respondents.

19. The 1st defendant-appellant-respondent was also informed
by his proctor that at that stage there was no application for writ
made in the District Court by the plaintiff-respondent-petitioner as is
evidenced by the affidavit dated 5th day of May, 1958, filed by his
proctor in the District Court.

20. On the 21st February, 1958, notice of the 1st defendant-
appellant-respondent's application referred to in paragraph 18 above
40 was given to the proctor for the plaintiff-respondent-petitioner and
proctor for added-defendants-respondents and the 1st defendant-
appellant-respondent's proctor duly informed the District Court of
this fact by motion dated 21st February, 1958.

21. On the 26th February, 1958, the record of this case was
received back in the District Court from Your Lordships' Court and

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on the same day the journal has been entered up so as to disclose the filing of an application for execution of the decree as having been made prior to the 1st defendant-appellant-respondent's application referred to in paragraph 18 above and the Court has purported to order notice of the 1st defendant-appellant-respondent's application to be served on the plaintiff-respondent-petitioner for 26th March, 1958, overlooking the fact the notice had already been given and this fact had been brought to the notice of Court by motion dated 21st February, 1958, referred to in paragraph 20 above and entered in the journal on 26.2.1958, under No. 255. In any event neither the 10 1st defendant-appellant-respondent nor his proctor was informed of the order made on 26th February, 1958, for notice on the plaintiff-respondent-petitioner. The plaintiff-respondent-petitioner made the application for execution to Your Lordships' Court on the 11th of March, 1958, but did not choose to have this application supported in Court till the 26th March, 1958. The 1st defendant-appellant-respondent's application for Conditional Leave was granted on 12th March, 1958, and the application for Final Leave was granted on 25th March, 1958, and though the plaintiff-respondent-petitioner had due notice of both applications he did not choose to file proxy or be 20 represented at the hearing of either applications nor did any of the added-defendants-respondents take any such step. The giving of notice to the plaintiff-respondent-petitioner and the added-defendants-respondents cost the 1st defendant-appellant-respondent a considerable amount and the 1st defendant-appellant-respondent submits that the proxies were not filed with the intention of compelling the 1st defendant-appellant-respondent to serve notice on each and every added-defendants-respondents and the plaintiff-respondent-petitioner personally and thereby to inconvenience and harass the 1st defendant-appellant-respondent and put him to unnecessary expense. 30

22. On the 26th of March, 1958, Counsel for the plaintiff-respondent-petitioner applied in the District Court and in the absence of the 1st defendant-appellant-respondent and his proctor neither of whom had notice of any step being taken in the case on this date, purported to take notice of the 1st defendant-appellant-respondent's application dated 15th February, 1958, of which notice had already been given on the 21st February, 1958.

23. On the same day Counsel appeared before Your Lordships' Court and the present application dated 11th March, 1958, was supported and notice was issued on the 1st defendant-appellant- 40 respondent by Your Lordships' Court and the same was served on him on the 25th April, 1958.

24. The record of this case returned to Your Lordships' Court on the 10th of April, 1958, after Final Leave to appeal to Her Majesty the Queen-in-Council had been granted to the 1st defendant-appellant-respondent and on a motion dated the 28th April, 1958, by proctor

for plaintiff-respondent-petitioner the record was returned to the District Court on the 30th April, 1958, on which day an inquiry was held in the absence of the 1st defendant-appellant-respondent and without notice to him or to his proctor.

25. The plaintiff-respondent-petitioner was fully aware of the fact that Final Leave had been granted to the 1st defendant-appellant-respondent by Your Lordships' Court because not only had he received due notice of his application for Final Leave but in pursuance of the directions given by Your Lordships' Court a list of documents had been served on the plaintiff-respondent-petitioner on 29th March, 1958, in compliance with Rule 10 of the appellate procedure (Privy Council) Order 1921. These facts were not brought to the notice of the District Court nor was it brought to the notice of the District Judge that Your Lordships' Court had issued notice of this application on the 26th March, 1958, and that the same had been served on the 1st defendant-appellant-respondent on the 25th of April, 1958.

26. The District Judge being unaware of these material facts allowed execution of the decree. On information received that the 1st defendant-appellant-respondent would be ejected on the order of District Court the 1st defendant-appellant-respondent caused inquiries to be made and discovered the steps taken by the plaintiff-respondent-petitioner without notice to the 1st defendant-appellant-respondent or to his proctor and without disclosing all the material facts before the District Court. The 1st defendant-appellant-respondent accordingly made application to the District Court on the 5th day of May, 1958, setting out all the relevant facts that the Learned District Judge on being made aware of the facts forthwith set aside the ex-parte order allowing execution and directed the record be forwarded to Your Lordships' Court.

27. The 1st defendant-appellant-respondent hereby submits that the conduct of the plaintiff-respondent-petitioner in taking these steps to eject the 1st defendant-appellant-respondent is such, that in any event this is not a fit and proper case in which the power vested in Your Lordships' Court to direct execution of the decree be exercised in favour of the plaintiff-respondent-petitioner.

28. The 1st defendant-appellant-respondent hereto annex certified copies of the Journal Entries dated 26th February, 1958, upto 5th May, 1958, application for execution of the decree dated 14th February, 1958, filed by the proctor for the plaintiff-respondent-petitioner, motion, petition and affidavit filed by the 1st defendant-appellant-respondent's proctor dated 14th February, 1958, motion dated 21st February, 1958, filed by the 1st defendant-appellant-respondent's proctor, motion dated 28th April, 1958, filed by proctor for the plaintiff-respondent-petitioner, proceedings and order dated

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30th April, 1958, made by the learned District Judge, motion, petition and affidavits from the 1st defendant-appellant-respondent and by his proctor dated 5th May, 1958, filed in the District Court, notice issued by Your Lordships' Court dated 19th April, 1958, in application No. 93 for service on the 1st defendant-appellant-respondent to appear on 12th May, 1958, and the proceedings and order of the District Judge dated 5th May, 1958.

Wherefore the First-Defendant-Appellant-Respondent prays that Your Lordships' Court be pleased to dismiss the plaintiff-respondent-petitioner's petition with costs or in the alternative that Your Lordships' Court be pleased to stay execution of the decree on such terms as to Your Lordships' Court shall seem meet ;

(b) for costs ; and

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

Settled by :

Mr. P. RANASINGHE

Mr. H. W. JAYEWARDENE, Q.C.

Advocates.

(Sgd.) F. J. P. PERERA,

20

Proctor for 1st Defendant-Appellant-Respondent.

“ R I ”

I, Sammana Panditha Siri Sumana Gnanalankara Ratgama Pannasekara Nayaka Thera, the Viharadhipathi of Thilakarathnarama, Borella, Colombo, do hereby solemnly, sincerely and truly declare and affirm as follows :—

1. I was robed in the year 1910 and was ordained in the year 1912 and am presently the Chief Nayaka Thera of Dadalu Vihara Paramparawa of Amarapura Siri Saddhamma Vansika Maha Nikaya.

2. I was originally educated under the Ven. Baddegama Piyaratana Nayaka Thera at the Ananda Pirivena in Galle and later I completed my studies at the Vidyodaya Pirivena, Maligakanda, Colombo.

3. I learnt that Ven. Baddegama Piyaratana Nayaka Thera, the Principal of Vidyodaya Pirivena, had in a petition submitted by him to the Supreme Court of the Island of Ceylon alleged that the Ven. Morontuduwe Sri Dhammananda Nayaka Thera had been guilty of “ Parajika ”.

4. Therefore I saw the Ven. Baddegama Piyaratana Nayaka Thera on or about the 26th day of March, 1958, and on discussing 40

this matter with him he informed me that not only has he never made any statement in any document to the effect that Ven. Morontuduwe Sri Dhammananda Nayaka Thera has been guilty of "Parajika" but also that he never was of the view that the Ven. Morontuduwe Sri Dhammananda Nayaka Thera has ever been guilty of "Parajika".

5. I was also informed by the Ven. Baddegama Piyaratana Nayaka Thera that Ven. Soratha Nayaka Thera did bring to him a document and requested him to sign the same stating that this document was necessary to obtain possession of the buildings in the Vidyodaya Pirivena premises which were the subject-matter of the recent decision of the Supreme Court.

6. The Ven. Baddegama Piyaratana Nayaka Thera also stated that the contents of the said document were never read over and explained to him by any one and that if he was aware that the aforementioned allegations against the Ven. Morontuduwe Sri Dhammananda Nayaka Thera were contained therein that he would never have signed the said document.

7. I therefore conveyed by letter to the Ven. Morontuduwe Sri Dhammananda Nayaka Thera the aforesaid statements made to me by Ven. Baddegama Piyaratana Nayaka Thera.

The foregoing affidavit having been duly read over and explained by me to the within named affirmant in Sinhalese and he appearing to understand the contents thereof subscribed his signature hereto at Colombo on this 3rd day of April, 1958. (Sgd.) In Sinhalese.

Before me.
(Sgd.) Illegibly.
A Justice of the Peace.

30

(252)
26.2.58.

Record received from Supreme Court with Supreme Court Decrees and productions Y2, Y3, Y6 and Y7. Final appeal 26 of 1952, Inty. Appeal 73 and 192 of 1956.

Final appeal 26 dismissed with costs. Inty. Appeals 73 and 192 dismissed without costs. Neither party will be entitled to costs of inquiries in the Court below relating to the substitution of parties.

File.

40

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(253)
26.2.58.

Proctor for plaintiff applies for execution of Decree by issue of writ of ejectment against 1st defendant.

Vide order at Journal Entry (254) below.

(Intld.)

(254)
26.2.58.

Proctor for 1st defendant-appellant files petition (254a) and affidavit (254b) and for reasons stated therein moves :— 10

- (1) that Court be pleased to stay the execution of the decree entered by Their Lordships till such time as this case is finally determined by Her Majesty-in-Council ;
- (2) for costs ;
- (3) for such other and further relief as to this Court shall seem meet.

Notice plaintiff-respondent for 26.3.

(Intld.)

(255).
26.2.58.

20

Proctor for 1st defendant-appellant files copies of letters addressed to proctors for plaintiff and defendants together with registered postal receipts in proof of posting copies of petition and affidavit filed by him.

File.

(Intld.)

A.D.J.

(256)
26.2.58.

Mr. W. H. Senanayake for plaintiff.

30

Mr. D. L. Gunasekera for 3rd, 5th to 7th, 8th to 10th, 12th, 13th, 16th, 17th to 22nd defendants.

Journal Entry (254) Notice not taken out on plaintiff-respondent.

Mr. Advocate Kottegoda instructed by Mr. Senanayake takes notice of the application and moves that the matter be fixed for inquiry for an early date.

Inquiry 30.4.

(Intld.)

A.D.J.

(257)
10.4.58.

Registrar, Supreme Court, requests that this record be forwarded by bearer as an application for final leave to appeal to the Privy Council has been filed in Supreme Court.

Forward record to Supreme Court.

(Intld.)
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(258)
10 30.4.58.

Case was recalled from Supreme Court and received today.

(Intld.)
Asst. Secy.

(259)
30.4.58.

Mr. W. H. Senanayake for plaintiff.

Mr. D. L. Gunasekera for 3rd, 5th to 7th, 8th to 10th, 12th, 13th, 16th, 17th to 22nd defendants.

Vide Journal Entry (256) Inquiry.

20 Vide proceedings.

(Intld.)
A.D.J.

(260)
5.5.58.

Mr. Felix J. P. Perera, proctor for 1st defendant-petitioner files petition (260a) and affidavit (260b) and his affidavit (260c) and for reasons stated therein moves—

30 (a) to vacate the order allowing the plaintiff-respondent's application for execution of the decree referred to in the said petition;

(b) for costs ; and

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

Vide proceedings.

(Intld.)
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Application for Execution of Decree

W. H. SENANAYAKE,
Proctor for Plaintiff.

In the District Court of Colombo.

Number of Action	D.C. Colombo No. 2882/L.
Names of Parties.	Ven. Baddegama Piyaratana Nayaka Thero as Principal of the Vidyodaya Pirivena, Maligakanda, Colombo <i>Plaintiff</i> <i>vs.</i> 1. Ven. Morontuduwe Sri Naneswara Dhammananda Thero of Vidyodaya Pirivena, Maligakanda, Colombo and others..... <i>Defendants.</i>
Date of decree	17th October, 1950.
Whether any appeal preferred.	Appeal preferred by the 1st defendant against the judgment and decree of this Court dated 17th October, 1950, was dismissed with costs by the Supreme Court on 13th February, 1958.
Adjustment made, if any.	Nil.
Previous Application, if any, and result.	On 28.11.1950 plaintiff made an application pending the appeal to have the 1st defendant ejected from premises described in schedule "C" to the decree, but the same was not allowed pending appeal.
Amount of debt, compensation, interest, or other relief granted by decree.	It is ordered and decreed that (a) the plaintiff do hold the lands and premises described in schedules A and B now described in schedule C to the decree as one property in trust for or as trustee of a charitable trust (b) that the 1st defendant be ejected from the said lands and premises and the plaintiff be placed in quiet possession thereof and the 1st defendant do pay to the plaintiff Re. 1/- as damages and also his costs of this action and also the costs of 2nd, 3rd, 5th, 6th, 7th to 13th, 16th and 17th defendants.
Amount of costs if awarded.	Bill not taxed yet.
Against whom to be enforced.	Against the 1st defendant.
Mode in which the Court's assistance is required.	By issue of writ of ejection against the 1st defendant to have him ejected from the lands and premises described in schedules A and B and now described in Schedule "C" to the decree as one property and the plaintiff be placed in quiet possession thereof including the Library marked No. 7, kitchen and Dan Salawa marked No. 11 and Sri Sumangala Memorial Hall Marked in Plan 786 filed of record marked P8 and standing in the said premises.

I, W. H. Senanayaka, proctor for plaintiff, hereby apply for execution of the decree above set forth and declare that what is stated therein is true to the best of my information and belief.

14th February, 1958.

(Sgd.) W. H. Senanayake,
Proctor for Plaintiff.

A.D.J.

1st defendant's appeal dismissed with costs and the plaintiff is now entitled to take out writ of ejectment against the 1st defendant. But please see papers filed at Journal Entry (254). 1st defendant has filed papers to stay execution of Decree as he proposes to prefer an appeal to the Privy Council.

Notice will have to be issued on plaintiff-respondent for 26.3.58.

(Intld.)
27.2.

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10

IN THE DISTRICT COURT OF COLOMBO

In the matter of an application in Case No. 2882/Land of the District Court of Colombo.

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo....

D.C. No. 2882/L. *Plaintiff*

S.C. No. 26(F). *vs.*

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo and others..... *Defendants*

20

and

Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo.....

..... *1st Defendant-Appellant-Petitioner*

vs.

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo....

..... *Plaintiff-Respondent.*

30

1. Christopher William Wijekoon Kannangara of 98/2, Havelock Road, Colombo and others....
..... *Defendants-Respondents.*

I file 1st defendant-appellant-petitioner's petition and affidavit and for the reasons stated therein move—

(a) that this Court be pleased to stay the execution of the decree entered by Their Lordships' Court in this case till such time as this case is finally determined by Her Majesty-in-Council ;

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

(Sgd.) F. J. P. PERERA,
Proctor for 1st Defendant-Appellant-Petitioner.

A.D.J.

Please see my report on motion at Journal Entries (253).

(Intld.)
27.2.

IN THE DISTRICT COURT OF COLOMBO 10

In the matter of an application in Case
No. 2882/Land of the District Court of
Colombo.

Venerable Baddegama Piyaratana Nayaka
Thera of Vidyodaya Pirivena, Maligakanda,
Colombo..... *Plaintiff*

D.C. No. 2882/L.
S.C. No. 26(F).

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo. 20
- (Dead) 2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatta Road, Colombo.
3. The Hon. Mr. Christopher William Wijekoon Kannangara, M.S.C., of "Cranford", 29, Alfred Place, Kollupitiya, Colombo.
- (Dead) 4. Mr. Jacob Moonesinghe, Proctor, of "Winton", Dickman Road, Colombo.
5. Mr. Henry Woodward Amarasuriya, M.S.C., of 9, Gower Street, Colombo.
- (Dead) 6. Mr. Willorage Henry William Perera, Proctor, 30
of "Vijitha", 335, Timbirigasyaya Road, Colombo.
7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo.
8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.

9. Mr. Rajah alias Rajasinghe Hewavitarne, M.S.C., of "Nimalka", Kollupitiya, Colombo.
10. Mr. Wimaladharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo (resigned).
- (Dead) 11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road, Colombo.
12. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala.
- 10 13. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Lane, Wellawatta, Colombo.
- (Dead) 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda.
- (Dead) 15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant (deceased).
- (Dead) 16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant (deceased).
- 20 17. N. S. Moonesinghe of 10, Layards Road, Colombo, substituted in place of Dr. Amarasinghe of Colombo, who was substituted in place of 15th defendant Dr. B. E. Fernando (deceased).
18. Hon. Mr. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo, substituted in place of 2nd defendant (deceased).
- (Dead) 19. Jothipala Subasinghe of Deal Place, Colombo, substituted in place of 11th defendant (resigned).
- 30 20. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo, substituted in place of 19th defendant (deceased).
21. Gamini Jayasuriya of 494/6, Galle Road, Colombo, substituted in place of 6th defendant (deceased).
22. Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty, Colombo, substituted in place of 16th defendant (deceased)..... *Defendants*
and
- 40 Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vid-yodaya Pirivena, Maligakanda, Colombo....
..... *1st Defendant-Appellant-Petitioner*

No. 80
Statement of
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Continued

vs.

Ven. Baddegama Piyaratana Nayaka Thera of
Vidyodaya Pirivena, Maligakanda, Colombo.

..... *Plaintiff-Respondent*

1. Christopher William Wijekoon Kannangara of
98/2, Havelock Road, Colombo.
 2. Henry Woodward Amarasuriya of "Amara-
giri", 28th Lane, Flower Road, Colombo.
 3. Dr. Gunapala Piyasena Malalasekera of
"Samanala", 16, Longden Terrace, 10
Colombo, presently of Ceylon Embassy,
Hotel Leningradskaya, Moscow.
 4. D. L. F. Pedris of "Pedris Villa", Alfred Place,
Kollupitiya, Colombo.
 5. Rajah Hewavitarne, C.B.E., "Romford",
Albert Crescent, Colombo.
 6. Wimaladharma Hewavitarne of "Sri Nagar",
Kollupitiya, Colombo.
 7. Mudaliyar Egodage Alfred Abayasekara of
Karagampitiya Road, Dehiwala. 20
 8. Mudaliyar Piyadasa Dharmasiri Abeywardena
Ratnatunga of "Sagala", Chapel Lane,
Wellawatta, Colombo.
 9. N. S. Moonesinghe of 10, Layards Road,
Colombo.
 10. Dudley Senanayake of "Woodlands", Kanatta
Road, Colombo.
 11. Dr. A. M. Samarasinghe of 104, Reid Avenue,
Colombo.
 12. Gamini Jayasuriya of 494/6, Galle Road, 30
Colombo.
 13. Percival Upajiva Ratnatunga of 84, 5th Lane,
Colpetty, Colombo.
- 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th,
18th, 20th, 21st and 22nd.....
..... *Defendants-Respondents.*

On this 14th day of February, 1958.

The petition of the abovenamed petitioner appearing by Felix Joseph Peter Perera, his proctor, states as follows :—

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1. The petitioner abovenamed is the 1st defendant-appellant in the aforementioned case which went up in appeal to Their Lordships' Court and Their Lordships' Court delivered judgment on 13th February, 1958, dismissing the 1st defendant-appellant's appeal with costs.

2. The petitioner being desirous of appealing to Her Majesty in Council from the said judgment of Their Lordships' Court delivered on 13th February, 1958, have already sent notices to the aforesaid respondents of his intended application to Their Lordships' Court for Conditional Leave to appeal to Her Majesty in Council in terms of rule 2 of the Schedule to the Privy Council Ordinance (Chapter 85) and is taking other steps required by law to enable him to prosecute the said appeal to Her Majesty in Council.

3. The petitioner states that the petitioner has today made an application to Their Lordships' Court under Rule 5 of the Appellate Procedure (Privy Council) Order 1921 to have the notices of his intended application served on the respondents by and through Their Lordships' Court.

4. The petitioner states that the plaintiff-respondent is likely to take steps to apply to this Court to execute the decree entered by Their Lordships' Court in this case.

5. Therefore the petitioner states that the petitioner is entitled to a stay of the execution of the decree entered in this case by Their Lordships' Court till such time as his appeal to Her Majesty in Council is finally determined.

Wherefore the petitioner prays—

- (a) that this Court be pleased to stay the execution of the decree entered by Their Lordships' Court in this case till such time as this case is finally determined by Her Majesty in Council ;
- (b) for costs ; and
- (c) for such other and further relief as to this Court shall seem meet.

(Sgd.) D. F. J. P. PERERA,
Proctor for 1st Defendant-Appellant-Petitioner.

IN THE DISTRICT COURT OF COLOMBO

In the matter of an application in Case No. 2882/Land of the District Court of Colombo.

D.C. No. 2882/L.	Ven. Baddegama Piyaratana Nayaka Thera of
40 S.C. No. 26(F).	Vidyodaya Pirivena, Maligakanda, Colombo.... <i>Plaintiff</i>

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Appellant to
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Plaintiff-
Respondent for
Execution on
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Documents filed
with the
Objections
23.5.58—
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- vs.*
1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyo-daya Pirivena, Maligakanda, Colombo.
 - (Dead) 2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatta Road, Colombo.
 3. The Hon. Mr. Christopher William Wijekoon Kannangara, M.S.C., of "Cranford", 29, Alfred Place, Kollupitiya, Colombo.
 - (Dead) 4. Mr. Jacob Moonesinghe, Proctor, of "Winton", 10 Dickman Road in Colombo.
 5. Mr. Henry Woodward Amarasuriya, M.S.C., of 9, Gower Street, Colombo.
 - (Dead) 6. Mr. Willorage Henry William Perera, Proctor, of "Vijitha", 335, Timbirigasyaya Road, Colombo.
 7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo.
 8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo. 20
 9. Mr. Rajah alias Rajasinghe Hewavitarne, M.S.C., of "Nimalka", Kollupitiya, Colombo.
 10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
 - (Resigned) 11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road, Colombo.
 12. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala.
 13. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Lane, 30 Wellawatta, Colombo.
 - (Dead) 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda.
 - (Dead) 15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant (deceased).
 - (Dead) 16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant (deceased).
 17. N. S. Moonesinghe of 10, Layards Road, Colombo, substituted in place of Dr. Amara- 40 singhe of Colombo, who was substituted in place of 15th defendant Dr. B. E. Fernando (deceased).

18. Hon. Mr. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo, substituted in place of 2nd defendant (deceased).
- (Dead) 19. Jothipala Subasinghe of Deal Place, Colombo, substituted in place of 11th defendant (resigned).
20. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo, substituted in place of 19th defendant (deceased).
- 10 21. Gamini Jayasuriya of 494/6, Galle Road, Colombo, substituted in place of 6th defendant (deceased).
22. Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty, Colombo, substituted in place of 16th defendant (deceased).....*Defendants.*
- and*
- Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo.....
..... 1st *Defendant-Appellant-Petitioner*
- 20
- vs.*
- Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
..... *Plaintiff-Respondent.*
1. Christopher William Wijekoon Kannangara of 98/2, Havelock Road, Colombo.
2. Henry Woodward Amarasuriya of "Amaragiri", 28th Lane, Flower Road, Colombo.
- 30 3. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo, presently of Ceylon Embassy, Hotel Lenin-gradskaya, Moscow.
4. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.
5. Rajah Hewavitarne, C.B.E., "Romford", Albert Crescent, Colombo.
6. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
- 40 7. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala.

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Respondent for
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the Documents
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Continued

8. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Lane, Wellawatta, Colombo.
 9. N. S. Moonesinghe of 10, Layards Road, Colombo.
 10. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo.
 11. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo.
 12. Gamini Jayasuriya of 494/6, Galle Road, 10 Colombo.
 13. Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty, Colombo.
- 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th, 20th, 21st and 22nd.....
.....*Defendants- Respondents.*

I, Venerable Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo, do hereby solemnly sincerely and truly declare and affirm as follows :—

20

1. I am the 1st defendant-appellant in the aforementioned case which went up in appeal to Their Lordships' Court and Their Lordships' Court delivered judgment on 13th February, 1958, dismissing my appeal with costs.

2. I am desirous of appealing to Her Majesty-in-Council from the said judgment of Their Lordships' Court delivered on 13th February, 1958, have already noticed to the aforesaid respondents of my intended application to apply to Their Lordships' Court for Conditional Leave to appeal to Her Majesty-in-Council in terms of Rule 2 of the Schedule to the Privy Council Ordinance (Chapter 85) 30 and is taking other steps required by law to enable me to prosecute the said appeal to Her Majesty-in-Council.

3. I state that I have today made an application to Their Lordships' Court under Rule 5 of the Appellate Procedure (Privy Council) Order 1921 to have the notices of my intended application served on the respondents by and through Their Lordships' Court.

4. I state that the plaintiff-respondent is likely to take steps to apply to this Court to execute the decree entered by Their Lordships' Court in this case.

5. Therefore I state that I am entitled to a stay of the execution 40 of the decree entered in this case by Their Lordships' Court till such time as my appeal to Her Majesty-in-Council is finally determined.

Signed and affirmed to at Colombo)
this 14th day of February, 1958) (Sgd.) M. DHAMMANANDA.
Before me.

(Sgd.) Illegibly.
A Justice of the Peace.

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IN THE DISTRICT COURT OF COLOMBO
No. 2882/L. S.C. 26(F)

In the matter of an application in Case No. 2882/L. of the
District Court of Colombo.

10

Ven. Vagisvaracharya Morontuduwe Sri Naneswara Dham-
mananda Nayaka Thera of Vidyodaya Pirivena, Maliga-
kanda in Colombo. *1st Defendant-Appellant-Petitioner*

vs.

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya
Pirivena, Maligakanda, Colombo. . . *Plaintiff-Respondent.*

1. Christopher William Wijekoon Kannangara of 98/2,
Havelock Road, Colombo and others.
. *Defendants-Respondents.*

I tender herewith true copies of letters dated 21st February,
20 1958, addressed to W. H. Senanayake, proctor for plaintiff-respondent
and D. L. Gunasekera, proctor for the defendants-respondents, together
with registered Postal Article Receipt bearing Nos. 1094 and 1095
both also dated 21st February, 1958, in proof of posting copies of the
petition and affidavit filed by me on behalf of the 1st defendant-
appellant-petitioner and move that the same be filed of record in
Case No. 2882/Land of this Court.

Colombo 21st February, 1958.

(Sgd.) FELIX PERERA,
Proctor for 1st Defendant-Appellant-Petitioner.

30

IN THE DISTRICT COURT OF COLOMBO
No. 2882/L.

Ven. Baddegama Piyaratana Nayaka Thero as Principal
of the Vidyodaya Pirivena, Maligakanda in Colombo.
. *Plaintiff*

vs.

1. Ven. Morontuduwe Sri Naneswara Dhammananda Thero
of Vidyodaya Pirivena, Maligakanda in Colombo and
others. *Defendants.*

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The inquiry into the application for writ of ejectment filed by the plaintiff on the 15th February, 1958, and the objections thereto filed by the 1st defendant in this case has been fixed for the 30th April, 1958, but the record in this case has been forwarded to the Hon. the Supreme Court in connection with the Privy Council Appeal preferred by the 1st defendant.

I therefore move that the Court be pleased to call for the record from the Supreme Court to enable the Court to proceed with the said inquiry.

Colombo, 28th April, 1958.

10

(Sgd.) W. H. SENANAYAKE,
Proctor for Plaintiff.

A.D.J.

The record of this case was sent to the Supreme Court. Inquiry fixed for 30.4.58.

For orders please.

(Intld.)

28.4.

If this is true please request Registrar, Supreme Court, to send record here for the purpose of this inquiry.

20

(Intld.)

A.D.J.

30.4.58.

Mr. Advocate E. B. Wikramanayake, Q.C., with Advocate Kottegoda for plaintiff, instructed by Mr. Senanayake.

Mr. Advocate Kottegoda for defendants 3rd, 5th, 7th to 10th, 12th, 13th, 17th, 18th, 20th to 22nd, instructed by Mr. D. L. Gunasekera.

1st defendant is absent.

His proctor is also absent.

30

Mr. Wikramanayake addresses Court. He says this action was filed in 1942. 1st defendant has been keeping the plaintiff out of possession since 1942. Judgment was given in favour of the plaintiff in 1950 in this Court. There had been a preliminary objection taken and appeal therefrom and proceedings were held up. It was the 1st defendant who was creating the dispute. The 2nd to 14th defendants in the original plaint were members of a Sabha who had to be made parties to give notice of this action. Some of these people died pending the hearing and every time a substitution was made 1st defendant objected to the substitution and when it was allowed, 40 appealed against that order and thus held up proceedings.

Mr. Wikramanayake submits that the premises are in a dilapidated state and that the 1st defendant is neglecting the premises. The appeal of the 1st defendant in regard to the judgment itself was ultimately dismissed on the 13th February, 1958. He refers to page 32 of the Supreme Court Judgment. As soon as the Supreme Court delivered its order the plaintiff applied for writ of execution. 1st defendant objected and the matter has been fixed for inquiry today. The 1st defendant is absent. He moves that his application for execution of decree be allowed.

10 The 1st Defendant has made an application for leave to appeal to the Privy Council. Mr. Wikramanayake submits that the proper Court for him to make an application for execution of the decree is this Court and cites 12 N.L.R. page 35. He also cites 19 N.L.R. page 50. He has given notice to the other side and the other side is absent. It would be open to the 1st defendant to make an application to the Supreme Court if his application for leave to the Privy Council is granted.

Mr. Kottegoda supports Mr. Wikramanayake's application.

ORDER

20 On the submissions made by Counsel I am satisfied that the plaintiff is entitled to execution of decree he has obtained against the 1st defendant and his application to execute the decree is allowed.

(Sgd.)
A.D.J.

IN THE DISTRICT COURT OF COLOMBO

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
No. D.C. 2882/L. *Plaintiff*
S.C. No. 26(F). *vs.*

30 1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo and others..... *Defendants.*

Ven. Vagisvarachairya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
..... *1st Defendant-Petitioner*
vs.

40 Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
..... *Plaintiff-Respondent.*

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1. Christopher William Wijekoon Kannangara of
17, Murugan Place off Havelock Road,
Colombo and others.....
..... *Defendants-Respondents.*

I file 1st defendant-petitioner's petition and affidavit and my affidavit and for the reasons stated therein move that this Court be pleased—

- (a) to vacate the order allowing the plaintiff-respondent's application for execution of the decree referred to in the said petition ;
- (b) for costs ; and
- (c) for such other and further relief in the premises as to this Court shall seem meet.

10

Colombo, 5th day of May, 1958.

(Sgd.) F. J. P. PERERA,
Proctor for 1st Defendant-Petitioner.

IN THE DISTRICT COURT OF COLOMBO

Ven. Baddegama Piyaratana Nayaka Thera of
Vidyodaya Pirivena, Maligakanda, Colombo....
No. 2882/L. D.C. *Plaintiff* 20
S.C. No. 26(F). *vs.*

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo and others.....*Defendants.*

Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
..... *1st Defendant-Petitioner*

vs. 30

Ven. Baddegama Piyaratana Nayaka Thera of
Vidyodaya Pirivena, Maligakanda, Colombo.....
..... *Plaintiff-Respondent.*

1. Christopher William Wijekoon Kannangara of
17, Murugan Place off Havelock Road,
Colombo, and others.....
..... *Defendants-Respondents.*

On this 5th day of May, 1958.

The petition of the first defendant-petitioner abovenamed appearing by Felix Joseph Peter Perera, his proctor, states as follows :—

1. The petitioner was the 1st defendant in the above action in which the plaintiff sued the 1st defendant for a declaration that the premises which are the subject-matter of this action were held in Trust by the plaintiff as a Trustee of a Charitable Trust and that the 1st defendant-petitioner be ejected therefrom and be ordered to
10 pay damages to the plaintiff-respondent.

2. The District Court by its decree dated 17th October, 1950, granted the prayer of the plaintiff-respondent.

3. On appeal to the Supreme Court against the aforesaid decree the Supreme Court by its decree dated 19th February, 1958, dismissed the 1st defendant-petitioner's appeal and affirmed the decree of the District Court.

4. On the 12th March, 1958, the Supreme Court granted the 1st defendant-petitioner Conditional Leave to appeal against the decree of the Supreme Court dated 19th February, 1958, to Her
20 Majesty the Queen-in-Council and thereafter Final Leave to appeal to Her Majesty the Queen-in-Council was granted to the 1st defendant-petitioner by the Supreme Court on 25th March, 1958.

5. By petition dated 11th March, 1958, the plaintiff-respondent applied to the Supreme Court for execution of the said decree and the Supreme Court on 26th March, 1958, directed that notice of this application be served on the 1st defendant-petitioner and the said notice was served on the 1st defendant-petitioner on 25th April, 1958, to show cause on 12th May, 1958, why the plaintiff-respondent's application for execution of the said decree should not be granted.
30 The said notice is filed herewith marked " A ".

6. The 1st defendant-petitioner states that he through his proctor filed papers in the District Court of Colombo on 15th February, 1958 (that is to say two days after the Supreme Court delivered its judgment but before the Supreme Court entered its decree) intimating to the said Court that the 1st defendant-petitioner apprehended that an application for writ might be made and praying that execution be stayed till such time as the case was finally determined by Her Majesty the Queen-in-Council as notice of the 1st defendant-petitioner's application for Conditional Leave to appeal to Her Majesty the Queen-in-Council
40 had already been given to the plaintiff-respondent and the other defendants-respondents.

7. The 1st defendant-petitioner now finds that the plaintiff-respondent had by application dated 14th February, 1958, (*i.e.* even prior to the entering of the decree of the Supreme Court) applied for

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execution of the decree of the Supreme Court and that the papers filed by the 1st defendant-petitioner on 15th February, 1958, have been regarded as objections to the application for writ which the 1st defendant-petitioner states that he was informed by his proctor had not in fact been made at the time such papers were filed and further understands that after an inquiry held on the 30th April, 1958, at which the 1st defendant-petitioner was not represented the plaintiff-respondent's application to execute the Supreme Court decree has been allowed.

8. The 1st defendant-petitioner states that he was not repre- 10
sented on 30th April, 1958, because no notice of any application for writ by the plaintiff-respondent had been given to the 1st defendant-petitioner nor was he aware of any such application.

9. The 1st defendant-petitioner submits that the plaintiff-respondent does not appear to have disclosed to the District Court the fact that he had in this very matter moved the Supreme Court as he was in law bound to do in accordance with rule 7 of the rules in the schedule to the Privy Council Appeals Ordinance (Chap. 85) for execution of the said decree and that the 1st defendant-petitioner had been directed by the Supreme Court to show cause on 12th May, 20 1958.

10. The 1st defendant-petitioner submits that by reason of the foregoing the order on the plaintiff-respondent's application for writ has been made without jurisdiction or alternatively per incuriam.

Wherefore the first defendant-petitioner prays that the Court be pleased—

- (a) to vacate the said order allowing the plaintiff-respondent's application for execution of the said decree ;
- (b) for costs ; and
- (c) for such other and further relief in the premises as to this 30
Court shall seem meet.

Settled by :

Mr. P. RANASINGHE,

Mr. D. S. JAYAWICKREMA, Q.C.,

Advocates.

(Sgd.) F. J. P. PERERA,

Proctor for 1st Defendant-Petitioner.

IN THE DISTRICT COURT OF COLOMBO

D.C. No. 2882/L. Ven. Baddegama Piyaratana Nayaka Thera of
S.C. No. 26 (F). Vidyodaya Pirivena, Maligakanda, Colombo..... 40
.....*Plaintiff*

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo and others..... *Defendants.*

Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
.....1st *Defendant-Petitioner*

10

vs.

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
..... *Plaintiff-Respondent.*

1. Christopher William Wijekoon Kannangara of 17, Murugan Place off Havelock Road, Colombo, and others.....
..... *Defendants-Respondents.*

I, Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda,
20 Colombo, do hereby solemnly, sincerely and truly declare and affirm as follows :—

1. I am the 1st defendant in the above action in which the plaintiff sued me for a declaration that the premises which are the subject matter of this action were held in Trust by the plaintiff as a Trustee of a Charitable Trust and that I be ejected therefrom and be ordered to pay damages to the plaintiff-respondent.

2. The District Court by its decree dated 17th October, 1950, granted the prayer of the plaintiff-respondent.

3. On appeal to the Supreme Court against the aforesaid decree
30 the Supreme Court by its decree dated 19th February, 1958, dismissed my appeal and affirmed the decree of the District Court.

4. On the 12th March, 1958, the Supreme Court granted me Conditional Leave to appeal against the decree of the Supreme Court dated 19th February, 1958, to Her Majesty the Queen-in-Council and thereafter Final Leave to appeal to Her Majesty the Queen-in-Council was granted to me by the Supreme Court on 25th March, 1958.

5. By petition dated 11th March, 1958, the plaintiff-respondent applied to the Supreme Court for execution of writ and the Supreme Court on 26th March, 1958, directed that notice of this application be
40 served on me and the said notice was served on me on 25th April, 1958, to show cause on 12th May, 1958, why the plaintiff-respondent's application for execution of writ should not be granted. The said notice is filed herewith marked " A ".

No. 80

Statement of
Objections of
the 1st
Defendant-
Appellant to
the Application
made by the
Plaintiff-
Respondent for
Execution on
11.3.58, with the
Documents filed
with the
Objections
23.5.58 - -
Continued

No. 80
Statement of
Objections of
the 1st
Defendant-
Appellant to
the Application
made by the
Plaintiff-
Respondent for
Execution on
11.3.58, with
the Documents
filed with the
Objections
23.5.58—
Continued

6. I state that I through my proctor filed papers in the District Court of Colombo on 15th February, 1958 (that is to say two days after the Supreme Court delivered its judgment but before the Supreme Court entered its decree) intimating to the said Court that I apprehended that an application for writ might be made and praying that execution be stayed till such time as the case was finally determined by Her Majesty the Queen-in-Council as notice of my application for Conditional Leave to appeal to Her Majesty the Queen-in-Council had already been given to the plaintiff-respondent and the other defendants-respondents. 10

7. I now find that the plaintiff-respondent had by application dated 14th February, 1958 (*i.e.* even prior to the entering of the decree of the Supreme Court) applied for execution of the decree of the Supreme Court and that the papers filed by me on 15th February, 1958, have been regarded as objections to the application for writ which I state that I was informed by my proctor had not in fact been made at the time such papers were filed and further understand that after an inquiry held on the 30th April, 1958, at which I was not represented the plaintiff-respondent's application to execute the Supreme Court decree has been allowed. 20

8. I state that I was not represented on 30th April, 1958, because no notice of any application for writ by the plaintiff-respondent had been given to me nor I was aware of any such application.

9. I submit that the plaintiff-respondent does not appear to have disclosed to the District Court the fact that he had in this very matter moved the Supreme Court as he was in law bound to do in accordance with rule 7 of the rules in the schedule to the Privy Council Appeals Ordinance (Chap. 85) for execution of the said decree and that I had been directed by the Supreme Court to show cause on 12th May, 1958. 30

10. I submit that by reason of the foregoing the order on the plaintiff-respondent's application for writ has been made without jurisdiction or alternatively *per incuriam*.

The foregoing affidavit having been
duly read over by the affirmant
abovenamed and he appearing to
understand the contents thereof } (Sgd.) M. DHAMMANANDA.
subscribed his signature hereto at
Colombo on this 5th day of May,
1958. }

40

Before me.

(Sgd.) J. H. FORBES,

A Justice of the Peace.

IN THE DISTRICT COURT OF COLOMBO

Ven. Baddegama Piyaratana Nayaka Thera of
Vidyodaya Pirivena, Maligakanda, Colombo.....
No. D.C. 2882/L. *Plaintiff*
S.C. No. 26(F).

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo and others..... *Defendants.*

10

Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
..... *1st Defendant-Petitioner*

vs.

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
..... *Plaintiff-Respondent.*

20

1. Christopher William Wijekoon Kannangara of 17, Murugan Place off Havelock Road, Colombo and others.....
..... *Defendants-Respondents.*

I, Felix Joseph Peter Perera of No. 1, Park Avenue, Borella, Colombo, make oath and say as follows:—

1. I am a proctor of the Honourable The Supreme Court of the Island of Ceylon and a Notary Public. I swear to the matters herein set out of my personal knowledge.

2. I appear for the 1st defendant-petitioner in this matter.

3. On the 15th February, 1958, I filed papers on behalf of the 1st defendant-petitioner in the District Court intimating to the
30 Court that the 1st defendant-petitioner apprehended that an application for writ might be made by the plaintiff-respondent and praying that execution be stayed till such time as the case was finally determined by Her Majesty the Queen-in-Council as notice of the 1st defendant-petitioner's application for Conditional Leave to Her Majesty the Queen-in-Council had already been given to the plaintiff-respondent and the other defendants-respondents.

4. At the time I filed the aforesaid papers I was informed that the record in this case was still in the Supreme Court Registry.

5. I made further inquiries from the Record-keeper of the
40 District Court of Colombo as to whether any application for writ has been made by the plaintiff-respondent and was informed that no such application had been made up to the time I filed the aforesaid papers.

No. 80

Statement of
Objections of
the 1st
Defendant-
Appellant to
the Application
made by the
Plaintiff-
Respondent for
Execution on
11.3.58, with the
Documents filed
with the
Objections
23.5.58—
Continued

No. 80
Statement of
Objections of
the 1st
Defendant-
Appellant to
the Application
made by the
Plaintiff-
Respondent for
Execution on
11.3.58, with
the Documents
filed with the
Objections
23.5.58—
Continued

Signed and sworn to at Colombo this 5th } (Sgd.) F. J. P. PERERA.
day of May, 1958.

Before me.

(Sgd.) J. H. FORBES,
A Justice of the Peace.

NOTICE "A"

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application under Rule 7 of the Rules in the schedule to the appeals (Privy Council) Ordinance Chap. 85 10 for an order for execution of the Judgment and decree of the Honourable the Supreme Court notwithstanding an appeal to Her Majesty in Privy Council.

Ven. Baddegama Piyaratana Nayaka Thera as Principal of the Vidyodaya Pirivena, Maligakanda in Colombo
. *Plaintiff-Respondent-Petitioner.*

No. S.C. 26(F) 1952.

D.C. Colombo No. 2882/L.

Application No. 93.

vs.

Ven. Vagisvarachariya Morontuduwe Sri 20 Naneswara Dhammananda Thero of Vidyodaya Pirivena, Maligakanda, Colombo
. *1st Defendant-Appellant-Respondent.*

(Dead) 1. The Hon. Mr. D. S. Senanayake of Kanatta Road, Colombo and others
. *Added-Defendants-Respondents.*

To :

(1) Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Thero.

(1st Defendant-Appellant-Respondent abovenamed). 30
Vidyodaya Pirivena, Maligakanda, Colombo.

Whereas the plaintiff-respondent-petitioner has made an application to the Honourable the Supreme Court under Rule 7 of the Rules in the schedule to the Appeals (Privy Council) Ordinance Cap. 85 for an order for execution of the judgment and decree of the said Court in the above case notwithstanding an appeal to Her Majesty in Privy Council.

And Whereas the said Court has made order that notice be issued on the respondents to the said application.

You are hereby required to appear before the Hon. the Supreme Court on the 12th day of May, 1958, at 11 o'clock in the forenoon and show cause if any, why the said application should not be allowed.

A copy of the said application is hereto annexed.

By Order of Court.

(Sgd.) Illegibly.

Registrar, Supreme Court.

19th day of April, 1958.

D.C. 2882/L.

5.5.58.

Mr. Advocate D. S. Jayawickrema, Q.C., with Mr. Advocate P. Ranasinghe instructed by Mr. Felix J. P. Perera for 1st defendant.

Mr. Jayawickrema addresses Court in support of the 1st defendant's petition and affidavit. He states that the plaintiff made an application to execute this decree to the Supreme Court and the Supreme Court ordered notice on the 1st defendant returnable on 12.5.58. He produces marked "A" the notice served on his client to show cause why the decree should not be executed notwithstanding the appeal to the Privy Council which is returnable on 12.5.58. He cites 37 N.L.R. 133.

Mr. Jayawickrema states that he has already obtained final leave to appeal to the Privy Council. Mr. Jayawickrema stresses the fact that his client had no notice of this application to execute decree made to this Court by the plaintiff.

ORDER

When I made order on 30.4.58 on the application of the plaintiff I was not aware that the plaintiff had made an application to execute the decree to the Supreme Court and that the Supreme Court had issued notice of that application on the 1st defendant returnable on 12.5.58. I was also under the impression that the 1st defendant who was absent on that date had had notice of the plaintiff's application to this Court to execute the decree. Mr. Jayawickrema now points out that his client has obtained final leave to appeal to the Privy Council—that he had no notice of the application to this Court to execute the decree and further cites 37 N.L.R. 133 where it was held that a party is not entitled to obtain from the District Court execution of a decree passed in appeal and against which the Supreme Court has granted conditional leave to appeal to the Privy Council. I set aside the ex-parte order allowing execution of the decree made on 30.4.58 on the facts placed before me now. Since the question of execution of the decree will be decided by the Supreme Court after notice is served on the 1st defendant I do not think it is necessary to give notice of this application to the plaintiff.

No. 80
Statement of
Objections of
the 1st
Defendant-
Appellant to
the Application
made by the
Plaintiff.
Respondent for
Execution on
11.3.58, with
the Documents
filed with the
Objections
23.5.58—
Continued

No. 80
 Statement of
 objections of
 the 1st
 Defendant-
 Appellant to
 the Application
 made by the
 Plaintiff-
 Respondent for
 Execution on
 11.3.58, with
 the Documents
 filed with the
 Objections
 23.5.58—
Continued

Let the record be forwarded to the Supreme Court now.

(Sgd.) A. L. S. SIRIMANNE,
A.D.J.

True copies of the Journal Entries from 26.2.58 to 5.5.58, application for execution of decree motion, petition and affidavit dated 14.2.58, motion dated 21.2.58, 28.4.58. order of D.J. dated 30.4.58 and motion, petition and affidavit dated 5.5.58.

(Sgd.) Illegibly. 10

Chief Clerk, Supreme Court.
 20.5.58.

No. 81
 Application by
 the 1st
 Defendant-
 Appellant's
 Proctor for an
 extension of
 time to comply
 with Rule 11 of
 the Appellate
 Procedure
 (Privy Council)
 Order 1921
 23.5.58

No. 81

Application by the 1st Defendant-Appellant's Proctor for an extension of time to comply with Rule 11 of the Appellate Procedure (Privy Council) Order 1921

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application under Rule 18 of The Appellate Procedure (Privy Council) Ordinance of 1921. 20

Ven. Baddegama Piyaratana Nayaka
 Thera of Maligakanda, Colombo.....
 *Plaintiff*

Application No. 84 of 1958.
 S.C. No. 26(F).
 D.C. Col. No. 2882/Land.
 S.C. No. 73(I) of 1956.
 S.C. No. 192(I) of 1956.

vs.

1. Ven. Vagisvarachariya Morontuduwe
 Sri Gnaneswara Dhammananda
 Nayaka Thera of Maligakanda,
 Colombo and others.... *Defendants.*

Ven. Vagisvarachariya Morontuduwe Sri
 Gnaneswara Dharmananda Nayaka 30
 Thera of Maligakanda, Colombo.....
 *1st Defendant-Appellant-Petitioner*

vs.

Ven. Baddegama Piyaratana Nayaka
 Thera of Maligakanda, Colombo.....
 *Plaintiff-Respondent.*

1. Christopher William Wijekoon Kan-
nangara of 17, Murugan Place off
Havelock Road, Colombo, and others
Defendants- Respondents- Respondents.

The 1st defendant-appellant-petitioner who was granted Final Leave to appeal to Her Majesty the Queen-in-Council by Your Lordships' Court on 25th March, 1958, has not yet been able to deliver the prints of the record of the above action to the Registrar of the Supreme Court for examination and certification within the time limit
10 provided for by Rule 11 of the Appellate Procedure (Privy Council) Order 1921, for the reason that even though the 1st defendant-appellant-petitioner has duly deposited the fees referred to in Rule eight of the said order, the 1st defendant-appellant-petitioner has not yet been furnished by the Registry with a correct copy of the record of this action to be given to the printers. The 1st defendant-appellant-petitioner therefore prays that Your Lordships' Court be pleased to grant an extension of nine months' to the 1st defendant-appellant-petitioner to enable him to comply with the provisions of Rule 11 of the Appellate Procedure (Privy Council) Order 1921.

20

Colombo, 23rd day of May, 1958.

(Sgd.) F. J. P. PERERA,

Proctor for 1st Defendant-Appellant-Petitioner.

No. 82

**Order of the Supreme Court on the Application referred to
in No. 81**

S.C. Application No. 182.

Date : 23.5.58.

ORDER

23.5.58.

30 Before SANSONI, J.

H. W. Jayewardene, Q.C., with P. Ranasinghe for the 1st defendant-appellant-petitioner.

The 1st defendant-appellant-petitioner is granted an extension of nine months from today to deliver the prints of the record to the Registrar as required by Rule 11. Mr. Jayewardene has explained that his failure to deliver them within the time prescribed is due to the Registry not having issued to him a certified copy of the record.

(Sgd.) C. TOUSSAINT,

Bench Clerk.

No. 81

Application by
the 1st
Defendant-
Appellant's
Proctor for
extension of
time to comply
with Rule 11 of
the Appellate
Procedure
(Privy Council)
Order 1921
23.5.58—

Continued

No. 82

Order of the
Supreme Court
on the
Application
referred to in
No. 81
23.5.58

No. 83

**Judgment of the Supreme Court Refusing the Application
 for the Execution of the Decree**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

S.C. 93.

Application under Rule seven of the Rules in the Schedule
 to the Appeals (Privy Council) Ordinance (Cap. 85).

The Ven. Baddegama Piyaratana Nayaka Thero.....
 *Plaintiff-Petitioner*

vs.

10

The Ven. Vagisvarachariya Morontuduwe Sri Naneswara
 Dhammananda Thero *et al.* *Defendant-Respondent.*

S.C. 26(F), 1952 D.C. Colombo 2882/L.

Present : Gunasekara, J., and Sansoni, J.

Counsel : E. B. Wikramanayake, Q.C., with H. A. Kottegoda for the
 plaintiff-petitioner.

H. W. Jayewardene, Q.C., with P. Ranasinghe for the
 1st defendant-respondent.

H. A. Kottegoda for the 3rd, 5th, 7th, 8th to 10th, 12th,
 13th, 17th, 18th and 20th to 22nd defendants-respondents. 20

Argued : May 29th and 30th, 1958.

Decided : May 30th, 1958.

Reasons Delivered : 15th July, 1958.

GUNASEKARA, J.

At the close of the hearing of this application we refused it with costs and said that we would give our reasons later.

The 1st respondent had been granted final leave to appeal from a judgment of this Court, dismissing an appeal by him from a judgment of the District Court of Colombo in an action brought against him by the petitioner, and the petitioner by his application sought an order 30 under rule seven of the Rules in the Schedule to the Appeals (Privy Council) Ordinance (Cap. 85) directing that the judgment should be carried into execution.

Rule seven is in these terms :—

“ where the judgment appealed from requires the appellant to pay money or perform a duty, the Court shall have power, when granting leave to appeal, to direct that the said judgment shall be carried into execution if the person in whose favour it was given shall, before the execution thereof, enter into good

and sufficient security, to the satisfaction of the Court, for the due performance of such order as His Majesty-in-Council shall think fit to make thereon.”

Rule eight contains a proviso “ that if the appellant shall establish to the satisfaction of the Court that real and substantial justice requires that, pending such appeal, execution should be stayed, the Court may order the execution of such judgment to be stayed if the appellant shall give sufficient security for the due performance of such order as His Majesty-in-Council shall think fit to make thereon.” Mr. Jayewardene, who appeared for the 1st respondent, took a preliminary objection to the application on two grounds : first, that the judgment is not one that requires the appellant to pay money or perform a duty and, secondly, that the Court has no power to make an order in terms of rule seven after it has granted leave to appeal.

The case is one in which the subject of litigation consists of certain immovable property, and the judgment declares the petitioner to be entitled to the possession of that property as the trustee of a charitable trust and orders the 1st respondent to be ejected therefrom. A consideration of the provisions of rule nine makes it clear that rules seven and eight apply to such a judgment : for rule nine provides for the amount of the security that must be demanded from a party for the performance of the judgment to be pronounced upon the appeal in any case where the subject of litigation consists of immovable property and the judgment appealed from relates to the occupation of such property. Therefore there is no substance in the first ground on which the preliminary objection was based.

The validity of second ground depends on the effect to be given to the expression “ when granting leave to appeal”. Mr. Jayewardene’s contention is that the power given to the Court to decide that the judgment shall be carried into execution is one that can be exercised only at the time when it grants the leave and not afterwards. But what is indicated by the words in question appears to be the time when the Court gets the power and not the time when it may be exercised : the phrase “ when granting leave to appeal ” must be read as qualifying “ shall have ” and not “ to direct ”.

For these reasons we decided that the preliminary objection must be overruled.

The petitioner and the 1st respondent are both of them eminent Buddhist monks. The former claimed a right to have possession of the property upon the footing that he was the duly appointed principal of a Buddhist teaching institution known as the Vidoydaya Pirivena and that the property formed a part of the premises on which the Pirivena stood. The 1st respondent alleged that it belonged to a Buddhist temple known as the Maligakanda temple and that he was the viharadhipathi of that temple and was in that capacity entitled

No. 83
Judgment of
the Supreme
Court refusing
the Application
for the
Execution of
the Decree
15.7.58—
Continued

No. 83
 Judgment of
 the Supreme
 Court refusing
 the Application
 for the
 Execution of
 the Decree
 15.7.58—
Continued

to have possession of it. The action was instituted on the 26th July, 1943, and the 1st respondent has been in occupation of the property from a time long prior to that day. Upon the material that was placed before us we were not satisfied that there was sufficient ground for causing him to be ejected from this property before the decision of his appeal to Her Majesty in Council.

(Sgd.) E. H. T. GUNASEKARA,
Puisne Justice.

SANSONI, J.
 I agree.

10

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

No. 84
 Decree of the
 Supreme Court
 15.7.58

No. 84

Decree of the Supreme Court

S.C. Application No. 93

ELIZABETH THE SECOND, Queen of Ceylon and of Her Other
 Realms and Territories, Head of the Commonwealth

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an Application for the execution of the
 Supreme Court Decree in this case and that this Court **20**
 do fix security to be given by the petitioner to the
 respondent to execute the said decree.

Ven. Baddegama Piyaratana Nayaka Thero as Principal
 of the Viyodaya Pirivena, Maligakanda, Colombo.....
 *Plaintiff-Respondent-Petitioner*

vs.

Ven. Vagisvarachariya Morontuduwe Sri Naneswara
 Dhammananda Thero of Vidyodaya Pirivena, Maliga-
 kanda, Colombo..... *1st Defendant-Appellant-Respondent.*

The Hon. Mr. D. S. Senanayake of Kanatte Road, Colombo. **30**
 (Dead)

The Hon. Mr. C. W. W. Kannangara of Alfred Place,
 Colombo, and others..... *Added-Defendants-Respondents.*

Action No. 2882/L. (S.C. 26 Final and
 S.C. 73 Inty. and
 S.C. 192 Inty.)

District Court of Colombo.

No. 84

Decree of the
Supreme Court
15.7.58—
Continued

This cause coming on for hearing and determination on the 29th and 30th May and 15th July, 1958, before the Hon. E. H. T. Gunasekera and the Hon. M. C. Sansoni, Puisne Justices of this Court, in the presence of Counsel for the plaintiff-petitioner, 1st defendant-respondent and 3rd, 5th, 7th, 8th to 10th, 12th, 13th, 17th, 18th and 20th to 22nd Added defendants-Respondents.

It is considered and adjudged that this Application be and the same is hereby refused.

10 And it is further decreed that the petitioner do pay to the 1st defendant-respondent and 3rd, 5th, 7th, 8th to 10th, 12th, 13th, 17th, 18th and 20th to 22nd Added-defendants-respondents the taxed costs of this application.

(*Vide* copy of order attached.)

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the 21st day of July, in the year One thousand Nine hundred and fifty-eight and of Our Reign the Seventh.

(Sgd.) B. F. PERERA,
Deputy Registrar, S.C.

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No. 85

**Application of the 1st Defendant-Appellant for a Certificate
setting out the Substitution in place of the Deceased
9th Respondent**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application under the Provisions of the Privy Council Appeals Ordinance (Chap. 85).

Ven. Baddegama Piyaratana Nayaka Thera
of Vidyodaya Pirivena, Maligakanda,
Colombo.....*Plaintiff*

30

Application No. 84

of 1958

S.C. No. 26 (Final)

D.C. Col. No. 2882/Land.

S.C. No. 73 (I) of 1956

S.C. No. 192(I) of 1956

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri
Gnaneswara Dhammananda Nayaka
Thera of Vidyodaya Pirivena, Maliga-
kanda, Colombo.

2. The Hon. Mr. Don Stephen Senanayake,
M.S.C., of 'Woodlands', Kanatta
Road, Colombo. (Dead)

No. 85

Application of
the 1st
Defendant-
Appellant for a
Certificate
setting out the
Substitution in
place of the
Deceased 9th
Respondent
27.8.58

No. 85
 Application of
 the 1st
 Defendant-
 Appellant for a
 Certificate
 setting out the
 Substitution in
 place of the
 Deceased 9th
 Respondent
 27.8.58—
Continued

3. The Hon. Mr. Christopher William Wijekoon Kannangara, M.S.C., of "Cranford", 29, Alfred Place, Kollupitiya, Colombo.
4. Mr. Jacob Moonesinghe, Proctor, of "Winton", Dickman Road, Colombo. (Dead)
5. Mr. Henry Woodward Amarasuriya, M.S.C., of 9, Gower Street, Colombo.
6. Mr. Willorage Henry William Perera, 10 Proctor, of "Vijitha", 335, Timbiri-gasyaya Road, Colombo. (Dead)
7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo.
8. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.
9. Mr. Rajah alias Rajasinghe Hewavitarne, M.S.C., of "Nimalka", Kollupitiya, Colombo. 20
10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road, Colombo (Resigned)
12. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala.
13. Mudaliyar Piyadasa Dharmasiri Abeyewardena Ratnatunga of "Sagala", Chapel Lane, Wellawatte, Colombo.
14. Dr. D. B. Perera of No. 40, High Level 30 Road, Nugegoda. (Dead)
15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant (deceased).
16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant (deceased).
17. N. S. Moonesinghe of 10, Layards Road, Colombo, substituted in place of Dr. Amarasinghe of Colombo who was 40 substituted in place of 15th defendant, Dr. B. E. Fernando (deceased).

18. Hon. Mr. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo, substituted in place of 2nd defendant (deceased).
19. Jothipala Subasinghe of Deal Place, Colombo, substituted in place of 11th defendant (deceased).
20. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo, substituted in place of 19th defendant (deceased).
21. Gamini Jayasuriya of 496/6, Galle Road, Colombo, substituted in place of 6th defendant (deceased).
22. Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty, Colombo, substituted in place of 16th defendant (deceased)
 *Defendants.*
 Ven. Vagisvarachariya Morontuduwe Sri Gnansewara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
 *1st Defendant-Appellant-Petitioner*
vs.
 Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
 *Plaintiff-Respondent.*
1. Mr. Christopher William Wijekoon Kannangara of 17, Murugan Place off Havelock Road, Colombo.
2. Mr. Henry Woodward Amarasuriya of "Amaragiri", 28th Lane, Flower Road, Colombo 7.
3. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo, presently of the Ceylon Embassy, Hotel Leningradskaya, Moscow.
4. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.
5. Mr. Rajah Hewavitarne of "Romford" Albert Crescent, Colombo.
6. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.

No. 85

Application of the 1st Defendant-Appellant for a Certificate setting out the Substitution in place of the Deceased 9th Respondent
 27.8.58—
Continued

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No. 85
Application of
the 1st
Defendant-
Appellant for a
Certificate
setting out the
Substitution in
place of the
Deceased 9th
Respondent
27.8.58—
Continued

7. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala.
 8. Mudaliyar Piyadasa Dharmasiri Abeyewardena Ratnatunga of "Sagala", Chapel Lane, Wellawatta, Colombo.
 9. N. S. Moonesinghe of 10, Layards Road, Colombo.
 10. Mr. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo.
 11. Dr. A. M. Samarasinghe of 104, Reid 10 Avenue, Colombo.
 12. Gamini Jayasuriya of 494/6, Galle Road, Colombo.
 13. Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty, Colombo.
- 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th, 20th, 21st and 22nd
Defendants- Respondents- Respondents.

As Mr. Rajah Hewavitharane 9th defendant-respondent is dead, I move under Rule 26 of the Rules in the Schedule to the Privy Council Appeals Ordinance (Chapter 85), that Your Lordships' Court do grant a Certificate showing who, in the opinion of Your Lordships' Court, is the proper person to be substituted in place of the above party who is dead.

I further move that Your Lordships' Court be pleased under Rule 13 of the Appellate Procedure (Privy Council) Ordinance 1921 to refer this matter to the District Court of Colomb to inquire and report who is the proper person to be substituted in place of the abovenamed Mr. Rajah Hewavitharane the 9th defendant-respondent who has died.

30

Colombo, 27th day of August, 1958.

(Sgd.) F. J. P. PERERA.

Proctor for First Defendant-Appellant-Petitioner.

Received Notice.

Proctor for plaintiff-respondent refused to accept notice. Copy of motion sent under registered cover. Receipt annexed.

(Sgd.) F. J. P. PERERA,

Proctor for 1st Defendant-Appellant-Petitioner.

(Sgd.) D. L. GUNASEKERA,

Proctor for 3rd, 5th, 7th, 8th, 10th, 12th, 13th, 17th, 18th, 20th, 21st and 22nd Defendants- Respondents- Respondents.

40

No. 86

**Affidavit of Gamini Jayasuriya, Secretary of the Vidyadhara
Sabha**

No. 86
Affidavit of
Gamini
Jayasuriya,
Secretary of the
Vidyadhara
Sabha
3.9.58

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application under Rule 26 of the
Rules in the schedule to the Appeals (Privy Council)
Ordinance Cap. 85 for an order for the substitution
of a Party in place of a deceased defendant.

10 Ven. Baddegama Piyaratana Nayaka Thero as
Principal of the Vidyodaya Pirivena, Maligakanda,
Colombo..... *Plaintiff*

No. 2882/L.

vs.

- | | | |
|--|-----|--|
| D.C. Colombo.
S.C. No. 26(F).
(Dead) | 1. | Ven. Morontuduwe Gnaneswara Dhammananda
Thero of Maligakanda, Colombo. |
| (Dead) | 2. | The Hon. Mr. D. S. Senanayake of Colombo. |
| (Dead) | 3. | The Hon. Mr. C. W. W. Kannangara of Kollu-
pitiya, Colombo. |
| (Dead) | 4. | Jacob Moonesinghe of Dickman's Road, Colombo. |
| 20 (Dead) | 5. | H. W. Amarasuriya of Colombo. |
| (Dead) | 6. | W. H. W. Perera of Colombo. |
| (Resigned) | 7. | Dr. G. P. Malalasekera of Colombo. |
| (Dead) | 8. | D. L. F. Pedris of Alfred Place, Colombo. |
| (Dead) | 9. | Rajah Alias Rajasinghe Hewavitarne, of Kollu-
pitiya, Colombo. |
| (Dead) | 10. | W. D. Hewavitarne of Kollupitiya, Colombo. |
| (Dead) | 11. | B. R. Dias of Dematagoda, Colombo. |
| (Dead) | 12. | Mudaliyar E. A. Abayasekara of Dehiwala. |
| (Dead) | 13. | Mudaliyar P. D. A. Ratnatunga of Wellawatta. |
| (Dead) | 14. | Dr. D. B. Perera of Nugegoda. |
| 30 (Dead) | 15. | Dr. B. E. Fernando of Colombo, substituted in
place of 14th defendant (deceased). |
| (Dead) | 16. | Daya Hewavitarne of Colombo, substituted in
place of 4th defendant (deceased). |
| (Dead) | 17. | N. S. Moonesinghe of Colombo, substituted in
place of Dr. Amarasinghe of Colombo who was
substituted in place of 15th defendant
(deceased). |
| (Dead) | 18. | Dudley Senanayake of Colombo, substituted in
place of 2nd defendant (deceased). |

No. 86
Affidavit of
Gamini
Jayasuriya,
Secretary of the
Vidyadhara
Sabha
3.9.58—
Continued

19. Jothipala Subasinghe of Colombo, substituted in place of 11th defendant (resigned).
 20. Dr. A. M. Samarasinghe of Colombo, substituted in place of 19th defendant (deceased).
 21. Gamini Jayasuriya of Colombo, substituted in place of 6th defendant (deceased).
 22. P. U. Ratnatunga of Colpetty, Colombo, substituted in place of 16th defendant (deceased).
..... *Defendants.*
- Ven. Morontuduwe Sri Gnaneswara Dham- 10
mananda Thero of Maligakanda, Colombo.
..... *1st Defendant-Appellant.*

vs.

- Ven. Baddegama Piyaratana Nayaka Thero as
Principal of the Vidyodaya Pirivena, Colombo
..... *Plaintiff-Respondent.*
1. C. W. W. Kannangara of Havelock Road,
Colombo
 2. H. W. Amarasuriya of Flower Road, Colombo.
 3. Dr. G. P. Malalasekera of Colombo. 20
 4. D. L. F. Pedris of Alfred Place, Colombo.
 5. Rajah Hewavitarne of Albert Crescent, Colombo.
 6. W. D. Hewavitarne of Kollupitiya, Colombo.
 7. Mudaliyar E. A. Abayasekara of Dehiwala.
 8. Mudaliyar P. D. Ratnatunga of Wellawatte.
 9. N. S. Moonesinghe of Layards Road, Colombo.
 10. Dudley Senarayake of Kanatta Road, Colombo.
 11. Dr. A. M. Samarasinghe of Reid Avenue.
Colombo.
 12. Gamini Jayasuriya of Galle Road, Colombo 3. 30
 13. P. U. Ratnatunga of 5th Lane, Colpetty,
Colombo.
*3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th,
18th, 20th, 21st, and 22nd Defendants-
Respondents.*

I, Gamini Jayasuriya of Galle Road, Colombo 3, not being a Christian, do hereby solemnly, sincerely and truly declare and affirm as follows :—

1. I am the Secretary of the Vidyadhara Sabha, Maligakanda Road, Colombo. 40

2. The Members of the said Vidyadhara Sabha are the added-defendants and parties substituted in place of deceased added-defendants in the above case.

3. Final leave to appeal to Her Majesty in Privy Council against the judgment of Your Lordships' Court was allowed on the 25th day of March, 1958, in the appeal preferred by the 1st defendant-appellant and the Record has not yet been despatched to England.

4. Rajah Hewavitarne the 9th defendant-respondent in the above case who was a member of the Vidyadhara Sabha departed
10 this life on the 17th day of July, 1958.

5. At a Special General Meeting of the remaining members of the Vidyadhara Sabha and the Vidyodaya Dayaka Sabha duly convened and held at the Vidyodaya Pirivena on the 14th August, 1958, presided over by Dr. C. W. W. Kannangara of the said Sabha Dr. A. D. P. A. Wijegoonewardene of Borella Cross Road, Colombo, who was a Dayakaya and President of the Vidyodaya Dayaka Sabha was unanimously elected as a member of the said Vidyadhara Sabha to fill the vacancy created by the death of the late Mr. Rajah Hewavitarne the 9th defendant-respondent.

20 6. It has become necessary for the purpose of the above case to substitute the said Dr. A. D. P. A. Wijegoonewardene in place of Rajah Hewavitarne the 9th defendant-respondent-deceased.

Signed and affirmed to at }
Colombo on this 3rd day of } (Sgd.) GAMINI JAYASURIYA.
September, 1958. }

Before me.

(Sgd.) H. J. WIJESINGHE,
C.O.

No. 87

30 **Statement of Objections of the 1st Defendant-Appellant to the Application for Substitution**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application under Rule 26 of the Rules in the schedule to the Appeals (Privy Council) Ordinance Chap. 85 for an order for the substitution of a party in place of a deceased defendant.

No. 86
Affidavit of
Gamini
Jayasuriya,
Secretary of the
Vidyadhara
Sabha
3.9.58—
Continued

No. 87
Statement of
Objections of
the 1st
Defendant-
Appellant to the
Application for
Substitution
15.9.58

No. 87
Statement of
Objections of
the 1st
Defendant-
Appellant to the
Application for
Substitution
15.9.58—
Continued

Application No.
S.C. No. 26 (Final).

D.C. Col. 2882/L.
S.C. No. 73(I) of 1956.
S.C. No. 192(I) of 1956.

Ven. Baddegama Piyaratana Nayaka Thera
of Vidyodaya Pirivena, Maligakanda,
Colombo..... *Plaintiff*

vs.

1. Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.
- (Dead) 2. The Hon. Mr. Don Stephen Senanayake, M.S.C., of "Woodlands", Kanatta 10 Road, Colombo.
3. The Hon. Mr. Christopher William Wijekoon Kannangara, M.S.C., of "Cranford", 29, Alfred Place, Kollupitiya, Colombo.
- (Dead) 4. Mr. Jacob Moonesinghe, Proctor, of "Winton", Dickman Road, Colombo.
5. Mr. Henry Woodward Amarasuriya, M.S.C., of 9, Gower Street, Colombo.
- (Dead) 6. Mr. Willorage Henry William Perera, 20 Proctor, of "Vijitha", 335, Timbiri-gasyaya Road, Colombo.
7. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo.
8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.
9. Mr. Rajah Alias Rajasinghe Hewavitarnne, M.S.C., of "Nimalka", Kollupitiya, Colombo. 30
- (Resigned) 10. Mr. Wimala Dharma Hewavitarnne of "Sri Nagar", Kollupitiya, Colombo.
11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road, Colombo.
12. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala.
13. Mudaliyar Piyadasa Dharmasiri Abeyewardena Ratnatunga of "Sagala", Chapel Lane, Wellawatte, Colombo.
- (Dead) 14. Dr. D. B. Perera of No. 40, High Level 40 Road, Nugegoda.

- (Dead) 15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant (deceased).
- (Dead) 16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant (deceased).
- 10 17. N. S. Moonesinghe of 10, Layards Road, Colombo, substituted in place of Dr. Amarasinghe of Colombo, who was substituted in place of 15th defendant Dr. B. E. Fernando (deceased).
18. Hon. Mr. Dudley Senanayake of ' Woodlands ', Kanatta Road, Colombo, substituted in place of 2nd defendant (deceased).
- (Dead) 19. Jothipala Subasinghe of Deal Place, Colombo, substituted in place of 11th defendant (resigned).
- 20 20. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo, substituted in place of 19th defendant (deceased).
21. Gamini Jayasuriya of 494/6, Galle Road, Colombo, substituted in place of 6th defendant (deceased).
22. Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty, Colombo, substituted in place of 16th defendant (deceased)
- *Defendants.*
- 30 Ven. Vagisvarachariya Morontuduwe Sri Gnaneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
-1st *Defendant-Appellant-Petitioner*
- vs.*
- Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
- *Plaintiff-Respondent.*
- 40 1. Mr. Christopher William Wijekoon Kanningara of 17, Murugan Place off Havelock Road, Colombo.
2. Mr. Henry Woodward Amarasuriya of " Amaragiri ", 28th Lane, Flower Road, Colombo.

No. 87
Statement of
Objections of
the 1st
Defendant-
Appellant to the
Application for
Substitution
15.9.58—
Continued

No. 87
Statement of
Objections of
the 1st
Defendant.
Appellant to the
Application for
Substitution
15.9.58—
Continued

(Dead)

3. Dr. Gunapala Piyasena Malalasekera of "Samanala", 18, Longden Terrace, Colombo, presently the Ceylon Embassy, Hotel Leningradskaya, Moscow.
4. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.
5. Mr. Rajah Hewavitarne of "Romford", Albert Crescent, Colombo.
6. Mr. Wimala Dharma Hewavitarne of 10 "Sri Nagar", Kollupitiya, Colombo.
7. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala.
8. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Lane, Wellawatte, Colombo.
9. N. S. Moonesinghe of 10, Layards Road, Colombo.
10. Mr. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo. 20
11. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo.
12. Gamini Jayasuriya of 494/6, Galle Road, Colombo.
13. Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty, Colombo.....
3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th,
17th, 18th, 20th, 21st and 22nd
Defendants- Respondents- Respondents.

On this 15th day of September, 1958.

30

To :

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

The Statement of Objections of the abovenamed 1st defendant-appellant appearing by Felix Joseph Peter Perera, his proctor, states as follows :—

1. This defendant denies that the said Gamini Jayasuriya is the Secretary of the said Vidyadhara Sabha for the reason that the said Gamini Jayasuriya is not a lawfully elected Sabhapathi of the said Sabha in terms of the provisions of Deeds Nos. 925 dated 6th 40 December, 1873 (P1) and 1259 dated 9th March, 1876 (P2) and as such cannot function even as a Sabhapathi of the said Sabha.

2. This defendant denies that the added-defendants and those substituted thereafter were and/or are duly elected members of a Vidyadhara Sabha validly constituted in terms of the provisions of the two aforesaid deeds.

3. This defendant admits the averments in paragraph three of the affidavit.

4. This defendant denies that the said Rajah Hewavitarne was ever a duly elected Sabhapathi of a validly constituted Vidyadhara Sabha.

10 5. This defendant denies that the meeting referred to in paragraph five of the affidavit was a validly constituted meeting and that the election of the said Dr. A. D. P. A. Wijegoonewardene is valid for the reasons that —

(i) at the time of the aforesaid meeting and election there were no lawfully elected Sabhapathies of a Vidyadhara Sabha validly constituted under the provisions of the two aforesaid deeds Nos. 925 and 1259 ; and

20 (ii) the said deeds make provision for the election of a Sabhapathi by the remaining Sabhapathies of the Vidyadhara Sabha and all the Dayakayas and that therefore the formation of, and the restriction of voting only to, the members of the Vidyodaya Dayaka Sabha is in violation of and not in accordance with the provisions of the aforesaid deeds.

6. This defendant denies that the said Dr. A. D. P. A. Wijegoonewardene is entitled to be substituted as a legally elected member of the Vidyadhara Sabha.

7. This defendant further states that the application is misconceived and should not be allowed in as much as—

30 (a) Dr. A. D. P. A. Wijegoonewardene has no right or status to make this application ; and

(b) there is no provision in law by virtue of which Your Lordships' Court can allow this application for substitution of Dr. A. D. P. A. Wijegoonewardene in place of the 9th defendant-respondent.

8. This defendant has already made application to Your Lordships' Court to take the necessary steps required by law.

Wherefore this defendant prays —

(i) that the application be refused ;

(ii) for costs ; and

40 (iii) for such other and further relief in the premises as to Your Lordships' Court shall seem meet.

(Sgd.) F. J. P. PERERA,
Proctor for 1st Defendant-Appellant.

No. 87
Statement of
Objections of
the 1st
Defendant-
Appellant to the
Application for
Substitution
15.9.58—
Continued

No. 87
Statement of
Objections of
the 1st
Defendant-
Appellant to the
Application for
Substitution
15.9.58—
Continued

Settled by :—

Mr. P. RANASINGHE.
Mr. H. W. JAYEWARDENE, Q.C.,
Advocates.

No. 88
Order of the
Supreme Court
referring the
matter
regarding
Substitution to
the District
Court for
Inquiry and
Report
18.9.58

No. 88

**Order of the Supreme Court referring the matter regarding
Substitution to the District Court for Inquiry and Report**

18.9.58.

Before GUNASEKARA, J. and SANSONI, J.

H. A. Kottegoda for the petitioner.

10

H. W. Jayewardene, Q.C., with P. Ranasinghe for the respondent.

The Court directs that both applications in terms of Rule 13 of the Appellate Procedure (Privy Council) Order 1921 be sent to the District Court of Colombo to inquire and report who is the proper person to be substituted in place of the 9th defendant who has died. As the printing of the record for despatch to the Privy Council has to be complied by a date that has already been fixed, the District Judge is requested to give this matter as high a degree of priority as the work in his Court permits.

(Sgd.) C. TOUSSAINT, 20

Bench Clerk.

No. 89
Proceedings
before the
District Court
16.10.58

No. 89

Proceedings before the District Court

D.C. 2882/L.

16.10.58.

Mr. Advocate E. B. Wikramanayake, Q.C., instructed for the plaintiff.

Mr. Advocate E. G. Wikramanayake, Q.C., with Mr. Advocate Ranasinghe instructed for the 1st defendant.

Mr. Advocate Kottegoda instructed for 3rd, 5th, 7th, 8th, 10th, 12th, 13th, 18th, 20th, 21st and 23rd defendants. 30

Mr. E. G. Wikramanayake states that his position in this case is that Mr. Gamini Jayasuriya was improperly elected a member of the Sabha and was therefore wrongly elected a Secretary of the Sabha and wrongly substituted as a party to this case. Even though for the purpose of the appeal he waived his objection to the substitution

Mr. Wikramanayake states that he still reserves to himself the right to contend that the appointment of the Secretary was bad. He states that today he wishes to place on record the same material which he placed before the District Court when he raised these arguments.

No. 89
Proceedings
before the
District Court
16.10.58—
Continued

It is agreed that the evidence recorded on the 20th May, 1955, 21st July, 1955, and 25th August, 1955, together with the documents produced on these dates will be part of the evidence in the hearing of this application.

Mr. Kottegoda calls —

10 M. R. PERERA. Affirmed. 45 years. Clerk, Associated Newspapers of Ceylon, Ltd.

Evidence of
M. R. Perera
Examination

Q. You produce a copy of the Observer dated 2nd August, 1958 ?

A. Yes.

Q. The notice is dated 2nd August, 1958.

A. Yes.

(Mr. Kottegoda marked the notice W1.)

Q. You also produce a copy of the Dinamina dated 1st August 1956, marked W2 ? That is in Sinhalese ?

20 A. Yes.

(Intld.)

D.J.

Mr. GAMINI JAYASURIYA. Affirmed. 34 years. Managing Director, H. Don Carolis & Sons, Colombo.

Evidence of
Gamini
Jayasuriya
Examination

Q. At present you are a member of the Vidyodaya Vidyadhara Sabha ?

A. Yes.

Q. Before that you were a member of the Vidyodaya Dayaka Sabha ?

30 A. Yes.

Q. You were elected in place of Mr. W. H. W. Perera who died on the 4th of February, 1955 ?

A. Yes.

Q. Mr. Rajah Hewavitarne died on the 17th July, 1958, and you produce his death certificate W3 ?

A. Yes.

Q. Thereafter on the 1st August, 1958, you published in the Dinamina and Observer W1 and W2 ?

No. 89
 Proceedings
 before the
 District Court
 16.10.58—
Continued

Evidence of
 Gamini
 Jayasuriya
 Examination—
Continued

A. Yes.

Q. You also sent notices to the various members signed by yourself and signed by one R. M. Attanayake ?

A. Yes.

Q. Who is Attanayake ?

A. He is the Secretary of the Vidyodaya Dayaka Sabha.

Q. You produce marked W4 a copy of the notice—they were cyclostyled ?

(Mr. E. G. Wikramanayake objects to the production of the document. 10

I allow it subject to proof.)

A. Yes.

Court :

Q. Who is the Secretary of the Dayaka Sabha ?

A. Attanayake.

Q. Did you despatch W4 ?

A. Yes.

Q. To whom did you despatch ?

A. I drafted it and signed it and it was posted to all the members of the Dayaka Sabha. 20

Q. W4 bears your signature and Attanayake ?

A. Yes.

Q. Attanayake signed a postscript below that too ?

A. Yes.

Q. Thereafter you called a meeting of the Vidyodaya Dayaka Sabha and the Vidyadhara Sabha ?

A. Yes.

Q. Thereafter a meeting was held on the 14th August ?

A. Yes.

Q. You produce the minutes of that meeting marked W5 and 30 the translation W5A ?

A. Yes.

(Mr. Kottegoda marks the original minutes W5 and the English translation W5A and the certified copy W5B.)

Q. That shows the minutes of the joint meeting of the Vidyadhara and Dayaka Sabha ?

A. Yes.

Q. At that meeting Mr. C. W. W. Kannangara was voted to the chair ?

A. Yes.

Q. The minutes of the joint meeting held on the 11th April was read and confirmed ?

A. Yes.

(Mr. Kottegoda puts the minutes of the meeting of the 14th August to the witness item by item and he states that it is a correct
10 record of what took place.)

Q. You know Dr. Wijegoonewardene for a long time ?

A. Yes.

Q. He was a member of the Dayaka Sabha ?

A. He was the President of the Dayaka Sabha.

Q. There were two Sabhas the Dayaka Sabha and the Vidya-dhara Sabha ?

A. Yes.

Q. The Dayaka Sabha came into existence a few years ago ?

A. Yes.

20 Q. The notices produced gave notice only to the members of the recently constituted Dayaka Sabha ?

A. The Dayaka Sabha which came into existence a few years ago.

Q. You concede that there can be Dayakas who are not members of the Dayaka Sabha ?

A. Yes.

Q. You also concede that there are several dayakayas who are not members of the Sabha ?

A. Yes.

30 *To Court :*

Q. Have these dayakayas any status in the meeting of the Sabha ?

A. No.

Q. It is the Vidyadhara Sabha that elects a principal ?

A. Yes.

Q. The plaintiff in this case brought this action on the footing that he was elected principal ?

No. 89
Proceedings
before the
District Court
16.10.58—
Continued

Evidence of
Gamini
Jayasuriya
Examination—
Continued

No. 89
 Proceedings
 before the
 District Court
 16.10.58—
Continued

Evidence of
 Gamini
 Jayasuriya
 Cross-
 examination

A. Yes.

Q. Has he ceased to be the principal ?

A. He is still the principal.

Q. Do you know that Rev. Sorata claims to be the principal ?

A. He is acting as principal. He is acting for Rev. Piyaratana who is not quite well.

Q. You know that Rev. Sorata has published the syllabus of the Vidyodaya Pirivena ?

(Mr. E. B. Wikramanayake objects to this question. I uphold the objection.)

10

Q. Are you aware that Rev. Sorata has published a syllabus of the Vidyodaya University claiming to be the principal ?

(Mr. Wikramanayake objects to the question as it is irrelevant.

I uphold the objection.)

(Mr. Wikramanayake moves to mark the syllabus of the Vidyodaya Pirivena as K1.

Mr. E. B. Wikramanayake objects.

I disallow the document.

Mr. E. G. Wikramanayake states that he wants to mark the document even though it has not been admitted in evidence so that 20 their Lordships in the Supreme Court may be able to refer to the document if they think that it is relevant.

I disallow it.)

Q. Are you aware of the fact that Rev. Sorata published a number of notices in the newspapers claiming to be principal ?

(Mr. E. B. Wikramanayake objects to the question. I disallow it.)

Q. You say he is acting principal ?

A. Yes.

Q. Under what provision was he made acting ?

(Mr. E. B. Wikramanayake objects.

30

I uphold the objection.)

Q. Is there any provision in the deed for an acting principal ?

(Mr. E. B. Wikramanayake objects to the question.

I uphold the objection.)

Q. Where is Rev. Piyaratana ?

A. He is at the Pirivena.

Re-examined. Nil.

(Sgd.)

D.J.

Mr. R. M. ATTANAYAKE. Affirmed. 68 years. Surveyor, Temple Road, Colombo.

No. 89
Proceedings
before the
District Court
16.10.58—
Continued

Q. You are the Secretary of the Vidyodaya Dayaka Sabha ?

A. Yes.

Q. Mr. Gamini Jayasuriya and you sent W4 to the members of the Vidyodaya Dayaka Sabha ?

A. Yes.

Evidence of
R. M.
Attanayake
Examination

Q. You have made the endorsement asking the recipients to bring this notice to the meeting ?

10 A. Yes.

Cross-examined by Mr. E. G. Wikramanayake.

Q. Your notice was only with regard to the Dayaka Sabha ?

A. Yes.

Evidence of
R. M.
Attanayake
Cross-
examination

Cross-examined by Mr. E. B. Wikramanayake. Nil.

(Sgd.)

D.J.

Mr. Kottegoda closes his case reading in evidence W1 to W5, W5A and W5B.

Messrs. E. B. Wikramanayake and E. G. Wikramanayake call
20 no evidence.

Mr. Kottegoda addresses Court and states that according to the evidence of Dr. Malalasekera owing to various troubles that arose the Dayaka Sabha was constituted and there were application forms and subscriptions for those who wanted to be members of the Dayaka Sabha. He concedes that only properly elected people according to deed 925 can be substituted as a party to this action. He refers to rule 6 of the deed. He states that Dr. Wijegoonewardene has been properly elected at a meeting due notice of which was given.

30 Mr. E. B. Wikramanayake states that this application is made under Rule 26 of the Privy Council Rules. The question before Court is " Who is the proper person to be substituted in the opinion of the Court ? " He refers to section 398 of the C.P.C. He states that in this particular case there is no cause of action that survives. He states that Dr. Wijegoonewardene is a member of the Sabha. The evidence is that any person who supports the temple is a dayakaya. Those are not the dayakayas contemplated in the deed. Submits that only those dayakayas who are ascertainable were entitled to vote. He states that Dr. Wijegoonewardene is a fit and proper person.

40 Mr. E. G. Wikramanayake states that Mr. Kottegoda has put his application on one footing only, namely that his client is the duly

No. 89
 Proceedings
 before the
 District Court
 16.10.58—
Continued

elected Sabhapathi. He states that the plaintiff has suggested nobody: Mr. Kottegoda represents Dr. Wijegoonewardene who alone has made an application to the Supreme Court and his interests are based personally and not as Sabhapathi. He refers to the other evidence which was taken as read. He states that there are other dayakayas of this temple who are not noticed and who had not been allowed to vote because they were not members of the Dayaka Sabha. The moment that admission is there then the election is bad because the deed itself is quite clear and it is a deed of 1876 which was entered into between certain persons who were intending to buy this property. 10 He refers to paragraph six of the deed. So far as the meeting is concerned there is the admission of Mr. Gamini Jayasuriya that the notices restricted attendance to members of the Dayaka Sabha formed in 1952. That alone is sufficient to vitiate the election. He states that it is not only a question of fitness or propriety. He refers to Chapter 85 of the C.P.C. rule 26. He says that it is not a question of who is "a fit person", or who is "a proper person" but who is "the fit person" and who is "the proper person", that is to say the person in law taking the position of the deceased. In other words it is the person who steps into the shoes of the deceased so far as 20 legal status is concerned with regard to this case. He states that on the evidence of Mr. Gamini Jayasuriya there has been no proper election in terms of clause six of the deed.

Order on 24th October, 1958.

(Sgd.)

D.J.

No. 90
 Report of the
 District Court
 addressed to the
 Registrar.
 Supreme Court
 24.10.58

No. 90
**Report of the District Court addressed to the Registrar,
 Supreme Court**

D.C. 2882/L.

30

Report

To
 The Registrar,
 Supreme Court.

This case has been sent by the Supreme Court in terms of Rule 13 framed under Section four of Chapter V (*Vide* Vol. 1, Subsidiary Legislation page 470) for inquiry and report as to who is the proper person who should be substituted in the place of the 9th defendant who had died pending the despatch of the record to England. The application of the plaintiff and of the defendants-respondents is to substitute 40 Dr. A. D. P. A. Wijegoonewardene in place of the 9th defendant

and is opposed by the 1st defendant, who is the appellant. Mr. E. G. Wikramanayake, appearing for the 1st defendant, submits that the election of Gamini Jayasuriya as a member of the Vidyadhara Sabha was bad. His argument is that the original deed of dedication No. 925 of 6th December, 1873, provides that in the event of the death of any one of the persons who formed the Vidyadhara Sabha, within a month of such death, a general meeting consisting of the Dayakayas of the Pirivena and of the surviving members of the Sabha shall be held to elect a suitable person to succeed the deceased as a member

10 of the said Vidyadhara Sabha. The evidence of Dr. Malalasekera, which, by consent, I have to regard as evidence in this case, shows that there had been maintained in the Sabha a list of the Dayakayas of the temple. In 1952, the Dayakayas had constituted themselves into a regular association called the Vidyodaya Dayaka Sabha, members of which consisted of those on the list and the others who applied for membership on the prescribed form and paid the subscriptions. Counsel for the 1st defendant contended that the deed uses the word "Dayakayas" as being synonymous with the word "supporters". He therefore contends that confining the meeting

20 held for the purpose of electing a successor to the deceased member of the Vidyadhara Sabha, to the members of the Vidyodaya Dayaka Sabha and the surviving members of the former Sabha was irregular as there may be Dayakayas who are not members of the Vidyodaya Dayaka Sabha. If this contention is upheld, there would be no means of deciding who is entitled to take part in the election. A person would merely have to claim to be a Dayakaya or supporter to be regarded as one. The support referred to is not necessarily financial. It would include all and sundry who may even occasionally attend a meeting or express sympathy for the cause of the Pirivena.

30 Such an interpretation would lead to a situation which was not intended by the donor of the deed nor one which would be upheld by any court of law. I think the constitution of the Dayakayas into a regular association was necessary and should be respected by the Courts. The evidence shows that the meeting at which Dr. Wijegoonewardene was elected was duly and properly held.

In any event the substitution in this case is being made not in terms of the provisions of Section 398 of the Civil Procedure Code but in accordance with Rule 26 of the Schedule to Chapter LXXXV of the Legislative Enactments as read with Rule 13 (*vide* Vol. 1 Subsidiary

40 Legislation at page 470). Under Section 398 it is the legal representative of the deceased defendant that has to be substituted, but, in the present case, it is the fit and proper person that I have to recommend to the Supreme Court to be substituted.

I am of opinion that Dr. A. D. P. A. Wijegoonewardene is the fit and proper person to be so substituted in the place of the 9th

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Report of the
District Court
addressed to the
Registrar,
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defendant and would respectfully report accordingly to the Supreme Court. The record is returned herewith.

(Sgd.) E. WIJEWARDENE,
D.J.

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Objections of
the 1st
Defendant-
Appellant for
the Substitution
of Dr. A. D.
P. A. Wijegoonewardene
in place of the
Deceased 9th
Defendant-
Respondent
11.11.58

No. 91

**Objections of the 1st Defendant-Appellant for the Substitution
of Dr. A. D. P. A. Wijegoonewardene in place of the
Deceased 9th Defendant-Respondent**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application under Rule 26 10
of the Rules in the schedule to the Appeals
(Privy Council) Ordinance Chap. 85 for an
order for the substitution of a party in place
of a deceased defendant.

Ven. Baddegama Piyaratana Nayaka Thera as
Principal of the Vidyodaya Pirivena, Maliga-
kanda in Colombo..... *Plaintiff*
vs.

Application No.
S.C. No. 26(F)
D.C. Colombo 2882/L.

1. Ven. Vagisvarachariya Morontuduwe Sri
Gnaneswara Dhammananda Nayaka 20
Thera of Vidyodaya Pirivena, Maliga-
kanda, Colombo.
- (Dead) 2. The Hon. Mr. Don Stephen Senanayake,
M.S.C., "Woodlands", Kanatta Road,
Colombo.
3. The Hon. Mr. Christopher William Wijekoon
Kannangara, M.S.C., of "Cranford", 29,
Alfred Place, Kollupitiya, Colombo.
- (Dead) 4. Mr. Jacob Mocnesinghe, Proctor, of
"Winton", Dickmans Road, Colombo. 30
5. Mr. Henry Woodward Amarasuriya, M.S.C.,
of 9, Gower Street, Colombo.
- (Dead) 6. Mr. Willorage Henry William Perera,
Proctor, "Vijitha", 335, Timbirigasyaya
Road, Colombo.
7. Dr. Gunapala Piyasena Malalasekera of
"Samanala", 16, Longden Terrace,
Colombo.

8. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.
9. Mr. Raja Alias Rajasinghe Hewavitarne, M.S.C., of "Nimalka", Kollupitiya, Colombo.
10. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
- (Resigned) 11. Mr. B. R. Dias of "Kenilworth", Dematagoda Road, Colombo.
12. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala.
13. Mudaliyar Piyadasa Dharmasiri Abeyewardena Ratnatunga of "Sagala", Chapel Lane, Wellawatte, Colombo.
- (Dead) 14. Dr. D. B. Perera of No. 40, High Level Road, Nugegoda.
- (Dead) 15. Dr. B. E. Fernando of Colombo, substituted in place of 14th defendant (deceased).
- (Dead) 16. Daya Hewavitarne of Alfred Place Avenue, Colombo, substituted in place of 4th defendant (deceased).
- 20
17. N. S. Mconesinghe of 10, Layards Road, Colombo, substituted in place of Dr. Amarasinghe of Colombo, who was substituted in place of 13th defendant Dr. B. E. Fernando (deceased).
18. Hon. Mr. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo, substituted in place of 2nd defendant (deceased).
- 30
- (Dead) 19. Jothipala Subasinghe of Deal Place, Colombo, substituted in place of 11th defendant (resigned).
20. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo, substituted in place of 19th defendant (deceased).
21. Gamini Jayasuriya of 494/6, Galle Road, Colombo, substituted in place of 6th defendant (deceased).
- 40
22. Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty, Colombo, substituted in place of 16th defendant (deceased).....
 *Defendants.*

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 the 1st
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 P. A. Wijegoonewardene
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Ven. Vagisvarachariya Morontuduwe Sri
 Gnaneswara Dhammananda Nayaka
 Thera of Vidyodaya Pirivena, Colombo
1st *Defendant-Appellant*

vs.

Ven. Baddegama Piyaratana Nayaka Thera
 of Vidyodaya Pirivena, Colombo.....
 *Plaintiff-Respondent.*

1. Mr. Christopher William Wijekoon Kanningara of 17, Murugan Place off 10 Havelock Road, Colombo.
 2. Mr. Henry Woodward Amarasuriya of "Amaragiri", 28th Lane, Flower Road, Colombo.
 3. Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo, presently the Ceylon Embassy, Hotel Leningradskaya, Moscow.
 4. Mr. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo. 20
 - (Dead) 5. Mr. Rajah Hewavitarne of "Romford", Albert Crescent, Colombo.
 6. Mr. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
 7. Mudaliyar Egodage Alfred Abayasekara of Karagampitiya Road, Dehiwala.
 8. Mudaliyar Piyadasa Dharmasiri Abeyewardena Ratnatunga of "Sagala", Chapel Lane, Wellawatte, Colombo.
 9. N. S. Moonesinghe of 10, Layards Road, 30 Colombo.
 10. Mr. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo.
 11. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo.
 12. Gamini Jayasuriya of 494/6, Galle Road, Colombo.
 13. Percival Upajiva Ratnatunga of 84, 5th Lane, Colpetty, Colombo.
- 3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 40
 17th, 18th, 20th, 21st and 22nd.....
*Defendants-Respondents-Respondents.*

Dr. A. D. P. A. Wijegoonewardene of
Colombo.

Party sought to be substituted.

To :

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

On this 11th day of November, 1958.

The statement of objections of the abovenamed 1st defendant-
appellant appearing by Felix Joseph Peter Perera, his proctor, states
10 as follows :—

1. On an application dated 2nd September, 1958, made by the
party sought to be substituted to have himself substituted in place of
the deceased 9th defendant-respondent in the above case, Your Lord-
ships' Court in terms of Rule 13 of the Appellate-Procedure (Privy
Council) Order 1921 directed the learned District Judge of Colombo
to inquire into and report as to who is the proper person to be sub-
stituted in place of the said 9th defendant-respondent.

2. The learned District Judge of Colombo has by his order
dated 24th October, 1958, reported to Your Lordships' Court that
20 Dr. A. D. P. A. Wijegoonewardene, the party sought to be substituted
abovenamed is in his opinion the fit and proper person to be substituted
in place of the said 9th defendant-respondent.

3. The 1st defendant-appellant submits with respect that Your
Lordships' Court should not issue a certificate in terms of Rule 26 of
the aforementioned Rules, based on the report submitted to Your
Lordships' Court by the learned District Judge for the reasons
that—

(a) the order of the learned District Judge is contrary to law and
against the weight of the evidence led at the inquiry.

30 (b) It is submitted with respect that the learned District Judge
was wrong in law when he held that the meeting at which
the said Dr. A. D. P. A. Wijegoonewardene was elected
was duly and properly held for the reasons that—

(i) on the evidence of Gamini Jayasuriya himself it is
clear that the only persons noticed to attend the
said meeting was the members of the Vidyodaya
Dayaka Sabha which had been formed only in
1952 ; whereas the deeds P1 of 1873 and P2 of
1876 which Your Lordships' Court has held created
40 a public Charitable Trust made strict provision for
a meeting for the purpose of electing a Sabhapathi
to be composed of all the dayakayas of the temple
and the remaining Sabhapathies.

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Objections of
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11.11.58—
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No. 91
 Objections of
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 Appellant for
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 P. A. Wijegoonewardene
 in place of the
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 Defendant-
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Continued

- (ii) It is further submitted that on the evidence of Gamini Jayasuriya given at the inquiry it is clearly established that persons who were entitled to be present and take part in the election of a Sabhapathi were not only not noticed to attend but also would not have been allowed to vote at the election of a Sabhapathi unless they were members of the newly created Vidyodaya Dayaka Sabha and therefore the said meeting it is submitted was null and void and the election of Dr. A. D. P. A. Wijegoonewardene of no force or avail in law. 10
- (iii) It is further submitted that neither the said Gamini Jayasuriya who purported to act as Secretary of the Vidyadhara Sabha nor the other added defendants who purport to function as Sabhapathies of the Vidyadhara Sabha have any right or status in law to function as such in view of the fact that they are not the lawfully elected Sabhapathies of a Vidyadhara Sabha validly constituted in terms of the provisions of deeds P1 and P2. 20
- (c) It is submitted with respect that the learned District Judge was wrong when he held that the constitution of the Vidyodaya Dayaka Sabha in 1952 was proper; for the promotion of such a Sabha and the restriction of the right to vote only to the members of the said Sabha is in direct contravention of the provisions of deeds P1 and P2.
- (d) It is further submitted with respect that Your Lordships' Court has held that the subject matter in dispute in this case was constituted a Public Charitable Trust by the provisions of the aforesaid deeds and in the circumstances 30 it is imperative that in the absence of any directions given by the District Court having jurisdiction over the same on the application made in that behalf by the Trustees the provisions of the aforesaid deeds must be strictly adhered to and complied with and the Trustees have no authority to alter its provisions unilaterally.
- (e) It is finally submitted that the "proper person" referred to in Rule 26 of the aforementioned Rules is in the circumstances of this case the person who has been lawfully elected on the death of the said 9th defendant-respondent 40 as a Sabhapathi of the Vidyadhara Sabha in accordance with the terms of the provisions of deed P1 and P2 of 1873 and 1876 respectively.

Wherefore the first defendant-appellant prays that Your Lordships' Court—

- (a) be pleased to refuse the application of the said Dr. A. D. P. A. Wijegoonewardene ;
 (b) for costs ; and
 (c) for such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) F. J. P. PERERA,
Proctor for First Defendant-Appellant.

Settled by :—

Mr. P. RANASINGHE,
 10 Mr. H. W. JAYEWARDENE, Q.C.,
Advocates.

No. 91
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 P. A. Wijegoonewardene
 in place of the
 Decased 9th
 Defendant-
 Respondent
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No. 92

Judgment of the Supreme Court

Application for a Certificate showing who, in the opinion of the Court, is the proper person to be substituted in place of the party who is dead in D.C. Colombo No. 2882/L. (No. 331/'58).

with

20 Application for the substitution of Dr. A. D. P. A. Wijegoone-wardene in place of Rajah Hewavitarne in D.C. Colombo case No. 2882/L. (No. 335/'58).

No. 92
 Judgment of
 the Supreme
 Court
 27.1.59

Present : WEERASOORIYA, J. and De SILVA, J.

Argued and Decided on : 27th January, 1959.

Counsel : H. W. Jayewardene, Q.C., with N. R. M. Daluwatte for 1st defendant-petitioner.

E. B. Wikramanayake, Q.C., with H. A. Kottegoda for plaintiff-respondent.

H. A. Kottegoda for the 3rd, 5th, 7th, 8th, 10th, 12th, 13th, 17th, 18th, 20th, 21st and 22nd respondents.

30 WEERASOORIYA, J. :

There are two applications before this Court bearing Nos. 331 and 335, both of which have been filed as a result of the death of Mr. Rajah Hewavitarne who was the 9th defendant-respondent in the appeal pending before the Privy Council. It is common ground that

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Judgment of
the Supreme
Court
27.1.59—
Continued

in view of his death it is necessary for this Court in terms of Rule 26 of the Rules appearing in the schedule to The Appeals (Privy Council) Ordinance (Chapter 85) to grant a certificate showing who is the proper person to be substituted in his place. Both these applications were considered together by this Court on the 18th of September, 1958, when an order was made under Rule 13 of the Appellate-Procedure (Privy Council) Order, 1921, referring to the District Court of Colombo for inquiry and report the question as to who is the proper person to be substituted in place of the deceased. The District Judge has now forwarded his report stating that Dr. A. D. P. A. Wijegoonewardene, petitioner in application No. 335, is a fit and proper person to be so substituted. 10

It was strenuously contended, however, by Mr. H. W. Jayewardene, who appears for the 1st defendant-appellant in the pending appeal (and the petitioner in application No. 331), that the appointment of Dr. Wijegoonewardene as a member of the Vidyadhara Sabha in place of Mr. Rajah Hewavitarne is bad for the same reasons as were urged before the District Judge at the inquiry held on the reference under Rule 13. These objections have been considered by the District Judge in making his report and we see no reason to reject that report. We therefore grant a certificate in terms of Rule 26 that in our opinion Dr. A. D. P. A. Wijegoonewardene is the proper person to be substituted or entered on the record in place of the 9th defendant-respondent, Mr. Rajah alias Rajasinghe Hewavitharane. 20

We make order that the 1st defendant-appellant do pay by way of costs of these proceedings the sum of Rs. 105/- to the plaintiff-respondent and a similar sum to the respondents represented by Mr. H. A. Kottegoda.

(Sgd.) H. W. R. WEERASOORIYA,

Puisne Justice. 30

De SILVA, J.

I agree.

(Sgd.) K. D. De SILVA,

Puisne Justice.

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Decree of the
Supreme Court
27.1.59

No. 93

Decree of the Supreme Court

S.C. Application No. 335 with Application No. 331.

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

No. 93
Decree of the
Supreme Court
27.1.59—
Continued

In the matter of an application of Gamini Jayasuriya of Galle Road, Colombo for the substitution of Dr. A. D. P. A. Wijegoonewardene in place of Rajah alias Rajasinghe Hewavitharane the 9th defendant, deceased in D.C. Colombo Case No. 2882/L.—S.C. 192/'56 (Inty).

10 Ven. Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....
.....*1st Defendant-Appellant-Petitioner against*

Ven. Baddegama Piyaratana Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo.....*Plaintiff-Respondent.*

C. W. Wijekoon Kannangara of No. 17, Murugan Place off Havelock Road, Colombo, and others.....
..... *3rd, 5th, 7th, 8th, 9th, 10th, 12th, 13th, 17th, 18th, 20th, 21st and 22nd Defendants-Respondents-Respondents.*

This application coming on for hearing and determination on the 27th day of January, 1959, and on this day, upon an application
20 preferred before the Hon. H. W. R. Weerasooriya, and the Hon. K. D. de Silva, Puisne Justices of this Court.

Upon reading the affidavit of Gamini Jayasuriya, and on the motion of Mr. E. B. Wikramanayake, Q.C., with Mr. H. A. Kottegoda, Advocates of the Supreme Court: It is hereby ordered that the said Dr. A. D. P. A. Wijegoonewardene be and he is hereby substituted in place of Rajah alias Rajasinghe Hewavitharane the 9th defendant, deceased.

And it is further ordered that 1st defendant-appellant do pay to the plaintiff-respondent a sum of Rs. 105/- by way of costs of these
30 proceedings and a similar sum to the 3rd, 5th, 7th, 8th, 10th, 12th, 13th, 17th, 18th, 20th, 21st and 22nd defendants-respondents.

(*Vide copy of order attached.*)

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice, at Colombo, the Twenty-third day of February, in the year One thousand Nine hundred and Fifty-nine, and of Our Reign the Eighth.

(Sgd.) B. F. PERERA,
Deputy Registrar, S.C.

No. 94
Application by
the 1st
Defendant-
Appellant for a
Certificate
showing who,
if any, in the
opinion of the
Supreme Court,
is the proper
person to be
substituted in
place of the
party who is
dead
24.2.60

—
Supreme Court
Minute Paper
on Application

No. 94

Application by the 1st Defendant-Appellant for a Certificate showing who, if any, in the opinion of the Supreme Court, is the proper person to be substituted in place of the party who is dead

Application No. 83

SUPREME COURT MINUTE PAPER ON APPLICATION

Subject : Application for a Certificate showing who, if any, in the opinion of the Supreme Court, is the proper person to be substituted in place of the party who is dead in S.C. 26 10 (F) D.C. Colombo No. 2882.

Date : 26.2.60

Mr. N. R. M. DALUWATTE for Appellant.

ORDER

Date

26.2.60 List on 2.3.60.

(Intld.) W. G. W.

2.3.60 *Before :* Weerasooriya, J. and T. S. Fernando, J.

To stand out for Mr. H. W. Jayewardene, Q.C.

(Sgd.) C. TOUSSAINT. 20

31.3.60 List on 1.4.60.

(Intld.) W. G. W.

1.4.60 *Before.:* Weerasooriya, J. and Sansoni, J.

H. W. Jayewardene, Q.C., with N. R. M. Daluwatte for the 1st Defendant-Petitioner.

No appearance for the Respondents.

C. A. V.

(Intld.) C. T.

Motion
dated
24.2.60

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application under Rule 26 30 of the Schedule of Chapter LXXXV of the Legislative Enactments (Privy Council Appeal Ordinance).

- Venerable Morontuduwe Sri Gnaneswara
Dhammananda Nayaka Thera of Maligakanda Temple, Colombo.....
.....1st Defendant-Petitioner.
- vs.*
- No. 2882—Land
D.C. Colombo
S.C. No. 26(F)
Appeal No. 298
- 10
- 20
- 30
- 40
- No. 94
Application by
the 1st
Defendant-
Appellant for a
Certificate
showing who,
if any, in the
opinion of the
Supreme Court,
is the proper
person to be
substituted in
place of the
party who is
dead
24.2.60—
Continued
- Motion
dated
24.2.60—
Continued
1. Venerable Baddegama Piyaratana Nayaka Thera of Maligakanda Temple, Colombo..
.....*Plaintiff- Respondent* (dead).
 2. Christopher William Wijekoon Kannangara of 17, Murugan Place, Havelock Town, Colombo.
 3. Henry Woodward Amarasuriya of “ Amargiri”, 28th Lane, Flower Road, Colombo.
 4. His Excellency Dr. Gunapala Piyasena Malalasekera of “ Samanala”, 16, Longden Terrace, Colombo, presently the Ceylon Embassy, Hotel Leningradskaya, Moscow.
 5. D. L. F. Pedris of “ Pedris Villa”, Alfred Place, Kollupitiya, Colombo.
 6. Wimala Dharma Hewavitarne of “ Sri Nagar”, Kollupitiya, Colombo.
 7. Mudaliyar E. A. Abayasekara of Karagampitiya Road, Dehiwala.
 8. Mudaliyar Piyadasa Dharmasiri Abeywardene Ratnatunga of “ Sagala”, Chapel Lane, Wellawatte.
 9. N. S. Moonasinghe of 10, Layards Road, Colombo.
 10. Dudley Senanayake of “ Woodlands”, Kanatta Road, Colombo.
 11. Dr. A.M. Samarasinghe of 104, Reid Avenue, Colombo.
 12. Gamini Jayasuriya of 494/6, Galle Road, Colombo.
 13. Percival Upajiva Ratnatunga of 84, 5th Lane, Kollupitiya, Colombo.
 14. A. D. P. A. Wijegoonewardene of No. 7, Borella Cross Road, Colombo.....
.....*2nd to 14th Defendants- Respondents.*

As Ven'ble Baddegama Piyaratana Nayaka Thera, the Plaintiff-Respondent is dead, I move under Rule 26 of the Rules in the Schedule to the Privy Council Appeals Ordinance (Chapter 85) that Your

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Application by
the 1st
Defendant-
Appellant for a
Certificate
showing who,
if any, in the
opinion of the
Supreme Court,
is the proper
person to be
substituted in
place of the
party who is
dead
24.2.60—
Continued

Lordships' Court to grant a Certificate showing who, if any, in the opinion of Your Lordships' Court, is the proper person to be substituted in place of the above party who is dead.

I further move that Your Lordships' Court be pleased under Rule 13 of the Appellate Procedure (Privy Council) Ordinance 1921 to refer this matter to the District Court of Colombo to inquire and report who, if any, is the proper person to be substituted in place of the above-named Ven'ble Baddegama Piyaratana Nayaka Thera, the Plaintiff-Respondent who has died.

Colombo, 24th day of February, 1960. 10

Motion
dated
24.2.60—
Continued

Received Notice.
(Sgd.) D. L. GUNASEKERA,
*Proctor for 2nd to 14th
Defendants- Respondents.*

(Sgd.) BEN SAMARASINGHE,
*Proctor for First Defendant-
Appellant-Petitioner.*

No. 95
Application by
the 1st
Defendant-
Appellant to
stay the
printing and
preparation of
the Record
12.3.60

No. 95

Application by the 1st Defendant-Appellant to stay the printing and preparation of the Record.

Application No. 124

SUPREME COURT MINUTE PAPER ON APPLICATION

Subject : Application to stay the printing and preparation of the 20
Record in D.C. Colombo 2882/L.

Date : 21.3.60.

Mr. Advocate H. W. JAYEWARDENE, Q.C., for Appellant.

ORDER

Date

31.3.60 List on 1.4.60.

(Intld.) W. G. W.

1.4.60 *Before :* Weerasooriya, J. and Sansoni, J.

H. W. Jayewardene, Q.C., with N.R.M. Daluwatte
for the 1st Defendant-Appellant-Petitioner. 30
C.A.V.

(Intld.) C. T.

Motion
dated
12.3.60

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of the appeal to Her Majesty
the Queen in Council in S.C. 26 (F) D.C.
Colombo 2882/L.

No. 2882—Land D. C. Colombo S.C.No. 26(F) Appeal No. 298	Venerable Morontuduwe Sri Gnaneswara Dhammananda Nayaka Thero of Maliga- kanda Temple, Colombo..... .....1st <i>Defendant-Appellant-Petitioner</i>	No. 95 Application by the 1st Defendant- Appellant to stay the printing and preparation of the Record 12.3.60— <i>Continued</i>
	<i>vs.</i>	
10	1. Venerable Baddegama Piyaratana Nayaka Thera of Maligakanda Temple, Colombo.. <i>Plaintiff-Respondent</i> (dead).	
	2. Christopher William Wijekoon Kannangara of 17, Murugan Place, Havelock Town, Colombo.	Motion dated 12.3.60— <i>Continued</i>
	3. Henry Woodward Amarasuriya of “ Amara- giri”, 28th Lane, Flower Road, Colombo.	
	4. His Excellency Dr. Gunapala Piyasena Malalasekera of “ Samanala”, 16 Longden Terrace, Colombo, presently the Ceylon Embassy, Hotel Leningradskaya, Moscow.	
20	5. D. L. F. Pedris of “ Pedris Villa”, Alfred Place, Kollupitiya, Colombo.	
	6. Wimala Dharma Hewavitarne of “ Sri Nagar” Kollupitiya, Colombo.	
	7. Mudaliyar E. A. Abayasekara of Karagam- pitiya Road, Dehiwela.	
	8. Mudaliyar Piyasena Dharmasiri Abeyward- ena Ratnatunga of “ Sagala”, Chapel Lane, Wellawatte.	
	9. N. S. Moonesinghe of 10, Layards Road, Colombo.	
30	10. Dudley Senanayake of “ Woodlands”, Kanatta Road, Colombo.	
	11. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo.	
	12. Gamini Jayasuriya of 494/6, Galle Road, Colombo.	
	13. Percival Upajiva Ratnatunga of 84, 5th Lane, Kollupitiya, Colombo.	
40	14. A. D. P. A. Wijegoonewardene of No. 7, Borella Cross Road, Colombo..... <i>2nd to 14th Defendants-Respondents.</i>	

No. 95
Application by
the 1st
Defendant-
Appellant to
stay the
printing and
preparation of
the Record
12.3.60—
Continued

I move to file affidavit of the 1st Defendant-Appellant and move that Your Lordships' Court be pleased to direct the stay of the printing and preparation of the record or direct that the record be printed and delivered on a date to be fixed by Your Lordships' Court after the Certificate *re* substitution in place of the deceased Plaintiff-Respondent has been issued by your Lordships' Court.

Colombo, this 12th day of March, 1960.

(Sgd.) BEN SAMARASINGHE,
Proctor for 1st Defendant-Appellant.

—
Motion
dated
12.3.60—
Continued

Received Notice.

10

(Notice was given to Proctor for 2 to 14 Defendants-Respondents on 14/3/60 but he has so far failed to acknowledge acceptance of notice.)

Proctor for 2 to 14 Defendants-Respondents.

Affidavit of
Ven. M.
Dhammananda
Nayaka Thero
12.3.60

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of the appeal to Her Majesty the Queen in Council in S.C.26 (F) D.C. Colombo 2882/L.

Venerable Morontuduwe Sri Gnaneswara Dhammananda Nayaka Thero of Maligakanda Temple, 20 Colombo.

.....1st Defendant-Appellant-Petitioner
vs.

No. 2882—Land
D.C. Colombo
S.C. No. 26 (F)
Appeal No. 298

1. Venerable Baddegama Piyaratana Nayaka Thera of Maligakanda Temple, Colombo.*Plaintiff-Respondent* (dead).
2. Christopher William Wijekoon Kannangara of 17, Murugan Place, Havelock Town, Colombo.
3. Henry Woodward Amarasuriya of "Amara-giri", 28th Lane, Flower Road, Colombo. 30
4. His Excellency Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo, presently the Ceylon Embassy, Hotel Leningradskaya, Moscow.
5. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.
6. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
7. Mudaliyar E. A. Abayasekera of Karagam-pitiya Road, Dehiwala. 40

- | | | |
|----|--|---|
| 10 | 8. Mudaliyar Piyasena Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Lane, Wellawatte.
9. N. S. Moonesinghe of 10, Layards Road, Colombo.
10. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo.
11. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo.
12. Gamini Jayasuriya of 494/6, Galle Road, Colombo.
13. Percival Upajiva Ratnatunga of 84, 5th Lane, Kollupitiya, Colombo.
14. A. D. P. A. Wijegoonewardene of No. 7, Borella Cross Road, Colombo.....
.....2nd to 14th Defendants-Respondents. | No. 95
Application by the 1st Defendant-Appellant to stay the printing and preparation of the Record 12.3.60—
<i>Continued</i>
—
Affidavit of Ven. M. Dhammananda Nayaka Thero 12.3.60—
<i>Continued</i> |
|----|--|---|

I, Venerable Morontuduwe Sri Gnaneswara Dhammananda Nayaka Thero of Maligakanda Temple, Colombo, do hereby solemnly, sincerely and truly declare and affirm as follows :—

- 20 1. I am the 1st Defendant-Appellant in the above appeal to Her Majesty the Queen in Council.
2. The Plaintiff-Respondent died on 15th day of February, 1960.
3. The deceased Plaintiff-Respondent filed this action against me, *inter alia*, for a declaration that he holds the lands and premises described in the Schedule to the plaint in trust for or as trustee of a charitable trust alleged to have been created by Deed No. 925 of 6th December, 1873, attested by W. P. Ranasinghe, Notary Public, and that as such trustee he be declared entitled to the premises in suit.
- 30 4. During the course of the action some of the other Defendants-Respondents died and the abovenamed Defendants-Respondents now claim to be members of the Vidyadhara Sabha.
5. One of the principal questions for consideration at the trial was whether the deceased Plaintiff had been duly appointed the Principal of the Vidyodaya Pirivena and if not whether he could maintain this action.
6. After Final leave to appeal to Her Majesty the Queen in Council was granted by Your Lordships' Court, I have diligently taken all the necessary steps to have the record printed. I have paid all the fees to the Registrar of Your Lordships' Court amounting 40 to a sum of Rs. 4,013/35 and a further sum of Rs. 5,500/- to the Printers.
7. Time has been granted till 21st May, 1960, to deliver the printed briefs and the printing is proceeded with all expedition even though Volume 2 of the brief was sent to the Printers by the Registrar of Your Lordships' Court only on the 6th January, 1960.

No. 95
Application by
the 1st
Defendant-
Appellant to
stay the
printing and
preparation of
the Record
12.3.60—
Continued

Affidavit of
Ven. M.
Dhammananda
Nayaka Thero
12.3.60—
Continued

8. After the death of the Plaintiff-Respondent I on 24th day of February, 1960, applied to Your Lordships' Court for a Certificate under the Privy Council Appeal Rules as to who should be substituted in place of the deceased Plaintiff-Respondent and I submit that till such time the Certificate is issued by Your Lordships' Court the record is defective.

9. I am advised and humbly submit that with the death of the Plaintiff his action has abated since the question as to whether he was the lawfully appointed trustee was a matter personal to the deceased Plaintiff and his right to bring the action and maintain the 10 same terminated with his demise.

10. I fear that no steps will be taken by anybody to effect any substitution even if in law any substitution can be effected in place of the deceased Plaintiff-Respondent.

11. I anticipate that a further sum of approximately Rs. 6,500/- will have to be paid by me to the Printers on the completion of the printing which is now proceeding and all the money paid by me will not be recoverable in the event of no Certificate being issued by Your Lordships' Court.

12. In the circumstances I humbly submit that further printing 20 be stayed till such time as a final decision is made in regard to the substitution in place of the deceased Plaintiff-Respondent. In any event the printed record will have to be amended in the event of substitution being made.

Signed and affirmed to at
Colombo on this 12th day
of March, 1960

(Sgd.) M. DHAMMANANDA.

Before me :

(Sgd.) A. V. PUSHPA DEVI JOSEPH,
Commissioner for Oaths.

30

No. 96
Application by
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
for a Certificate
showing that
he is the
proper person
to be
substituted in
place of the
Plaintiff-
Respondent
now dead—
25.3.60

No. 96

**Application by Ven. Kalukondayawe Pannasekera Nayaka Thero
for a Certificate showing that he is the proper person to be substituted
in place of the Plaintiff-Respondent now dead**

Application No. 133

SUPREME COURT MINUTE PAPER ON APPLICATION

Subject : Application for a certificate showing that the Petitioner is the proper person to be substituted or entered on the record in place of the plaintiff-respondent now dead in D.C. Colombo 2882.

Date : 28.3.60.

40

(i) S
Supreme Court
Minute paper
on Application

Mr. Advocate H. W. JAYEWARDENE, Q.C., for Respondent.

ORDER

Date

31.3.60 List on 1.4.60.

(Intld.) W. G. W.

1.4.60 *Before* : Weerasooriya, J. and Sansoni, J.

E. B. Wikramanayake, Q.C., with C. D. S. Siriwardene for the Petitioner.

10 H. W. Jayewardene, Q.C., with N. R. M. Daluwatte for the 1st Defendant-Respondent.

C.A.V.

(Intld.) C. T. (i)

No. 96
Application by
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
for a Certificate
showing that
he is the
proper person
to be
substituted
in place of the
Plaintiff-
Respondent
now dead
25.3.60
Continued

Supreme Court
Minute Paper on
Application—
Continued

IN THE SUPREME COURT OF THE ISLAND OF CEYLON (ii)

Motion dated
25.3.60

In the Matter of an appeal to Her Majesty The Queen in Council in S.C. No. 26 (F) D.C. Colombo No. 2882/L and

In the matter of an application under Rule 26 of the Privy Council Appeals Ordinance (Cap. 85) of the Ceylon Legislative Enactments.

20

1. Venerable Baddegama Piyaratana Nayaka Thero of Maligakande Temple, Colombo...
.....*Plaintiff-Respondent* (dead)

No. 2882—Land
D.C. Colombo
S.C. No. 26 (F)
Appeal No. 298

vs.

1. Venerable Morontuduwe Sri Gnaneswara Dhammananda Nayaka Thero of Maligakande Temple, Colombo.....
.....*1st Defendant-Appellant.*

30

2. Christopher William Wijekoon Kannangara of 17, Murugan Place, Havelock Town, Colombo.

3. Henry Woodward Amarasuriya of "Amargiri", 28th Lane, Flower Road, Colombo.

4. His Excellency Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo, presently of Lenin-gradskaya, Moscow.

5. D. L. F. Pedris of "Pedris Villa", Alfred Place, Colombo.

40

6. Wimala Dharma Hewavitarne of "Srinagar", Kollupitiya.

No. 96
Application by
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
for a Certificate
showing that
he is the
proper person
to be
substituted in
place of the
Plaintiff-
Respondent
now dead
25.3.60—
Continued

(ii)

—
Motion dated
25.3.60—
Continued.

7. Mudaliyar E. A. Abayasekara of Karagam-
pitiya Road, Dehiwala.
8. Mudaliyar Piyasena Dharmasiri Abeywar-
dane Ratnatunge of "Sagala", Chapel
Lane, Wellawatte.
9. N. S. Moonesinghe of No. 10, Layards Road,
Colombo.
10. Dudley Senanayake of "Woodlands",
Kanatte Road, Colombo.
11. Dr. A. M. Samarasinghe of 104, Reid Avenue, 10
Colombo.
12. Gamini Jayasuriya of 494/6, Galle Road,
Kollupitiya, Colombo.
13. Percival Upajiva Ratnatunge of 84, 5th Lane,
Kollupitiya, Colombo.
14. A. D. P. A. Wijegoonewardene of No. 7,
Borella Cross Road, Colombo.....
..... *Defendants-Respondents*

AND

Venerable Kalukondayawe Pannasekera 20
Nayaka Thero of Maligakande Pirivena,
Colombo *Petitioner.*

I file my appointment as Proctor for the Petitioner abovenamed together with his petition and affidavit and for the reasons stated in the said petition and affidavit move that Your Lordships' Court be pleased to issue a certificate showing that the petitioner is the proper person to be substituted or entered on the record in place of the plaintiff-respondent now dead.

Colombo, 25th March, 1960.

(Sgd.) H. C. PERERA, 30
Proctor for Petitioner.

Received notice,
and object.

(Sgd.) BEN SAMARASINGHE,
25.3.60.

Proctor for 1st defendant-Appellant.

(iii)

Petition of
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
25.3.60

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the Matter of an Appeal to Her Majesty The
Queen In Council in S.C. No. 26 (F) D.C.
Colombo No. 2882/L and

In the Matter of an Application under Rule 26 of
the Privy Council Appeals Ordinance (Cap. 85)
of The Ceylon Legislative Enactments.

No. 2882—Land
D.C. Colombo
S.C. No. 26 (F)
10 Appeal No. 298.

1. Venerable Baddegama Piyaratana Nayaka
Thero of Maligakande Temple, Colombo..
.....*Plaintiff-Respondent* (dead)

vs.

1. Venerable Morontuduwe Sri Gnaneswara
Dhammananda Nayaka Thero of Maliga-
kande Temple, Colombo
.....*1st Defendant-Appellant,*

2. Christopher William Wijekoon Kannangara
of 17, Murugan Place, Havelock Town,
Colombo.

3. Henry Woodward Amarasuriya of “ Amara-
giri”, 28th Lane, Flower Road, Colombo.

4. His Excellency Dr. Gunapala Piyasena
Malalasekera of “ Samanala”, 16, Longden
Terrace, Colombo, presently of The Ceylon
Embassy, Hotel Leningradskaya, Moscow.

5. D. L. F. Pedris of “ Pedris Villa”, Alfred
Place, Colombo.

6. Wimala Dharma Hewavitarne of “ Sri
Nagar”, Kollupitiya, Colombo.

7. Mudaliyar E. A. Abayasekara of Karagam-
pitiya Road, Dehiwala.

8. Mudaliyar Piyasena Dharmasiri Abeywardena
Ratnatunga of “ Sagala”, Chapel Lane,
Wellawatte.

9. N. S. Moonesinghe of No. 10, Layards Road,
Colombo.

10. Dudley Senanayake of “ Woodlands”,
Kanatte Road, Colombo.

11. Dr. A. M. Samarasinghe of 104, Reid Avenue,
Colombo.

12. Gamini Jayasuriya of 496/6, Galle Road,
Colombo.

13. Percival Upajiva Ratnatunga of 84, 5th Lane,
Kollupitiya, Colombo.

No. 96
Application by
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
for a Certificate
showing that
he is the proper
person to be
substituted in
place of the
Plaintiff-
Respondent
now dead
25.3.60—
Continued

—
Petition of
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
25.3.60—
Continued

20

30

40

No. 96
Application by
Ven. Kalu-
kodayawe
Pannasekera
Nayaka Thero
for a Certificate
showing that
he is the
proper person
to be
substituted in
place of the
Plaintiff-
Respondent
now dead
25.3.60—
Continued

(iii)

—
Petition of
Ven. Kalu-
kodayawe
Pannasekera
Nayake Thero
25.3.60—
Continued

14. A. D. P. A. Wijegoonewardene of No. 7,
Borella Cross Road, Colombo.....
.....*Defendants-Respondents.*

AND

Venerable Kalukodayawe Pannasekera
Nayaka Thero of Maligakande Pirivena,
Colombo.....*Petitioner.*

AND

1. Venerable Morontuduwe Sri Gnaneswara
Dhammananda Nayaka Thero of Maliga- 10
kande Temple, Colombo.
2. Christopher William Wijekoon Kannangara
of 17, Murugan Place, Havelock Town,
Colombo.
3. Henry Woodward Amarasuriya of "Amara-
giri", 28th Lane, Flower Road, Colombo.
4. His Excellency Dr. Gunapala Piyasena
Malalasekera of "Samanala", 16, Longden
Terrace, Colombo, presently of The Ceylon
Embassy, Hotel Leningradskaya, Moscow. 20
5. D. L. F. Pedris of "Pedris Villa", Alfred
Place, Colombo.
6. Wimala Dharma Hewavitarne of "Sri-
nagar", Kollupitiya, Colombo.
7. Mudaliyar E. A. Abayasekara of Karagam-
pitiya Road, Dehiwala.
8. Mudaliyar Piyasena Dharmasiri Abeywardena
Ratnatunga of "Sagala", Chapel Lane,
Wellawatte.
9. N. S. Moonesinghe of No. 10, Layards Road, 30
Colombo.
10. Dudley Senanayake of "Woodlands",
Kanatte Road, Colombo.
11. Dr. A. M. Samarasinghe of 104, Reid Avenue,
Colombo.
12. Gamini Jayasuriya of No. 494/6, Galle Road,
Colombo.
13. Percival Upajiva Ratnatunga of 84, 5th
Lane, Kollupitiya, Colombo.
14. A. D. P. A. Wijegoonewardene of No. 7, 40
Borella Cross Road, Colombo.....
.....*Defendants-Respondents.*

On this 25th day of March, 1960.

The petition of the Petitioner abovenamed appearing by Hector Claude Perera, his Proctor, states as follows :—

1. The petitioner is the duly appointed Principal of the Vidyodaya Pirivena, Maligakanda, Colombo, in succession to the plaintiff-respondent who died in Colombo on the 15th February, 1960.

2. The deceased plaintiff-respondent filed this action by virtue of his appointment as Principal, Vidyodaya Pirivena, for or as the Trustee of a charitable trust to the premises described in the schedule to the plaint in the said action and prayed *inter alia* for—

(a) a declaration that he holds the lands and premises described in the said schedule in trust for or as the Trustee of a charitable trust created by deed No. 925 of the 6th December, 1873, attested by W. P. Ranasinghe, Notary Public ;

(b) that he be declared entitled to the said lands and premises ; and

(c) for an Order ejecting the 1st defendant-respondent from the said premises.

3. The second to fourteenth defendants-respondents are the members of the Vidyadhara Sabha also established by the said deed and are responsible for the management of the said Pirivena and the appointment of the Principal of the said Pirivena.

4. Judgment in the said case was delivered in favour of the plaintiff-respondent in the District Court of Colombo on the 17th day of December, 1950, as prayed for.

5. The 1st defendant-respondent appealed to the Hon'ble the Supreme Court against the said judgment and their Lordships of the Supreme Court after hearing dismissed the said appeal of the 1st defendant-respondent.

6. Thereafter the 1st defendant-respondent obtained leave to appeal to Her Majesty The Queen in Council against the said judgment and several necessary steps have already been taken before the record is forwarded.

7. The petitioner abovenamed has been duly appointed Principal of the Vidyodaya Pirivena by the 2nd to 14th defendants-respondents at a Meeting of the Vidyadhara Sabha held on the 4th day of March, 1960, in terms of the said deed No. 925.

8. The petitioner by virtue of the said appointment is vested with the lands and premises which are the subject-matter of the above action and all interests of the plaintiff respondent in the above action have now devolved upon the petitioner.

No. 96

Application by
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
for a Certificate
showing that
he is the
proper person
to be
substituted
in place of the
Plaintiff-
Respondent
now dead
25.3.60—
Continued

—
Petition of
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
25.3.60—
Continued

No. 96
Application by
Ven. Kalu-
kodayawe
Pannasekera
Nayaka Thero
for a Certificate
showing that
he is the
proper person
to be
substituted in
place of the
Plaintiff-
Respondent
now dead
25.3.60—
Continued

9. The petitioner states that by reason of these premises the petitioner is entitled to be substituted in place of the plaintiff-respondent in the above case.

Wherefore the petitioner prays :—

(a) A certificate showing that the petitioner is the proper person to be substituted or entered on the record in place of the plaintiff-respondent now dead ;

(b) for costs of suit; and

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

(Sgd.) H. C. PERERA,

Proctor for Petitioner.

10

(iii)

Petition of
Ven. Kalu-
kodayawe
Pannasekera
Nayaka Thero
25.3.60—
Continued

Settled by :

Mr. Adv. C. D. S. SIRIWARDENA.

Mr. Adv. E. B. WIKRAMANAYAKE, Q.C.

(iv)

Affidavit of
Ven. Kalu-
kodayawe
Pannasekera
Nayaka Thero
23.3.60

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the Matter of an Appeal to Her Majesty The Queen in Council in S.C. No. 26 (F) D.C. Colombo No. 2882/L and

In the Matter of an Application under Rule 26 of 20 the Privy Council Appeals Ordinance (Cap. 85) of the Ceylon Legislative Enactments).

1. Venerable Baddegama Piyaratana Nayaka Thero of Maligakande Temple, Colombo..
.....*Plaintiff-Respondent* (dead)

No. 2882—Land
D.C. Colombo
S.C. No. 26 (F)
Appeal No. 298..

vs.

1. Venerable Morontuduwe Sri Gnaneswara Dhammananda Nayaka Thero of Maligakande Temple, Colombo.
.....*1st Defendant-Appellant.*
2. Christopher William Wijekoon Kannangara of 17, Murugan Place, Havelock Town, Colombo.
3. Henry Woodward Amarasuriya of “ Amara-giri ”, 18th Lane, Flower Road, Colombo.
4. His Excellency Dr. Gunapala Piyasena Malalasekera of “ Samanala ”, 16, Longden Terrace, Colombo, presently of The Ceylon 40 Embassy, Hotel Leningradskaya, Moscow.

5. D. L. F. Pedris of "Pedris Villa", Alfred Place, Colombo.
6. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
7. Mudaliyar E. A. Abayasekara of Karagampitiya Road, Dehiwala.
8. Mudaliyar Piyasena Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Place, Wellawatte.
- 10 9. N. S. Moonesinghe of No. 10, Layards Road, Colombo.
10. Dudley Senanayake of "Woodlands" (iv) Kanatte Road, Colombo.
11. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo.
12. Gamini Jayasuriya of 494/6, Galle Road, Kollupitiya, Colombo.
13. Percival Upajiva Ratnatunga of 84, 5th Lane, Kollupitiya, Colombo.
- 20 14. A. D. P. A. Wijegoonewardene of No. 7, Borella Cross Road, Colombo.....
.....*Defendants- Respondents.*
- AND
- Venerable Kalukondayawe Pannasekera Nayaka Thero of Maligakande Pirivena, Colombo.....*Petitioner...*
- AND
- 30 1. Venerable Morontuduwe Sri Gnaneswara Dhammananda Nayaka Thero of Maligakande Temple, Colombo.
2. Christopher William Wijekoon Kannangara of 17, Murugan Place, Havelock Town, Colombo.
3. Henry Woodward Amarasuriya of "Amaragiri", 28th Lane, Flower Road, Colombo.
4. His Excellency Dr. Gunapala Piyasena Malalasekera of "Samanala", 16, Longden Terrace, Colombo, presently of The Ceylon Embassy Hotel, Leningradskaya, Moscow.
- 40 5. D. L. F. Pedris of "Pedris Villa", Alfred Place, Colombo.

No. 96
Application by
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
for a Certificate
showing that
he is the proper
person to be
substituted in
place of the
Plaintiff-
Respondent
now dead
25.3.60—
Continued

—
Affidavit of
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
23.3.60—
Continued

No. 96
Application by
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
for a Certificate
showing that
he is the proper
person to be
substituted in
place of the
Plaintiff-
Respondent
now dead
25.3.60—
Continued

(iv) Affidavit of
Ven. Kalu-
kondayawe
Pannasekera
Nayaka Thero
23.3.60—
Continued

6. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
7. Mudaliyar E. A. Abayasekara of Karagam-pitiya Road, Dehiwala.
8. Mudaliyar Piyasena Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Lane, Wellawatte.
9. N. S. Moonesinghe of No. 10, Layards Road, Colombo.
10. Dudley Senanayake of "Woodlands", 10 Kanatte Road, Colombo.
11. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo.
12. Gamini Jayasuriya of 494/6, Galle Road, Colombo.
13. Percival Upajiva Ratnatunga of 84, 5th Lane, Kollupitiya, Colombo.
14. A. D. P. A. Wijegoonewardene of No. 7, Borella Cross Road, Colombo.....
..... *Defendants-Respondents.* 20

I, Kalukondayawe Pannasekera Nayaka Thero of Maligakande Pirivena, Colombo, do solemnly, sincerely and truly declare and affirm as follows :—

1. I am the duly appointed Principal of the Vidyodaya Pirivena Maligakanda, Colombo, in succession to the Plaintiff-Respondent who died in Colombo on the 15th February, 1960.

2. The deceased plaintiff-respondent filed this action by virtue of his appointment as Principal, Vidyodaya Pirivena, for or as the Trustee of a charitable trust to the premises described in the schedule to the plaint in the said action and prayed *inter alia* for— 30

(a) a declaration that he holds the lands and premises described in the said schedule in trust for or as the Trustee of a charitable trust created by Deed No. 925 of the 6th December, 1873, attested by W. P. Ranasinghe, Notary Public;

(b) that he be declared entitled to the said lands and premises; and

(c) for an Order ejecting the 1st defendant-respondent from the said premises.

3. The second to fourteenth respondents are the members of the Vidyadhara Sabha also established by the said deed and are responsible for the management of the said Pirivena and the appointment of 40 the Principal for the said Pirivena.

4. Judgment in the said case was delivered in favour of the plaintiff-respondent in the District Court of Colombo on the 17th day of December, 1950, as prayed for.

5. The 1st defendant-respondent appealed to the Hon'ble The Supreme Court against the said judgment and Their Lordships of the Supreme Court after hearing dismissed the said appeal of the 1st defendant-respondent.

6. Thereafter the 1st defendant-respondent obtained leave to appeal to Her Majesty The Queen in Council against the said judgment and several necessary steps have already been taken before the record is forwarded.

7. I have been duly appointed Principal of the Vidyodaya Pirivena by the 2nd to 14th defendants-respondents at a Meeting of the Vidyadhara Sabha held on the 4th March, 1960, in terms of the said deed No. 925.

8. By virtue of the said appointment I am vested with the lands and premises which are the subject-matter of the above action and all interests of the plaintiff-respondent in the above action have now devolved upon me.

9. I state that by reason of these premises I am entitled to be substituted in place of the plaintiff-respondent in the above case.

Signed and affirmed to at Colombo }
on this 23rd day of March, 1960 }

(Sgd.) KALUKONDAYAWE PANNASEKERA.

Before me.

(Sgd.) VICTOR MALACHIAS,

Justice of the Peace.

No. 97

Judgment of the Supreme Court

30 S.C. Applications Nos. 83, 124, and 133.

Present : Weerasooriya, J., and Sansoni, J.

Counsel : H. W. Jayewardene, Q.C., with N. R. M. Daluwatte for the petitioner in Application Nos. 83 and 124.

E. B. Wikramanayake, Q.C., with C. D. S. Siriwardene for the petitioner in Application No. 133.

H. W. Jayewardene, Q.C., with N. R. M. Daluwatte for the 1st respondent in Application No. 133.

No. 96

Application by
Ven. Kalu-
kodayawe
Pannasekera
Nayaka Thero
for a Certificate
showing that
he is the
proper person
to be
substituted in
place of the
Plaintiff-
Respondent
now dead
25.3.60—
Continued

(iv) Affidavit of
Ven. Kalu-
kodayawe
Pannasekera
Nayaka Thero
23.3.60—
Continued

No. 97

Judgment of
the Supreme
Court
5.8.60

No. 97
 Judgment of
 the Supreme
 Court
 5.8.60—
Continued

Argued on : April 1, 1960.

Decided on : 5th August, 1960.

WEERASOORIYA, J.

These three connected applications relate to an appeal which the 1st defendant in Case No. 2882 of the District Court of Colombo intends to prefer to Her Majesty in Council from the judgment of this Court affirming the judgment¹ and decree of the District Court in favour of the plaintiff. In that action the plaintiff, as the duly appointed principal of a Buddhist educational institution known as the Vidyodaya Pirivena, sought a declaration that he is the trustee 10 of a charitable trust created by Deed No. 1259, dated the 9th March, 1876, for establishing and maintaining in the premises described in the schedule to the plaint a pirivena for the purpose of teaching Buddhism, that he holds the premises and is entitled to them as such trustee and for an order ejecting the 1st defendant therefrom. Under Deed No. 1259 power was given to an unincorporated body of persons by the name of the Vidyadhara Sabha to appoint a principal of the Vidyodaya Pirivena whenever a vacancy in the office occurred. The persons who at the time of the institution of the action formed the Vidyadhara Sabha were also made parties defendants but no 20 relief was claimed against them.

The 1st defendant in his answer asserted that the premises described in the schedule to the plaint formed a temple of which he is the lawful incumbent or viharadhipathi, and to which the Vidyodaya is appurtenant, that the appointment of a principal of the pirivena required his approval and that the purported appointment of the plaintiff as principal (presumably without his approval) was unlawful.

After the 1st defendant obtained final leave under the provisions of The Appeals (Privy Council) Ordinance (Cap. 85) to appeal to Her Majesty in Council, the plaintiff respondent died (on the 15th 30 February, 1960). Thereupon the 1st defendant filed Application No. 83 for a certificate under Rule 26 of the rules in the schedule to that Ordinance as to who, in the opinion of this Court, is the proper person to be substituted in place of the deceased plaintiff. He subsequently filed Application No. 124 for an order staying the further printing of the record (for the completion of which time had been granted till the 21st May, 1960) pending the decision of the question of the substitution of a person in place of the deceased plaintiff, stating as the reason for the application that with the death of the plaintiff the action had abated. 40

The petitioner in Application No. 133 claims that he was appointed principal of the Vidyodaya Pirivena in succession to the plaintiff by the Vidyadhara Sabha at a meeting held on the 4th March, 1960,

and as such he applies for a certificate under Rule 26 that he is the proper person to be substituted or entered on the record in place of the plaintiff. It will be convenient to consider this application first.

No. 97
Judgment of
the Supreme
Court
5.8.60—
Continued

In opposing this application Mr. Jayewardene who appeared for the 1st defendant submitted that (as stated in Application No. 124) the action abated with the death of the plaintiff. For this submission he relied on sections 392 and 395 of Chapter XXV of the Civil Procedure Code entitled "OF THE CONTINUATION OF ACTIONS AFTER ALTERATION OF A PARTY'S STATUS" and on the
10 decision of a Divisional Bench of this Court in *Deerananda Thero v. Ratnasara Thero*.² The plaintiff in that case, as the incumbent of a Buddhist temple, sued the defendant alleging that the latter was unlawfully disputing his right to the incumbency, was disobedient and disrespectful to him and obstructing him in the lawful exercise of his rights as incumbent. He prayed that he be declared the incumbent and that the defendant and his agents be ejected from the temple. The defendant, who filed answer claiming to be the lawful incumbent of the temple, died after the trial commenced but before it was concluded. At the instance of the plaintiff another monk who was
20 residing in the temple was substituted by the District Judge on the basis that any rights which the deceased may have had to the incumbency devolved after the deceased's death on the party substituted. The trial then proceeded and judgment was given declaring the plaintiff to be the incumbent and ordering the ejection of the substituted defendant from the temple. On appeal by the substituted defendant the Divisional Bench held that the cause of action did not survive on the death of the original defendant and that the action had, therefore, abated. This decision appears to have proceeded on the basis that as the action was one for declaration of a status the maxim
30 *actio personalis moritur cum persona* applied to the case.

I do not think, however, that it is possible to take a similar view in regard to D.C. Colombo Case No. 2882. The averments and the prayer in the plaint in that case (the issues on which the trial proceeded are not before me) make it clear that the action was one in which the plaintiff, as trustee, sought to vindicate his legal title to the premises in suit. If the averments are true the trustee was bound under section 13 of the Trusts Ordinance (Cap. 72) to maintain the action. There can be no question that on the death of a sole trustee who has filed such an action, the right to sue on the cause of
40 action would survive to his successor in the office of trustee. By virtue of Section 113(1) of the Trusts Ordinance the title to the trust property would in such a case devolve on the successor without the need for any conveyance or vesting order. The continuation of a pending action in these circumstances appears to be specially provided for in section 404 in Chapter XXV of the Civil Procedure Code.

No. 97
 Judgment of
 the Supreme
 Court
 5.8.60—
Continued

This section is substantially the same as Rule 22, order 10 of the Indian Civil Procedure Code. It was held in *Thirumalai Pillai v. Arunachella Padayachi*³ that where a trustee dies or retires and another is elected in his place the devolution of the trust estate on the new trustee is a devolution of an interest within the meaning of Rule 10. See also the local case of *Sobapathipillai v. Vaithialingam*.⁴

In my opinion, if the petitioner in Application No. 133 is the duly appointed principal of the Vidyodaya Pirivena he would, under section 404 of the Civil Procedure Code, be the proper person to continue the action had it been pending. It was held in *Kulasekera Appuhamy v. Malluwa*⁵ that the words "pending the action" in section 404 mean during the progress of the action and before final decree. But although the provisions of that section may not be available to the petitioner for the purposes of getting himself substituted as a party in D.C. Colombo Case No. 2882, inasmuch as the decree in that case has already been entered, what we are concerned with now is whether the petitioner is the proper person to be substituted or entered on the record in place of the deceased plaintiff under Rule 26 of the rules in the schedule to The Appeals (Privy Council) Ordinance. The reason for this rule is stated by Bentwich as follows ¹⁰ in *The Practice of the Privy Council in Judicial Matters*.⁶ "The Privy Council must have proper parties before it or its decrees will not be binding. Where, therefore, it becomes known before the lodging of the petition at the Council Office that either a party appellant or respondent has died since the date of the order finally giving leave to appeal to the Sovereign in Council, an Order of Revivor must be obtained before the petition of appeal can be lodged. Under the Judicial Committee Rules it is for the Court below to determine who are the right parties."

No attempt has been made by the 1st defendant to contradict ³⁰ the statement in the affidavit of the petitioner that he is the duly appointed principal of the Vidyodaya Pirivena. Although Mr. Jayewardene suggested that the matter be referred under Rule 13 of the rules in the Appellate Procedure (Privy Council) Order, 1921, to the District Court of Colombo for inquiry and report as to who, if any, is the proper person to be substituted in place of the deceased plaintiff, I do not think that in the circumstances it is necessary to do so. In my opinion, the petitioner is entitled to a certificate under Rule 26 of the rules in the schedule to The Appeals (Privy Council) Ordinance that he is the proper person to be substituted or entered on the record ⁴⁰ in place of the deceased plaintiff, and I therefore order that such a certificate issue in his favour. The 1st defendant will pay the petitioner the costs of this application.

In view of the above order there appears to be no need to make any order in the other two applications (Nos. 83 and 124). I leave it open, however, to the 1st defendant, if he is so advised, to make an application based on proper material under Rule 18 of the rules in the Appellate Procedure (Privy Council) Order, 1921, for such extension of time as may be necessary for the prints of the record to be delivered to the Registrar.

No. 97
Judgment of
The Supreme
Court
5.8.60—
Continued

(Sgd.) H. W. R. WEERASOORIYA,
Puisne Justice.

10 SANSONI, J.

I agree.

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

- (1) 59 N.L.R. 412
- (2) 60 N.L.R. 7
- (3) (1926) A.I.R. Madras 540
- (4) 40 N.L.R. 107
- (5) 28 N.L.R. 246
- (6) 9th Edition 195

SUPPLEMENT TO PART I

No. 1

Supreme Court Application No. 226 of 1946

SUPREME COURT MINUTE PAPER ON APPLICATIONS

Subject : To substitute Dr. B. E. Fernando in place of 14th defendant deceased in D.C. Colombo 2882/L. S.C. 215.

Date : 22.5.46.

Papers filed in the Registry, Supreme Court.
Listed before the Honourable Sir John Howard, Kt., K.C.,
Chief Justice, and Mr. M. W. H. de Silva, K.C., Puisne
Justice.

10

Mr. Advocate E. B. Wikramanayake with S. R. Wijayatilleke for the
Petitioner.

ORDER

Date : 30.5.46 Application granted.

(Sgd.) C. TOUSSAINT.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

Venerable Baddegama Piyaratana Nayaka Thero
as Principal of the Vidyodaya Pirivena,
Maligakanda in Colombo.....*Plaintiff-Appellant*

20 D.C. Colombo 2882/L.

vs.

S.C. No. 215(F).

1. Venerable Vagisvaracharya Morontuduwe Sri Naneswara Dhammananda Nayaka Thero of Vidyodaya Pirivena, Maligakanda in Colombo.....*1st Defendant-Respondent.*
2. The Hon'ble Mr. Don Stephen Senanayake, M.S.C., of "Woodland", Kanatta Road, Colombo, and 12 others.

30

2nd to 14th defendants as Members of the
Vidyadhara Sabha of the Vidyodaya
Pirivena, Maligakanda in Colombo.....
.....*2nd to 14th Defendants-Respondents.*

I, Rajah Hewavitarnne of Colpetty Colombo not being a Christian do hereby solemnly sincerely and truly declare and affirm as follows :—

1. I am the Secretary of the Vidyadhara Sabha, Maligakanda, Maradana.

2. Dr. D. B. Perera the 14th defendant in the above action who was a member of the Vidyadhara Sabha departed this life at the General Hospital Colombo on the 27th day of February, 1946.

3. I was present at the cremation of his remains at the General
40 Cemetary on the 2nd day of March, 1946.

No. 1
Supreme
Court
Application
No. 226 of 1946
—
(i) Journal
Entries

(ii) Affidavit of
Raja Hewa-
vitarnne.
Secretary of
the
Vidyadhara
Sabha
28.4.46

No. 1
Supreme Court
Application
No. 226 of
1946—
Continued
—
(ii) Affidavit of
Raja Hewa-
vitarne,
Secretary of
the
Vidyadhara
Sabha
28.4.46—
Continued

4. A Special General Meeting of the Vidyadhara Sabha and the Dayakayas was held at the Maha Bodhi Mandiraya, Maligakanda, Maradana, on the 17th day of March, 1946, at 5.30 p.m. presided over by Mr. D. S. Senanayake of the Sabha and Doctor B. E. Fernando, F.R.C.S. of Barnes Place, Colombo, was unanimously elected to fill the vacancy created by the death of the late Dr. D. B. Perera the 14th defendant.

5. It has become necessary for the purpose of the above case to substitute the said Doctor B. E. Fernando in place of Doctor D. B. Perera the 14th defendant deceased. 10

(Sgd.) RAJAH HEWAVITARNE.

Signed and affirmed at Colombo
on this 28th day of April, 1946.

Before me.

(Sgd.) A. P. de ZOYSA,
J.P.

(iii) Motion of
Proctor D. E.
Weerasooria
10.5.46

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

Venerable Baddegama Piyaratana Nayaka Thero
as Principal of the Vidyodaya Pirivena,
Maligakanda in Colombo.... *Plaintiff-Appellant* 20

D.C. Colombo 2882/L.
S.C. No. 215(F).

vs.

1. Venerable Vagisvaracharya Morontuduwe Sri Naneswara Dhammananda Nayaka Thero of Vidyodaya Pirivena, Maligakanda in Colombo..... *1st Defendant-Respondent*.

2. The Hon'ble Mr. Don Stephen Senanayake, M.S.C., of "Woodland", Kanatta Road, Colombo and 12 others.

2nd to 14th defendants as Members of the Vidyadhara Sabha of the Vidyodaya 30
Pirivena, Maligakanda in Colombo.....
..... *2nd to 14th Defendants-Respondents*.

I file my appointment as Proctor for Dr. B. E. Fernando who was duly elected as a member of the Vidyadhara Sabha in place of Dr. D. B. Perera the 14th defendant deceased together with the affidavit of Rajah Hewavitarne the 9th defendant and the Secretary of the Vidyadhara Sabha and for the reason stated therein move that the said Doctor B. E. Fernando be substituted in place of Dr. D. B. Perera the 14th defendant deceased.

Colombo, 10th May, 1946. 40

(Sgd.) D. E. WEERASOORIA,
Proctor for Dr. B. E. Fernando.

GEORGE THE SIXTH by the Grace of God of Great Britain,
Ireland and of the British Dominions Beyond the Seas
King, Defender of the Faith

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

Venerable Baddegama Piyaratana Nayaka Thero
as Principal of the Vidyodaya Pirivena,
Maligakanda in Colombo *Plaintiff-Appellant*

No. 1
Supreme Court
Application
No. 226 of
1946—
Continued

(iv) Order of
the Supreme
Court
31.5.46

D.C. Colombo 2882/L.

vs.

- 10 S.C. No. 215(F). 1. Venerable Vagisvaracharya Morontuduwe Sri
Naneswara Dhammananda Nayaka Thero of
Vidyodaya Pirivena, Maligakanda in
Colombo *1st Defendant-Respondent.*
2. The Hon'ble Mr. Don Stephen Senanayake,
M.S.C., of "Woodland", Kanatta Road,
Colombo, and 12 others.
2nd to 14th defendants as Members of the
Vidyadhara Sabha of the Vidyodaya
Pirivena, Maligakanda in Colombo
. *2nd to 14th Defendants-Respondents.*

20 In the matter of the application of Rajah Hewa-
vitarne of Colpetty, Colombo, for the substi-
tution of Dr. B. E. Fernando in place of Dr.
D. B. Perera the 14th defendant, deceased.

Upon reading the affidavit of the abovenamed Rajah Hewa-
vitarne, and on the motion of Mr. E. B. Wikramanayake, with
Mr. S. R. Wijetilleke, Advocates, it is hereby ordered that the said
Dr. B. E. Fernando be and he is hereby substituted in place of
Dr. D. B. Perera the 14th defendant deceased.

30 Witness the Honourable Sir John Curtois Howard, K.C., Knight,
Chief Justice, at Colombo this Thirtieth day of May in the year of
Our Lord One thousand Nine hundred and Forty-six and of Our
Reign the Tenth.

(Sgd.) F. C. VAN CUYLENBERG;
for Registrar, S.C. 31.5.46.

No. 2

Motion of Proctor D. E. Weerasooria

IN THE DISTRICT COURT OF COLOMBO

Venerable Baddegama Piyaratana Nayaka Thera as
Principal of the Vidyodaya Pirivena, Maliga-
kanda in Colombo *Plaintiff*

No. 2
Motion of
Proctor D. E.
Weerasooria
30.4.47

No. 2
Motion of
Proctor D. E.
Weerasooria
30.4.47—
Continued

No. 2882/L.

vs.

1. Venerable Vagisvaracharya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda in Colombo and others.....*Defendants.*

The 14th defendant in the above case having died on the 27th February, 1946, I file my appointment as Proctor for Dr. B. E. Fernando of Colombo together with the Order of the Honourable the Supreme Court dated 13th May, 1946, and move that Dr. B. E. Fernando be substituted in place of the 14th defendant deceased. 10

Colombo 30th April, 1947.

(Sgd.) D. E. WEERASOORIA,
Proctor for Dr. B. E. Fernando.

No. 3
Affidavit of
Raja Hewa-
vitarne,
Secretary of
the
Vidyadhara
Sabha
20.1.48

No. 3

**Affidavit of Raja Hewavitarne, Secretary of the Vidyadhara
Sabha**

IN THE DISTRICT COURT OF COLOMBO

Venerable Baddegama Piyaratana Nayaka Thera as
Principal of the Vidyodaya Pirivena, Maliga-
kanda in Colombo.....*Plaintiff* 20

No. 2882/L.

vs.

1. Venerable Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo, and 15 others.....*Defendants.*

Venerable Baddegama Piyaratana Nayaka Thera
as Principal of the Vidyodaya Pirivena,
Maligakanda in Colombo...*Plaintiff-Petitioner.*

and

Dr. E. Amarasinghe of Gregory's Road, 30
Colombo.....*Respondent.*

I, Raja Hewavitarne of Colpetty, Colombo, not being a Christian do hereby solemnly sincerely and truly declare and affirm as follows :—

1. I am the Secretary of the Vidyadhara Sabha of Maligakanda, Colombo.

2. Doctor B. E. Fernando the 15th defendant who was substituted in place of the 14th defendant deceased in the above case died on 7th December, 1947.

3. At a meeting of the Vidyadhara Sabha duly convened on 6th December, 1947, the respondent abovenamed was duly elected as a member of the said Sabha in place of the deceased member the said Dr. B. E. Fernando the 15th defendant.

4. It is necessary for the purpose of proceeding with this action that the respondent abovenamed should be substituted as defendant in the above case in place of the said deceased defendant Dr. B. E. Fernando the 15th defendant.

(Sgd.) R. HEWAVITARNE.

10 Signed and affirmed to at Colombo, on this 20th day of January, 1948.

Before me.

(Sgd.) Illegibly.

J.P.

No. 3
Affidavit of
Raja Hewa-
vitarne,
Secretary of
the
Vidyadhara
Sabha
20.1.48—
Continued

No. 4

Motion of D. R. de S. Abhayanayake, Proctor for Plaintiff

IN THE DISTRICT COURT OF COLOMBO

Venerable Baddegama Piyaratana Nayaka Thera as
Principal of the " Vidyodaya Pirivena ", Maliga-
kanda in Colombo.....*Plaintiff*

20
No. 2882/L.

vs.

1. Venerable Vagisvarachariya Morontuduwe Sri
Naneswara Dhammananda Nayaka Thera of
Vidyodaya Pirivena, Maligakanda, Colombo,
and 15 others.....*Defendants.*

Venerable Baddegama Piyaratana Nayaka Thera
as Principal of the " Vidyodaya Pirivena ",
Maligakanda in Colombo...*Plaintiff-Petitioner.*
and

30
Dr. E. Amarasinghe of Gregory's Road,
Colombo.....*Respondent.*

I file petition of the petitioner abovenamed together with an affidavit from Mr. Raja Hewavitarne, the Secretary of the Vidyadhara Sabha, Colombo, and move that the respondent abovenamed be substituted in place of Dr. B. E. Fernando the 15th defendant deceased.

Colombo, 21st January, 1948.

(Sgd.) D. R. De S. ABHAYANAYAKE,
Proctor for Plaintiff-Petitioner.

No. 4
Motion of
D. R. de S.
Abhayanayake,
Proctor for
Plaintiff
21.1.48

No. 5
 Petition of
 Ven. Badde-
 gama Piya-
 ratana Nayaka
 Thera
 (Plaintiff)
 21.1.48

No. 5

**Petition of Ven. Baddegama Piyaratana Nayaka Thera
 (Plaintiff)**

IN THE DISTRICT COURT OF COLOMBO

Venerable Baddegama Piyaratana Nayaka Thera as
 Principal of the Vidyodaya Pirivena, Maliga-
 kanda in Colombo.....*Plaintiff*

No. 2882/L.

vs.

1. Venerable Vagisvaracharya Morontuduwe Sri
 Naneswara Dhammananda Nayaka Thera of 10
 Vidyodaya Pirivena, Maligakanda, Colombo,
 and 15 others.....*Defendants.*

Venerable Baddegama Piyaratana Nayaka Thera
 as Principal of the Vidyodaya Pirivena,
 Maligakanda in Colombo....*Plaintiff-Petitioner*
and

Dr. E. Amarasinghe of Gregory's Road,
 Colombo.....*Respondent.*

On this 21st day of January, 1948.

The petition of the petitioner abovenamed appearing by 20
 D. Richard de Silva Abhayanyake, his Proctor, states as follows :—

1. The petitioner is the plaintiff abovenamed.

2. Dr. B. E. Fernando the 15th defendant substituted in place
 of the 14th defendant deceased in the above case died on the 7th
 November, 1947.

3. At a Meeting of the Vidyadhara Sabha duly convened on
 the 6th December, 1947, the respondent abovenamed was duly
 elected as a member of the said Sabha in place of the deceased
 member the said Dr. B. E. Fernando the 15th defendant.

4. It is necessary for the purpose of this action that the 30
 respondent abovenamed should be substituted in place of the said
 deceased defendant Dr. B. E. Fernando the 15th defendant.

Wherefore the petitioner prays that the respondent abovenamed
 be substituted in place of Dr. B. E. Fernando the 15th defendant
 deceased and for such other and further relief in the premises as to
 this Court shall seem meet.

(Sgd.) D. R. De S. ABHAYANAYAKE,
Proctor for Petitioner.

No. 6

Affidavit of Wimala Dharma Hewavitarne, Treasurer of the Vidyadhara Sabha

IN THE DISTRICT COURT OF COLOMBO

Venerable Baddegama Piyaratana Nayaka Thera as Principal of the Vidyodaya Pirivena, Maligakanda in Colombo.....*Plaintiff*

No. 2882/L.

vs.

10

1. Venerable Vagisvaracharya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo, and 16 others.....*Defendants.*

Venerable Baddegama Piyaratana Nayaka Thera as Principal of the Vidyodaya Pirivena, Maligakanda in Colombo.....*Plaintiff-Petitioner*
and

Nalin Moonesinghe of No. 10, Layards Road, Havelock Town, Colombo.....*Respondent.*

I, Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, 20 Colombo, not being a Christian solemnly sincerely and truly declare and affirm as follows :—

1. I am the Treasurer of the Vidyadhara Sabha of Maligakanda, Colombo, and I was acting as Secretary of the said Sabha during the absence of the Secretary, Mr. Rajah Hewavitarne from the Island.

2. Dr. E. Amarasinghe who was substituted as per journal entry dated 21st January, 1948, in place of the 15th defendant deceased in the above case died at Colombo on 12th July, 1948.

30 3. At a meeting of the Vidyadhara Sabha duly convened on the 5th August, 1948, the respondent abovenamed was duly elected as a member of the said Sabha in place of the deceased member the said Dr. E. Amarasinghe.

4. It is necessary for the purpose of proceeding with this action that the respondent abovenamed should be substituted as defendant in the above case in place of the said deceased, Dr. E. Amrarsinghe.

(Sgd.) W. D. HEWAVITARNE,

Signed and affirmed to at Colombo,
on this 28th day of July, 1949.

40

Before me.

(Sgd.) L. H. De KRETZER,

C.O.

No. 6

Affidavit of
Wimala
Dharma Hewa-
vitarne,
Treasurer of
the Vidyadhara
Sabha
28.7.49

No. 7
 Motion of
 Proctor D. E. Weerasooria
 22.8.49

No. 7**Motion of Proctor D. E. Weerasooria****IN THE DISTRICT COURT OF COLOMBO**

Venerable Baddegama Piyaratana Nayaka Thera as
 Principal of the Vidyodaya Pirivena, Maligakanda in Colombo..... *Plaintiff*

No. 2882/L.

vs.

1. Venerable Vagisvaracharya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo, and 10 15 others..... *Defendants.*

Venerable Baddegama Piyaratana Nayaka Thera
 as Principal of the Vidyodaya Pirivena,
 Maligakanda in Colombo..... *Plaintiff-Petitioner*
and

Nalin Moonesinghe of Layards Road, Havelock
 Town, Colombo..... *Respondent.*

I file my appointment as Proctor for Nalin Moonesinghe, the respondent abovenamed and do hereby consent to his being substituted in place of Dr. E. Amarasinghe, the 16th defendant deceased 20 in the above case.

Colombo, 22nd August, 1949.

(Sgd.) D. E. WEERASOORIA,

Proctor for Nalin Moonesinghe.

No. 8
 Motion of D. R. de S. Abhayanayake,
 Proctor for
 Plaintiff
 23.8.49

No. 8**Motion of D. R. de S. Abhayanayake, Proctor for Plaintiff****IN THE DISTRICT COURT OF COLOMBO**

Venerable Baddegama Piyaratana Nayaka Thera as
 Principal of the Vidyodaya Pirivena, Maligakanda in Colombo..... *Plaintiff* 30

No. 2882/L.

vs.

1. Venerable Vagisvarachariya Morontuduwe Sri Naneswara Dhammananda Nayaka Thera of Vidyodaya Pirivena, Maligakanda, Colombo, and 15 others..... *Defendants.*

Venerable Baddegama Piyaratana Nayaka Thera
 as Principal of the Vidyodaya Pirivena,
 Maligakanda in Colombo..... *Plaintiff-Petitioner*
and

Nalin Moonesinghe of Layards Road, Havelock 40
 Town, Colombo..... *Respondent.*

I file petition of the petitioner abovenamed together with an affidavit from Wimaladharmā Hewavitarne the Treasurer and acting Secretary of the Vidyadhara Sabha, Colombo, and move that the respondent abovenamed be substituted in place of Dr. E. Amarasinghe the 16th defendant deceased.

I also file herewith a minute of consent from Mr. D. E. Weerasooria, Proctor for the respondent abovenamed together with his proxy.

Colombo, 23rd August, 1949.

10

(Sgd.) D. R. De S. ABHAYANAYAKE,
Proctor for Plaintiff-Petitioner.

No. 5
Motion of D. R.
de S. Abhaya-
nayake,
Proctor for
Plaintiff
23.8.49—
Continued

No. 9

**Petition of Ven. Baddegama Piyaratana Nayaka Thera
(Plaintiff)**

IN THE DISTRICT COURT OF COLOMBO

Venerable Baddegama Piyaratana Nayaka Thera as
Principal of the "Vidyodaya Pirivena", Maliga-
kanda in Colombo.....*Plaintiff*

No. 2882/L.

20

vs.
1. Venerable Vagisvaracharya Morontuduwe Sri
Naneswara Dhammananda Nayaka Thera of
Vidyodaya Pirivena, Maligakanda, Colombo, and
15 others.....*Defendants.*

Venerable Baddegama Piyaratana Nayaka Thera
as Principal of the Vidyodaya Pirivena,
Maligakanda in Colombo.....*Plaintiff-Petitioner*

and

Nalin Moonesinghe of No. 10 Layards Road,
Havelock Town, Colombo.....*Respondent.*

30 On this 23rd day of August, 1949.

The petition of the plaintiff-petitioner abovenamed appearing by D. Richard de Silva Abhayanayake, his proctor, states as follows:—

1. Dr. E. Amarasinghe who was substituted as per Journal Entry dated 21st January, 1948, in place of 15th defendant deceased in the above case died on 12th July, 1948.

2. At a meeting of the Vidyadhara Sabha duly convened on the 5th August, 1948, the respondent abovenamed was duly elected as a member of the said Sabha in place of the deceased member the said Dr. E. Amarasinghe.

No. 9
Petition of
Ven. Badde-
gama Piyara-
ratana Nayaka
Thera
(Plaintiff)
23.8.49

No. 9
 Petition of
 Ven. Badde-
 gama Piya-
 ratana Nayaka
 Thera
 (Plaintiff)
 23.8.49—
Continued

3. It is necessary for the purpose of proceeding with this action that the respondent abovenamed should be substituted as defendant in the above case in place of the said deceased defendant Dr. E. Amarasinghe.

Wherefore the plaintiff-petitioner prays that the respondent abovenamed be substituted in place of the 16th defendant deceased.

For costs in this behalf incurred and for such other and further relief in the premises as to this Court shall seem meet.

(Sgd.) D. R. De S. ABHAYANAYAKE,
Proctor for Plaintiff-Petitioner. 10

No. 10
 Motion of D. R.
 de S. Abhaya-
 nayake, Proctor
 for Plaintiff
 29.9.49

No. 10

Motion of D. R. de S. Abhayanayake, Proctor for Plaintiff

IN THE DISTRICT COURT OF COLOMBO

Venerable Baddegama Piyaratana Nayaka Thera as
 Principal of the Vidyodaya Pirivena, Maligakanda
 in Colombo..... *Plaintiff*
 No. 2882/L. *vs.*

Venerable Vagisvaracharya Morontuduwe Sri Nanes-
 wara Dhammananda Nayaka Thera of Vidyodaya
 Pirivena, Maligakanda, Colombo and others..... 20
 *Defendants.*

Venerable Baddegama Piyaratana Nayaka Thera of
 Maligakanda, Colombo..... *Plaintiff-Petitioner*
and

Daya Hewavitarne of Alfred House Avenue,
 Colombo..... *Respondent.*

I file petition of the petitioner abovenamed together with an affidavit from Raja Hewavitarne the 9th defendant in the above case and the Honorary Secretary of the Vidyadhara Sabha, Colombo, and move that the respondent abovenamed be substituted in place of 30 J. Moonesinghe the 4th defendant deceased.

I also file herewith a minute of consent from Mr. D. E. Weerasooria, proctor for the respondent abovenamed together with his proxy.

Colombo, 29th September, 1949.

(Sgd.) D. R. de S. ABHAYANAYAKE,
Proctor for Plaintiff-Petitioner.

No. 11

**Petition of Ven. Baddegama Piyaratana Nayaka Thera
(Plaintiff)**

No. 11
Petition of
Ven. Badde-
gama Piya-
ratana Nayaka
Thera
(Plaintiff)
29.9.49

IN THE DISTRICT COURT OF COLOMBO

Venerable Baddegama Piyaratana Nayaka Thera as
Principal of the Vidyodaya Pirivena, Maligakanda
in Colombo.....*Plaintiff*

No. 2882/L.

vs.

10

Venerable Vagisvaracharya Morontuduwe Sri Nanes-
wara Dhammananda Nayaka Thera of Vidyodaya
Pirivena, Maligakanda, Colombo and 15 others.....
.....*Defendants.*

Venerable Baddegama Piyaratana Nayaka Thera as
Principal of Vidyodaya Pirivena, Maligakanda,
Colombo.....*Plaintiff-Petitioner*

and

Daya Hewavitarne of No. 7, Alfred House Avenue,
Colombo.....*Respondent.*

On this 29th day of September, 1949.

20 The petition of the plaintiff-petitioner abovenamed appearing
by D. Richard de Silva Abhayanayake, his Proctor, states as follows:—

1. J. Moonesinghe the 4th defendant in the above case died at
Colombo on the 4th day of January, 1949.

2. At a meeting of the Vidyadhara Sabha duly convened on
the 31st January, 1949, the respondent abovenamed was duly elected
as a member of the said Sabha in place of the deceased member the
said J. Moonesinghe.

3. It is necessary for the purpose of proceeding with this action
that the respondent abovenamed should be substituted as defendant
30 in the above case in place of the said deceased J. Moonesinghe.

Wherefore the plaintiff-petitioner prays that the respondent
abovenamed be substituted in place of the 4th defendant deceased.

For costs in this behalf incurred and for such other and further
relief in the premises as to this Court shall seem meet.

(Sgd.) D. R. de S. ABHAYANAYAKE,
Proctor for Plaintiff-Petitioner.

No. 12
Affidavit of
Raja Hewa-
vitarne,
Secretary of
the Vidyadhara
Sabha
29.9.49

No. 12

**Affidavit of Raja Hewavitarne, Secretary of the
Vidyadhara Sabha**

IN THE DISTRICT COURT OF COLOMBO

Venerable Baddegama Piyaratana Nayaka Thera as
Principal of the Vidyodaya Pirivena, Maligakanda
in Colombo.....*Plaintiff*

No. 2882/L. *vs.*

Venerable Vagisvaracharya Morontuduwe Sri Nanes-
wara Dhammananda Nayaka Thera of Vidyodaya 10
Pirivena, Maligakanda, Colombo and 15 others.....
.....*Defendants.*

Venerable Baddegama Piyaratana Nayaka Thera as
Principal of Vidyodaya Pirivena, Maligakanda in
Colombo.....*Plaintiff-Petitioner*
and
Daya Hewavitarne of No. 7, Alfred House Avenue,
Colombo.....*Respondent.*

I, Raja Hewavitharne of Colpetty, Colombo, not being a
Christian do hereby solemnly, sincerely and truly declare and affirm 20
as follows :—

1. I am the 9th defendant in the above case and the Hony.
Secretary of the Vidyadhara Sabha of Maligakanda, Colombo.

2. J. Moonesinghe the 4th defendant in the above case died at
Colombo on the 4th day of January, 1949.

3. At the meeting of the Vidyadhara Sabha duly convened on
the 31st day of January, 1949, the respondent abovenamed was duly
elected as a member of the said Vidyadhara Sabha in place of the
deceased member the said J. Moonesinghe.

4. It is necessary for the purpose of proceeding with this 30
action that the respondent abovenamed should be substituted as
defendant in the above case in place of the said deceased
J. Moonesinghe.

(Sgd.) RAJAH HEWAVITHARANE.

Signed and affirmed to at Colombo
on this 29th day of September, 1949.

Before me.

(Sgd.) Illegibly.

J.P.

No. 13**Motion of Proctor D. E. Weerasooria**

No. 13
Motion of
Proctor D. E.
Weerasooria
29.9.49

IN THE DISTRICT COURT OF COLOMBO

Venerable Baddegama Piyaratana Nayaka Thera as
Principal of the Vidyodaya Pirivena, Maligakanda
in Colombo.....*Plaintiff*

No. 2882/L.

vs.

10

Venerable Vagisvaracharya Morontuduwe Sri Nanes-
wara Dhammananda Nayaka Thera of Vidyodaya
Pirivena, Maligakanda, Colombo and 15 others.....
.....*Defendants.*

Venerable Baddegama Piyaratana Nayaka Thera as
Principal of Vidyodaya Pirivena, Maligakanda,
Colombo.....*Plaintiff-Petitioner*

and

Daya Hewavitarne of No. 7, Alfred House Avenue,
Colombo.....*Respondent.*

I file my appointment as Proctor for Daya Hewavitarne the
respondent abovenamed and do hereby consent to his being sub-
stituted in place of J. Moonesinghe the 4th defendant deceased in
the above case.

Colombo, 29th September, 1949.

(Sgd.) D. E. WEERASOORIA,
Proctor for Plaintiff-Petitioner

No. 14**Supreme Court Application No. 433 of 1960****Journal Entries****SUPREME COURT MINUTE PAPER ON APPLICATIONS**

Subject : Application for Revision and/or Restitutio in Integrum in
D.C. Colombo 2882/L.

30

Date : 18.10.60.

Papers filed in the Registry, Supreme Court.

Date :**ORDER**

10.11.60.

List on 11.11.60.

(Intld.) W. G. W.

No. 14
Supreme Court
Application
No. 433 of
1960

(i) Journal
Entries from
18.10.60 to
11.11.60

No. 14
Supreme Court
Application
No. 433 of
1960—
Continued
—
(i) Journal
Entries from
18.10.60 to
11.11.60—
Continued

11.11.60.

Before : SANSONI, J. and H. N. G. FERNANDO, J.

E. R. S. R. Coomaraswamy with A. I. Wijewardene for
the Petitioner.

Application refused.

(Sgd.) C. TOUSSAINT.

(ii) Motion of
Proctor Ben
Samarasinghe
18.10.60

Motion of Proctor Ben Samarasinghe

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Revision
and/or Restitutio in integrum under the 10
provisions of Civil Procedure Code.

Venerable Baddegama Piyaratana Nayaka
Thero of Maligakanda Temple, Colombo.
.....*Plaintiff (Deceased)*

vs.

No. 2882-L
S.C. No. 26 (Final)
Appeal No. 298.

1. Venerable Morontuduwe Sri Gneswara
Dhammananda Nayaka Thero of Maliga-
kanda Temple, Colombo...*1st Defendant.*
2. Christopher William Wijekoon Kannangara
of No. 17, Murugan Place, Colombo, and 20
others.....*2 to 14 Defendants.*

and

Venerable Morontuduwe Sri Gneswara
Dhammananda Nayaka Thero of Maliga-
kanda Temple, Colombo.....
.....*1st Defendant-Appellant-Petitioner*

vs.

1. Venerable Kalukondayawe Pannasekhera
Nayaka Thero of Maligakanda Temple,
Colombo..... 30
.....*Substituted Plaintiff-Respondent.*
2. Christopher William Wijekoon Kannangara
of 17, Murugan Place, Havelock Town,
Colombo.
3. Henry Woodward Amarasuriya of "Amar-
giri", 28th Lane, Flower Road, Colombo.

4. His Excellency Dr. Gunapala Piyasena Malalasekera of Samanala, 16, Longden Terrace, Colombo, presently the Ceylon Embassy, Hotel Leningradskaya, Moscow.
5. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.
6. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
- 10 7. Mudaliyar E. A. Abayasekara of Karagam-pitiya Road, Dehiwala.
8. Mudaliyar Piyasena Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Lane, Wellawatta.
9. N. S. Moonesinghe of 10, Layards Road, Colombo.
10. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo.
11. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo.
- 20 12. Gamini Jayasuriya of 496/6, Galle Road, Colombo.
13. Percival Upajiva Ratnatunga of 84, 5th Lane, Kollupitiya, Colombo.
14. A. D. P. A. Wijegoonewardene of No. 7, Borella Cross Road, Colombo.....
.....2 to 14 *Defendant-Respondents*.

No. 14
Supreme Court
Application
No. 433 of
1960—
Continued

(ii) Motion of
Proctor Ben
Samarasinghe
18.10.60—
Continued

I file my appointment as Proctor for the 1st Defendant-Appellant-Petitioner abovenamed together with his petition and affidavit and
30 documents marked "A1", "A2", "A3", "E", "B", "C1", "C2", "C3", "D" and "F" and for the reasons stated therein—
move that Your Lordships' Court be pleased—

A. (1) to set aside the order of substitution made on the 31st day of May, 1946; and

(2) to set aside all subsequent proceedings *or in the alternative*

B. (1) to set aside the order of substitution made per incuriam on the 5th August, 1960; and

(2) to refer the application of the 1st defendant-appellant-petitioner made to Your Lordships' Court bearing
40 No. 83/1960 to the District Court of Colombo to inquire and report as to who is the proper person to be

No. 14
Supreme Court
Application
No. 433 of
1960—
Continued

(ii) Motion of
Proctor Ben
Samarasinghe
18.10.60—
Continued

substituted or entered in the record in place of the deceased plaintiff and that the petitioner be granted an opportunity to file his objections ; and
(3) to recall the certificate issued under Rule 26 of the Privy Council (Appeals) Ordinance.

Colombo, 18th October, 1960.

(Sgd.) BEN SAMARASINGHE,
Proctor for 1st Defendant-Appellant-Petitioner.

(iii) Petition of
Ven. Morontu-
duwe Sri
Gnaneswara
Dhammananda
Nayaka Thera
18.10.60

**Petition of Ven. Morontuduwe Sri Gnaneswara Dhammananda
Nayaka Thera**

10

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Revision and/or Restitutio in integrum under the provisions of Civil Procedure Code.

Venerable Baddegama Piyaratana Nayaka Thero of Maligakanda Temple, Colombo.
.....*Plaintiff (Deceased)*

No. 2882-L—D.C. Col.
S.C. No. 26 (Final)
Appeal No. 298.

vs.

1. Venerable Morontuduwe Sri Gnaneswara Dhammananda Nayaka Thero of Maligakanda Temple, Colombo.*1st Defendant*
2. Christopher William Wijekoon Kannangara of No. 17, Murugan Place, Colombo and others*2 to 14 Defendants.*

and

Venerable Morontuduwe Sri Gnaneswara Dhammananda Nayaka Thero of Maligakanda Temple, Colombo
.....*1st Defendant-Appellant-Petitioner*

vs.

1. Venerable Kalukondayawe Pannasehkeraya Nayaka Thero of Maligakanda Temple, Colombo
.....*Substituted Plaintiff-Respondent.*
2. Christopher William Wijekoon Kannangara of 17, Murugan Place, Havelock Town, Colombo.
3. Henry Woodward Amarasuriya of “ Amargiri ”, 28th Lane, Flower Road, Colombo.

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- | | | |
|----|---|--|
| | 4. His Excellency Dr. Gunapala Piyasena Malalasekera of Samanala, 16, Longden Terrace, Colombo, presently the Ceylon Embassy, Hotel Leningradskaya, Moscow. | No. 14
Supreme Court
Application
No. 433 of
1960—
<i>Continued</i> |
| | 5. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo. | (iii) Petition of
Ven. Morontu-
duwe Sri
Gnaneswara
Dhammananda
Nayaka Thera
18.10.60—
<i>Continued</i> |
| 10 | 6. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo. | |
| | 7. Mudaliyar E. A. Abayasekara of Karagam-pitiya Road, Dehiwala. | |
| | 8. Mudaliyar Piyasena Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Lane, Wellawatta. | |
| | 9. N. S. Moonesinghe of 10, Layards Road, Colombo. | |
| | 10. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo. | |
| 20 | 11. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo. | |
| | 12. Gamini Jayasuriya of 494/6, Galle Road, Colombo. | |
| | 13. Percival Upajiva Ratnatunga of 84, 5th Lane, Kollupitiya, Colombo. | |
| | 14. A. D. P. A. Wijegoonewardene of No. 7, Borella Cross Road, Colombo.....
.....2 to 14 <i>Defendant-Respondents.</i> | |

To

His Lordship,

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

On this 18th day of October, 1960.

The petition of Ven'ble Vagisvaracharya Morontuduwe Sri Gnaneswara Dhammananda Nayaka Thera the 1st defendant-appellant-petitioner abovenamed appearing by Ben Samarasinghe, his proctor, states as follows :—

40 1. Ven'ble Baddegama Piyaratana Nayaka Thera, the plaintiff-respondent instituted this action on the 26th day of July, 1943, in the District Court of Colombo against the 1st defendant-appellant-petitioner and the 2nd to 14th defendadnt-respondents abovenamed against whom the plaintiff-respondent sought no relief.

No. 14
Supreme Court
Application
No. 433 of
1960—
Continued

(iii) Petition of
Ven. Morontu-
duwe Sri
Gnaneswara
Dhammananda
Nayaka Thera
18.10.60—
Continued

2. The plaintiff-respondent brought the said action in his capacity as Principal of Vidyodaya Pirivena, alleging that he was duly appointed as such over the said Pirivena which was established on the premises described in the Schedules A and B attached to the plaint by virtue of deeds No. 1259 (P2) and No. 2134 (P3) and sought a declaration that he held the said premises in trust for or as trustee of the 2nd to 14th defendants as members of the Vidyadhara Sabha and further prayed that the 1st defendant-appellant-petitioner be ejected from the said premises.

3. The 1st defendant-appellant-petitioner claimed that the said 10 Pirivena is appurtenant to the Maligakanda Temple and that the whole of the premises are Sanghika property of which the 1st defendant-appellant-petitioner is the rightful Viharadhipathy. The 1st defendant-appellant-petitioner prayed that he be declared the Viharadhipathy of the temple and all the temporalities belonging to the temple.

4. The 2nd to 14th defendants filed their answer in which they prayed that the plaintiff be declared entitled to hold the said land and premises as a Charitable Trust for the purposes referred to in Deed No. 925 (P1). 20

5. The said action came up for trial and the following 3 issues of Law numbered 19, 20 and 21 were tried as preliminary issues, namely :—

(a) Was the plaintiff appointed lawful Trustee according to the requirements of the Trust Ordinance of 1918 and/or the Buddhist Temporalities Ordinance ?

(b) Is the plaintiff vested with the properties set out in Schedules A and B ?

(c) If issues 19 and 20 or either of them are answered against the plaintiff can the plaintiff maintain this action ? 30

6. The Learned District Judge answered the said 3 issues in favour of the petitioner and dismissed the plaintiff's action.

7. The plaintiff thereupon duly preferred an appeal to Your Lordships' Court from the order dismissing the action and the 2nd to 14th defendants were made respondents thereto together with this petitioner who was made the 1st respondent to that appeal.

8. Pending that appeal the 14th respondent thereto, Dr. D. B. Perera died and Your Lordships' Court by order dated 31.5.46 purported to substitute Dr. B. E. Fernando in place of the said 14th respondent on a motion by the proctor for Dr. B. E. Fernando. 40

9. But the said order of substitution was made by Your Lordships' Court without notice to the petitioner who was the 1st defendant-respondent and without notice to any of the other res-

pondents to the appeal or even to the plaintiff-appellant. (Certified copies of the relevant motion, affidavit and order are filed herewith marked "A1", "A2" and "A3".)

10. This petitioner submits respectfully that the said order of substitution without notice to any party was made by Your Lordships' Court per in Curiam for the reason that, in the petitioner's respectful submission—

- (a) This petitioner was entitled in Law to notice of any application for substitution.
- 10 (b) This petitioner was entitled to object, if so advised, to any such substitution.
- (c) Such substitution without notice and without the parties being heard was an irregularity that vitiated the Order.
- (d) Even after the alleged substitution the amended plaint filed on the 2nd April, 1947, contained the name of the original 14th defendant Dr. D. B. Perera (Certified copy of the said amended plaint is filed herewith marked "E").

11. The appeal itself was heard and decided in favour of the plaintiff-appellant on 25.10.46 with such substitution and the case 20 was sent back to the District Court for trial on the other issues.

12. The petitioner submits that had notice been given to him he would have filed certain objections to the substitution on which Your Lordships' Court or the District Court of Colombo would have adjudicated.

13. After trial Judgment was delivered by the District Court of Colombo on the 17th day of October, 1950, in favour of the plaintiff-respondent and the 1st defendant-appellant-petitioner appealed to Your Lordships' Court therefrom. Your Lordships' Court dismissed the 1st defendant-appellant-petitioner's appeal and 30 Final Leave to appeal to Her Majesty the Queen in Council was granted on the 25th day of March, 1958, and the record of the case has not yet been despatched to England.

14. On the 15th of February, 1960, the aforesaid Ven'ble Baddegama Piyaratana Nayaka Thera, who was the plaintiff-respondent in the petitioner's appeal to the Privy Council, died.

15. Thereafter the 1st defendant-appellant-petitioner moved Your Lordships' Court under Rule 26 of the Schedule to the Privy Council Appeals Ordinance (Cap. 85) to grant a certificate showing who, if any, in the opinion of Your Lordships' Court is the proper 40 person to be substituted in place of the deceased plaintiff-respondent and further moved that Your Lordships' Court be pleased under Rule 13 of the Appellate Procedure (Privy Council) Ordinance of 1921 to refer this matter to the District Court of Colombo to inquire and report who, if any, is the proper person to be substituted in place

No. 14
Supreme Court
Application
No. 433 of
1960—
Continued
—
(iii) Petition of
Ven. Morontu-
duwe Sri
Gnaneswara
Dhammananda
Nayaka Thera
18.10.60—
Continued

No. 14
Supreme Court
Application
No. 433 of
1960—
Continued

(iii) Petition of
Ven. Morontu-
duwe Sri
Gnaneswara
Dhammananda
Nayaka Thera
18.10.60—
Continued

of the abovenamed Ven'ble Baddegama Piyaratana Nayaka Thera, the plaintiff-respondent who had died. The said application is numbered S.C. Application No. 83/1960, in Your Lordships' Court. (A certified copy of the said application is filed herewith marked " B ".)

16. The 1st defendant-appellant-petitioner also applied to Your Lordships' Court by an application No. 124/1960 praying that Your Lordships' Court do direct the stay of the printing and preparation of the record or direct that the record be printed and delivered on a date to be fixed by Your Lordships' Court after the certificate of substitution in place of the deceased plaintiff-respondent had been issued by Your Lordships' Court. 10

17. In the meanwhile on the 28th of March, 1960, the Ven'ble Kalukondayawe Pannasekhera Nayaka Thera has filed an application in Your Lordships' Court (application No. 133 of 1960) praying that Your Lordships' Court be pleased to issue a certificate showing that the said Ven'ble Kalukondayawe Pannasekhera Nayaka Thera is the proper person to be substituted in place of the deceased plaintiff-respondent. Notice of the said application was given to the 1st defendant-appellant-petitioner's proctor on the 25th of March, 20 1960, who received notice and objected to the application. (Certified copies of the said application motion, petition and affidavit are filed herewith marked " C1 ", " C2 " and " C3 ".)

18. All three applications were listed for the 1st day of April, 1960, and came up for hearing before his Lordship Mr. Justice Weerasooriya and His Lordship Mr. Justice Sansoni. Counsel who appeared for the 1st defendant-appellant-petitioner proceeded to argue on the question of Law as to whether substitution can take place in this type of action, and if it was held that the substitution could take place then the matter be referred to the District Court for inquiry. 30

19. On the 5th of August, 1960, Judgment of Your Lordships' Court was delivered, wherein it was held that the certificate of substitution could properly be granted. Your Lordships' Court thereafter held that a certificate of substitution could properly be granted to Ven'ble Kalukondayawe Pannasekhera Nayaka Thera, the petitioner in application No. 133/1960, and proceeded to state that " No attempt has been made by the 1st defendant to contradict the statement in the affidavit of the petitioner that he is the duly appointed Principal of the Vidyodaya Pirivena," and in the circumstances the matter was not referred to the District Court, although 40 the Counsel for the 1st defendant-appellant-petitioner suggested accordingly. (A certified copy of the said Judgment is filed herewith marked " D ".)

20. The said suggestion was made by Counsel of the 1st defendant-appellant-petitioner as he (the 1st defendant-appellant-petitioner) had signified his objection to the application of Ven'ble

Kalukondayawe Pannasekhera Nayaka Thera on the motion dated 25th March, 1960 (C1 herewith filed), which made it incumbent on the said Ven'ble Kalukondayawe Pannasekhera Nayaka Thera to prove that he was duly appointed Principal of Vidyodaya Pirivena.

21. The facts which the 1st defendant-appellant-petitioner would have adduced in support of his objection when the said applicant Ven'ble Kalukondayawe Pannasekhera Nayaka Thera was seeking to prove that he was the duly appointed Principal of Vidyodaya Pirivena are *inter alia* :—

- 10 (a) After the commencement of the Vidyodaya and Vidyalandara University Act No. 45 of 1958 the Vidyodaya Pirivena became a University by the name of Vidyodaya University of Ceylon on the 18th day of February, 1959, and is now functioning as such. Under the said Act there is provision for the appointment of a Vice-Chancellor and other officers to the University but nowhere is any provision made for the appointment of a Principal to the Vidyodaya Pirivena.
- 20 (b) It is clearly stated in the " Objects and Reasons " of the Vidyodaya University, that the Bill is intended to give the Legal Status of a University to the said Vidyodaya Pirivena.
- (c) The 2nd to 14th defendants who call themselves the Vidya-dhara Sabha and who claim the right to appoint the Principal of the Vidyodaya Pirivena took an active part in raising the said Vidyodaya Pirivena to the status of a University, as borne out in their letter of 6.11.58 addressed to Clerk to the Senate. (Certified copy whereof is filed herewith marked " F ".)
- 30 (d) Learned Queen's Counsel who appeared for the plaintiff-respondent in this case in the District Court on the 30th day of April, 1959, stated " Thereafter the Government passed an Act No. 45 of 1958 by which the status of the Pirivenas was raised to a University."
- (e) By order dated 4th May, 1959, the Learned District Judge before whom the matter was argued stated that the Government by an Act of Parliament No. 45 of 1958 has granted University status to the Pirivenas and certain steps have been taken by the Government under that Act to establish a University.
- 40 (f) Recently Revenue Stamp has been issued by Government commemorating the elevation of the said Vidyodaya Pirivena (and Vidyalandara Pirivena) to University status.

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(iii) *Petition of*
Ven. Morontu-
duwe Sri
Gnaneswara
Dhammananda
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Continued

No. 14
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(iii) Petition of
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duwe Sri
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18.10.60—
Continued

- (g) In his affidavit dated 23rd day of March, 1960 (C3 herewith filed) after the said Act No. 45 of 1958 came into operation, Ven'ble Kalukondayawe Pannasekhera Nayaka Thera states that he is the duly appointed Principal of Vidyodaya Pirivena in succession of the deceased plaintiff-respondent and that he was so appointed by the 2nd to 14th defendant-respondents but the application proceeded without notice to the 2nd to 14th defendant-respondents.
- (h) Even if the Vidyodaya Pirivena exists today the 2nd to 14th defendants who call themselves the Vidyadhara Sabha 10 have no right or authority to appoint a Principal to the Vidyodaya Pirivena.
- (i) After the said Act No. 45 of 1958 the office of Principal of Vidyodaya Pirivena ceased to exist and was superceded by the office of Vice-Chancellor of the Vidyodaya University and therefore Ven'ble Kalukondayawe Pannasekhera Nayaka Thera cannot be appointed to the Office that has ceased to exist nor can anybody claim to be substituted in such capacity.

22. The facts set out in paragraph 9 hereof namely that Your 20 Lordships' Court made an order for substitution without notice to the parties to this action first came to the knowledge of the 1st defendant-appellant-petitioner on or about the 21st day of September, 1960.

23. The petitioner in the circumstances was gravely prejudiced in that :—

- (1) Your Lordship's Court made an order of substitution on the 31st day of May, 1946, without notice to the petitioner.
- (2) Your Lordship's Court made an order issuing a certificate to Ven'ble Kalukondayawe Pannasekhera Nayaka Thera 30 without an inquiry as to the validity of his appointment as the Principal of the Vidyodaya Pirivena, merely on the ground that the petitioner had not contradicted the statement in the affidavit. The petitioner submits that he intended to file his objections in the District Court at the appropriate stage.

Wherefore the petitioner prays that Your Lordship's Court be pleased—

- A. (1) to set aside the order of substitution made on the 31st day of May, 1946 ; and 40
- (2) to set aside all subsequent proceedings *or in the alternative* ;
- B. (1) to set aside the order of substitution made per incuriam on the 5th August, 1960 ; and

(2) to refer the application of the 1st defendant-appellant-petitioner made to Your Lordship's Court bearing No. 83/1960 to the District Court of Colombo to inquire and report as to who is the proper person to be substituted or entered in the record in place of the deceased plaintiff and that the petitioner be granted an opportunity to file his objections ;

(3) to recall the certificate issued under Rule 26 of the Privy Council (Appeals) Ordinance ;

- 10 C. for costs ; and
- D. for such other further relief as to this Court shall seem meet.

(Sgd.) BEN SAMARASINGHE,

Proctor for 1st Defendant-Appellant-Petitioner.

Settled by

Mr. A. I. WIJewardena,
Mr. E. R. S. R. COOMARASWAMY,

Advocates.

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(iii) *Petition of*
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Continued

20

**Affidavit of Ven. Morontuduwe Sri Gnaneswara Dhammananda
Nayaka Thera**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Revision
and/or Restitutio in integrum under the
provisions of Civil Procedure Code.

Venerable Baddegama Piyaratana Nayaka
Thero of Maligakanda Temple, Colombo.

No. 2882-L—D.C. Col.

.....*Plaintiff (Deceased)*

S.C. No. 26 (Final)

vs.

30

Appeal No. 298.

- 1. Venerable Morontuduwe Sri Gnaneswara
Dhammananda Nayaka Thero of Maliga-
kanda Temple, Colombo...*1st Defendant.*
- 2. Christopher William Wijekoon Kannangara
of No. 17, Murugan Place, Colombo, and
others.*2 to 14 Defendants.*

and

Venerable Morontuduwe Sri Gnaneswara
Dhammananda Nayaka Thero of Maliga-
kanda Temple, Colombo.....
.....*1st Defendant-Appellant-Petitioner*

(iv) *Affidavit of*
Ven. Morontu-
duwe Sri
Gnaneswara
Dhammananda
Nayaka Thera
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Continued

(iv) Affidavit of
Ven. Morontu-
duwe Sri
Gnaneswara
Dhammananda
Nayaka Thera
15.10.60—
Continued

vs.

1. Venerable Kalukondayawe Pannasekhera Nayaka Thero of Maligakanda Temple, Colombo.....
.....*Substituted Plaintiff-Respondent.*
2. Christopher William Wijekoon Kannangara of 17, Murugan Place, Havelock Town, Colombo.
3. Henry Woodward Amarasuriya of "Amaragiri", 28th Lane, Flower Road, Colombo. 10
4. His Excellency Dr. Gunapala Piyasena Malalasekera of Samanala, 16, Longden Terrace, Colombo, presently the Ceylon Embassy, Hotel Leningradskaya, Moscow.
5. D. L. F. Pedris of "Pedris Villa", Alfred Place, Kollupitiya, Colombo.
6. Wimala Dharma Hewavitarne of "Sri Nagar", Kollupitiya, Colombo.
7. Mudaliyar E. A. Abayasekara of Karagam-pitiya Road, Dehiwala. 20
8. Mudaliyar Piyadasa Dharmasiri Abeywardena Ratnatunga of "Sagala", Chapel Lane, Wellawatta.
9. N. S. Moonesinghe of 10, Layards Road, Colombo.
10. Dudley Senanayake of "Woodlands", Kanatta Road, Colombo.
11. Dr. A. M. Samarasinghe of 104, Reid Avenue, Colombo. 30
12. Gamini Jayasuriya of 494/6, Galle Road, Colombo.
13. Percival Upajiva Ratnatunga of 84, 5th Lane, Kollupitiya, Colombo.
14. A. D. P. A. Wijegoonewardene of No. 7, Borella Cross Road, Colombo.....
.....*2 to 14 Defendant-Respondents.*

I, Morontuduwe Sri Gnaneswara Dhammananda Nayaka Thero of Maligakanda Temple, Colombo, do solemnly sincerely and truly declare and affirm as follows:—

40

1. I am the 1st defendant-appellant-petitioner abovenamed.

2. The Ven'ble Baddegama Piyaratana Nayaka Thera, the plaintiff-respondent instituted this action on the 26th day of July, 1943, in the District Court of Colombo against me and the 2nd to 14th defendant-respondents abovenamed against whom the plaintiff-respondent sought no relief.

3. The plaintiff-respondent brought the said action in his capacity as Principal of Vidyodaya Pirivena, alleging that he was duly appointed as such over the said Pirivena which was established on the premises described in the Schedules A and B attached to the
10 Plaintiff by virtue of Deeds No. 1259 (P2) and No. 2134 (P3) and sought a declaration that he held the said premises in trust for or as trustee of the 2nd to 14th defendants as members of the Vidyadhara Sabha and further prayed that I be ejected from the said premises.

4. I claimed that the said Pirivena is appurtenant to the Maligakanda Temple and that the whole of the premises are Sanghika property of which I am the rightful Viharadhipathy. I prayed that I be declared the Viharadhipathy of the temple and all the temporalities belonging to the temple.

5. The 2nd to 14th defendants filed their answer in which they
20 prayed that the plaintiff be declared entitled to hold the said land and premises as a Charitable Trust for the purposes referred to in Deed No. 925 (P1).

6. The said action came up for trial and the following 3 issues of Law numbered 19, 20 and 21 were tried as preliminary issues, namely :--

- (a) Was the plaintiff appointed lawful Trustee according to the requirements of the Trust Ordinance of 1918 and/or the Buddhist Temporalities Ordinance ?
- (b) Is the plaintiff vested with the properties set out in
30 Schedules A and B ?
- (c) If issues 19 and 20 or either of them are answered against the plaintiff can the plaintiff maintain this action ?

7. The Learned District Judge answered the said 3 issues in my favour and dismissed the plaintiff's action.

8. The plaintiff thereupon duly preferred an appeal to Your Lordships' Court from the order dismissing the action and the 2nd to 14th defendants were made respondents thereto together with me who was made the 1st respondent to that appeal.

9. Pending that appeal the 14th respondent thereto, Dr. D B.
40 Perera, died and Your Lordships' Court by order dated 31.5.46 purported to substitute Dr. B. E. Fernando in place of the said 14th respondent on a motion by the Proctor for Dr. B. E. Fernando.

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 duwe Sri
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Continued

10. But the said order of substitution was made by Your Lordships' Court without notice to me who was the 1st defendant-respondent and without notice to any of the other respondents to the appeal or even to the plaintiff-appellant. (Certified copies of the relevant motion, affidavit and order are filed with the petition marked " A1 ", " A2 " and " A3 ".)

11. I respectfully submit that the said order of substitution without notice to any party was made by Your Lordships' Court per in Curiam for the reason that, in my respectful submission—

- (a) I was entitled in law to notice of any application for sub- 10
 stitution.
- (b) I was entitled to object, if so advised, to any such sub-
 stitution.
- (c) Such substitution without notice and without the parties
 being heard was an irregularity that vitiated the order.
- (d) Even after the alleged substitution the amended plaint filed
 on the 2nd April, 1947, contained the name of the original
 14th defendant Dr. D. B. Perera (Certified copy of the said
 amended plaint is filed with the petition marked " E ".)

12. The appeal itself was heard and decided in favour of the 20
 plaintiff-appellant on 25.10.46 with such substitution and the case
 was sent back to the District Court for trial on the other issues.

13. I submit that had notice been given to me I would have
 filed certain objections to the substitution on which Your Lordships'
 Court or the District Court of Colombo would have adjudicated.

14. After trial Judgment was delivered by the District Court of
 Colombo on the 17th day of October, 1950, in favour of the plaintiff-
 respondent and I appealed to Your Lordships' Court therefrom.
 Your Lordships' Court dismissed my appeal and Final leave to appeal
 to Her Majesty the Queen in Council was granted on the 25th day of 30
 March, 1958, and the record of the case has not yet been despatched
 to England.

15. On the 15th of February, 1960, the aforesaid Ven'ble
 Baddegama Piyaratana Nayaka Thera who was the plaintiff-respond-
 ent in my appeal to the Privy Council, died.

16. Thereafter I moved Your Lordships' Court under Rule 26
 of the Schedule to the Privy Council Appeals Ordinance (Cap. 85)
 to grant a certificate showing who, if any, in the opinion of Your
 Lordships' Court is the proper person to be substituted in place of
 the deceased plaintiff-respondent and further moved that Your 40
 Lordships' Court be pleased under Rule 13 of the Appellate Procedure
 (Privy Council) Ordinance of 1921 to refer this matter to the District
 Court of Colombo to inquire and report who, if any, is the proper

person to be substituted in place of the abovenamed Ven'ble Baddegama Piyaratana Nayaka Thera, the plaintiff-respondent who had died. The said application is numbered S.C. Application No. 83/1960, in Your Lordships' Court. (A certified copy of the said application is filed with the petition marked " B ").

17. I also applied to Your Lordship's Court by an application No. 124/1960 praying that Your Lordships' Court do direct to stay of the printing and preparation of the record or direct that the record be printed and delivered on a date to be fixed by Your Lordships' Court after the certificate of substitution in place of the deceased plaintiff-respondent had been issued by Your Lordships' Court.

18. In the meanwhile on the 28th of March, 1960, the Ven'ble Kalukondayawe Pannasekhera Nayaka Thera has filed an application in Your Lordships' Court (application No. 133 of 1960) praying that Your Lordships' Court be pleased to issue a certificate showing that the said Ven'ble Kalukondayawe Pannasekhera Nayaka Thera is the proper person to be substituted in place of the deceased plaintiff-respondent. Notice of the said application was given to my proctor on the 25th of March, 1960, who received notice and objected to the application. (Certified copies of the said application, motion, petition and affidavit are filed with the petition marked " C1 ", " C2 " and " C3 ".)

19. All three applications were listed for the 1st day of April, 1960, and came up for hearing before His Lordship Mr. Justice Weerasooriya and His Lordship Mr. Justice Sansoni. Counsel who appeared for me proceeded to argue on the question of Law as to whether substitution can take place in this type of action, and if it was held that the substitution could take place then the matter be referred to the District Court for inquiry.

20. On the 5th of August, 1960, Judgment of Your Lordships' Court was delivered, wherein it was held that the certificate of substitution could properly be granted. Your Lordships' Court thereafter held that a certificate of substitution could properly be granted to Ven'ble Kalukondayawe Pannasekhera Nayaka Thera, the petitioner in application No. 133/1960 and proceeded to state that " No attempt has been made by the 1st defendant to contradict the statement in the affidavit of the petitioner that he is duly appointed Principal of the Vidyodaya Pirivena," and in the circumstances the matter was not referred to the District Court, although the Counsel for me suggested accordingly. (A certified copy of the said Judgment is filed with the petition marked " D ").

21. The said suggestion was made by my Counsel as I had signified my objection to the application of Ven'ble Kalukondayawe Pannasekhera Nayaka Thera on the motion dated 25th March, 1960

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15.10.60—

Continued

(“ C1 ” filed with the petition) which made it incumbent on the said Ven’ble Kalukondayawe Pannasekhera Nayaka Thera to prove that he was duly appointed Principal of Vidyodaya Pirivena.

22. The facts which I would have adduced in support of my objection when the said applicant Ven’ble Kalukondayawe Pannasekhera Nayaka Thera was seeking to prove that he was the duly appointed Principal of Vidyodaya Pirivena are *inter alia* :—

- (a) After the commencement of the Vidyodaya and Vidyalankara University Act No. 45 of 1958 the Vidyodaya Pirivena became a University by the name of Vidyodaya University 10 of Ceylon on the 18th day of February, 1959, and is now functioning as such. Under the said Act there is provision for the appointment of a Vice-Chancellor and other officers to the University but nowhere is any provision made for the appointment of a Principal to Vidyodaya Pirivena.
- (b) It is clearly stated in the “ Objects and Reasons ” of the Bill to make provision for the establishment of the said Vidyodaya University, that the Bill is intended to give the Legal Status of a University to the said Vidyodaya Piri- 20 vena.
- (c) The 2nd to 14th defendants who call themselves the Vidya-dhara Sabha and who claim the right to appoint the Principal of the Vidyodaya Pirivena took an active part in raising the said Vidyodaya Pirivena to the status of a University, as borne out in their letter of 6.11.58 addressed to Clerk to the Senate. (Certified copy whereof is filed with the petition marked “ F ”.)
- (d) Learned Queen’s Counsel who appeared for the plaintiff-respondent in this case in the District Court on the 30th 30 day of April, 1959, stated “ Thereafter the Government passed an Act No. 45 of 1958 by which the status of the Pirivena was raised to a University.
- (e) By order dated 4th May, 1959, the Learned District Judge before whom the matter was argued stated that the Government by an Act of Parliament No. 45 of 1958 has granted University Status to the Pirivenas and certain steps have been taken by the Government under that Act to establish a University.
- (f) Recently Revenue Stamp has been issued by Government 40 commemorating the elevation of the said Vidyodaya Pirivena (and Vidyalankara Pirivena) to University Status.

- (g) In his affidavit dated 23rd day of March, 1960 (C3 filed with the petition) after the said Act No. 45 of 1958 came into operation, Ven'ble Kalukondayawe Pannasekhera Nayaka Thera states that he is the duly appointed Principal of Vidyodaya Pirivena in succession of the deceased plaintiff-respondent and that he was so appointed by the 2nd to 14th defendant-respondents but the application proceeded without notice to the 2nd to 14th defendant-respondents.
- 10 (h) Even if the Vidyodaya Pirivena exists today the 2nd to 14th defendants who call themselves the Vidyadhara Sabha have no right or authority to appoint a Principal to the Vidyodaya Pirivena.
- (i) After the said Act No. 45 of 1958 the office of Principal of Vidyodaya Pirivena ceased to exist and was superceded by the Office of Vice-Chancellor of the Vidyodaya University and therefore Ven'ble Kalukondayawe Pannasekhera Nayaka Thera cannot be appointed to the Office that has ceased to exist nor can anybody claim to be substituted in such capacity.

20 23. The facts set out in paragraph 10 hereof, namely that Your Lordships' Court made an order for substitution without notice to the parties to this action first came to my knowledge on or about the 21st day of September, 1960.

24. I was in the circumstances gravely prejudiced in that :—

- (1) Your Lordships' Court made an order of substitution on the 31st day of May, 1946, without notice to me.
- 30 (2) Your Lordships' Court made an order issuing a certificate to Ven'ble Kalukondayawe Pannasekhera Nayaka Thera without an inquiry as to the validity of his appointment as the Principal of Vidyodaya Pirivena, merely on the ground that I had not contradicted the statement in the affidavit. I submit that I intended to file my objections in the District Court at the appropriate stage.

Signed and affirmed to at }
Colombo on this 15th } (Sgd.) M. DHAMMANANDA.
day of October, 1960. }

Before me,

(Sgd.) D. S. ELAYAPERUMA.

(SEAL)

40

D. S. ELAYAPERUMA, J.P.,
21, Sangamitha Mawata,
Colombo 13.

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(xiv) Letter
addressed to
the Clerk to
the Senate by
the Vidyadhara
Sabha
6.11.58

Letter addressed to the Clerk to the Senate by the
Vidyadhara Sabha

“ F ”

Vidyodaya Pirivena,
Colombo 10,
6th November, 1958.

The Clerk to the Senate,
Colombo.

Sir,

Vidyodaya University and Vidyalankara University Bill.

We have the honour to inform you that the Vidyadhara Sabha 10 submitted a statement to you this morning to be placed before the “ Select Committee of the Senate ” on the above subject.

The Vidyadhara Sabha further submits the following supplementary statement to be read along with the statement already sent by it.

The Vidyadhara Sabha assures the Government that the Sabha will render its full co-operation to the Government to raise the Vidyodaya Pirivena to University Status.

Therefore the Vidyadhara Sabha begs that the Bill as presented to the Senate be passed without delay. If required a deputation of 20 the Sabha will be ready to give evidence before the Select Committee at an early date.

We beg to remain, Sir,
Yours faithfully,

(Sgd.) C. W. W. KANNANGARA,
Sabapathi, Vidyadhara Sabha.

(Sgd.) G. JAYASURIYA,
Hony. Secretary,
Vidyadhara Sabha.

Certified copy.

30

Re. 1 Stamp
(Sgd.) Illegibly.
22.8.60.

Clerk to the Senate.
20th August, 1960.

PART II

EXHIBITS

PART II
P22
Deed No. 1733

P22
 Deed No. 1733
 attested
 by A. S.
 Andree,
 Notary Public
 7.9.1868

Application No. L2407
 No. 1733

Know all men by these presents that We Don Semanis de Silva Weeranayane Maha Vidahn Mohandiram and Kandeaddera Badalegey Don Adirian de Silva both of Galle and presently in Colombo the executors of the Last Will and Testament of Kandeaddera Badalegey

10 Don Louis Weeranayane Mahavidahn of Colombo, deceased, Probate of which bearing date the tenth day of February, One thousand Eight hundred and Sixty-eight was granted to us by the District Court of Colombo and a copy of which is also hereunto annexed, for and in consideration of the sum of Four hundred and Seventy (£470) Pounds of lawful money of Ceylon paid to us by Kandeaddera Badalgey Don Sinho Naidu of Colombo as the highest bidder at a Public Sale held by auction on the Thirteenth day of June, One thousand Eight hundred and Sixty-eight by M. H. D. Gabriel, Auctioneer, the receipt whereof is hereby acknowledged do hereby sell and assign

20 unto the said Kandeaddera Badalegey Don Sinho Naidu and his heirs, executors, administrators and assigned the following premises to wit all that part of a garden called Maligakanda with the buildings standing thereon situate and lying at Demettegodde, within the gravets of Colombo bounded on the North by the garden of Tangachey Pulle Mena Nacha, on the East by the garden of Don Lcuis Maha Vidahn, on the South by the garden of Rev. I. D. Palm and on the West by the garden of Apen Mira Naihn containing in extent three square roods according to the survey and description thereof authenticated by H. F. de Zilva and attached to the Title Deed which is hereto

30 annexed bearing date the Seventh day of May, One Thousand Eight hundred and Fifty-two attested and numbered 965 by Mr. Frederick John de Saram, Notary Public which said premises were held and possessed by the said Kandeaddera Badalgey Don Louis in his lifetime under and by virtue of the said Deed and also a portion of Crown Land comprising Lots three and four upon the General Plan of Maligakanda in the village of Demettegoda within the gravets of Colombo bordered on the North by land claimed by Sinne Tangachy, on the East by lot No. 5, on the South by a Public Road and on the West by lands claimed by Mackwood and by Kandeaddera Badalegey Don

40 Louis Maha Vidahn containing in extent three roods and twenty-four perches according to the plan on survey thereof bearing date 23rd day of February, One thousand Eight hundred and Forty-eight duly authenticated by W. H. Simiens, Esq., Surveyor-General and attached to the grant also hereunto annexed and bearing date the Twenty-second day of November, One thousand Eight hundred and Forty-

P22.
Deed No. 1733
attested
by A. S.
Andree,
Notary Public
7.9.68—
Continued

eight save and except a portion in extent five perches gifted to Kandeaddera Badalegey Naina Natchera by the said Don Louis in his lifetime by a deed dated the Eighth day of September, One thousand Eight hundred and Sixty-four, which said last mentioned premises were held and possessed by the said Kandeaddera Badalegey Don-Louis in his lifetime under and by virtue of the said grant.

To Have and To Hold the said premises with their and every of their appurtenances to herein the said Kandeaddera Badalgey Don Sinho Naide and his heirs, executors and administrators and assigned for ever. 10

And We the said Don Semon de Silva and Kandeaddera Badalagey Don Adrean de Silva in one capacity aforesaid, do hereby covenant and promise that the said premises are free from any incumbrance and that we shall in our aforesaid capacity warrant and defend the same unto the said Kandeaddera Badalgey Don Sinho Naide against any person whatsoever.

In witness whereof we have hereunto set our hands at Colombo aforesaid this Seventh day of September, One thousand Eight hundred and Sixty-eight.

(Sgd.) Illegibly. 20
(Sgd.) In Sinhalese.

Witnesses :

(Sgd.) CHARLES MARSHALL.

(Sgd.) JAMES PERERA.

I, Archebald Stephen Andree of Colombo, Notary Public, by lawful authority duly admitted and practising, do hereby certify that on the seventh day of September, One thousand Eight-hundred and Sixty-eight in my presence and in the presence of Mr. Charles Marshall and James Perera both of Colombo, the same being witnesses thereto the foregoing instrument having been read over and explained by 30 me the same was executed by the said Don Semian de Silva Weerangere Maha Vidahn Mohandiran and Kandeaddera Badalgey Don Adrian de Silva and was also signed by the said witnesses in my presence and in the presence of one another.

Which I attest.

(Sgd.) ARCHIBALD ANDREE,
Notary Public.

P21
Deed No. 3030

Application No. L 2407
No. 3030

P21
Deed No. 3030
attested
by W. M.
Wolff, Notary
Public
15.8.1871

Know all Men by these presents that I Kandeaddere Badalgey Don Sinho Naide of Demettegodde in Colombo for and in consideration of the sum of Five hundred Pounds (£500) sterling of lawful money of Ceylon well and truly paid to me by Lansige Andris Perera of the Pettah in Colombo (the receipt whereof I do hereby acknowledge)

10 have granted, bargained, sold, assigned, transferred and set over as I do hereby grant, bargain, sell, assign, transfer and set over unto the said Lansige Andris Perera, his heirs, executors, administrators and assigns the following premises to wit, all that part of a garden called Maligakande with the buildings standing thereon situate and lying at Demattegodde within the gravets of Colombo, bounded on the North by the garden of Tangachy Pulle Meera Nachay, on the East by the garden of Don Louis Maha Vidahn, on the South by the garden of the Reverend J. D. Palm and on the West by the garden of Assen Meera Nacha containing in extent Three square roods,

20 according to the survey and description thereof authenticated by H. F. de Silva attached to the Title Deed hereunto annexed. And also a portion of Crown land, comprising lots 3 and 4 upon the general plan of Maligakande in the village of Demattegodda within the gravets of Colombo, bounded on the North by land claimed by Sinne Tangachy, on the East by lot No. 5, on the South by a Public road and on the West by lands claimed by Mr. Mackwood and by Kandeaddera Badalge Don Louis Nacha Vidahn, containing in extent Three roods and twenty-four perches save and except thereupon a portion in extent five perches gifted to Kandeaddera Badalge Maria

30 Natchieria together with all Title Deeds, Vouchers and writings respecting the same, which said premises have been held and possessed by the said Kandeaddera Badalgey Don Sinho Naide under and by virtue of the annexed title deed No. 1733 dated the seventh October, One thousand Eight hundred and Sixty-eight attested by Mr. A. G. Andree, Notary. To have and to hold the said premises with all and singular the appurtenances thereunto belonging unto him the said Lansige Andris Perera, his heirs, executors, administrators and assigns for ever.

And I the said Kandeaddera Badalgey Don Sinho Naide for

40 myself, my executors and administrators, do covenant with the said Lansige Andris Perera, his heirs, executors, administrators and assigns that the said premises is free from any incumbrance and that I shall always warrant and defend the same unto him and them against any person whomsoever.

P21
Deed No. 3030
attested
by W. M.
Wolff, Notary
Public
15.8.71—
Continued

In witness whereof I the said Kandeaddera Badalgey Don Singo Naide do set my hand and seal to three of the same tenor as these presents at Colombo on this fifteenth day of August in the year of Our Lord One thousand Eight hundred and Seventy-one.

(Sgd.) In Sinhalese.

Witnesses :

(Sgd.) In Sinhalese.

(Sgd.) In Sinhalese.

I, William Martin Wolff of Colombo in the Island of Ceylon, Notary Public by lawful authority duly admitted do hereby certify 10 and attest that the foregoing instrument having been duly read over and explained by me the said Notary to Kandeaddera Badalgey Don Sinho Naidu therein named in the presence of the witnesses Wanieraratchige Don Deonis Perera Appuhamy of St. Sebastian and Kaharagoorige Amaris Appu of the Pettah in Colombo the same was signed by him and by the said witnesses all of whom are known to me and by me the said Notary in the presence of one another at Colombo on this fifteenth day of August in the year of Our Lord One thousand Eight hundred and Seventy-one.

Which I attest.

20

(Sgd.) W. M. WOLFF,
Notary Public.

1D3
Extract from
Deed No. 6590
attested by
S. Manuel
Perera, Notary
Public
19.11.1873

1D3
Extract from Deed No. 6590

Registered A21/275.
Colombo, 1st March, 1877.

(Sgd.).....

The value of the Deed of Sanghika
Dedication Rs. 2,500/-.

No. 6590

30

Know all men by these presents the purport of the deed of Sanghika Dedication signed and delivered on the Nineteenth day of November, One thousand Eight hundred and Seventy-three at Colombo in the Island of Ceylon.

All that Lot A of Hunupitiywatta alias Nugagahawatta in extent 33.15 perches situated in Hunupitiya within the four gravets of Colombo.....by me the said Kahawepalliye Gurunanselage

Uderis Appuhamy to all well conducted Buddhist priests as a Sanghika dedication according to rules of religion with the Hikkaduwe Suman-gala Nayake Thera now residing in Colombo as the Chief Recipient.

(Sgd.) S. MANUEL PERERA,
N. P.

1D3
Deed No. 6590
attested by
S. Manuel
Perera, Notary
Public
19.11.73—
Continued

P1
Deed No. 925

Application No. L252

No. 925

P1
Deed No. 925
attested by
W. P. Rana-
singhe, Notary
Public
6.12.1873

10 At Colombo on the Sixth day of December, One thousand Eight hundred and Seventy-three.

Don Philip de Silva Epa Appuhamy,
Lansage Andiris Perera Appuhamy,
Kalansuriya Aratchige Don Cornelis de Silva Appuhamy,
Gurunanselage Don Pelis Appuhamy,
Bulathsinhalage Cornelis Cooray Appuhamy,
Don Thomas Weerakkody Appuhamy,
Willora Aratchige Cornelis Perera Appuhamy,
Pattiyawattage Hendrick Perera Appuhamy,

20 Simon Silva Appuhamy,
Hewavitaranage Don Carolis Appuhamy,
Wettasinghege Don Cornelis Silva Appuhamy,
Lansage Simon Perera Appuhamy, all of Colombo, and
Samarasinghe Aratchige Don Haramanis Appuhamy of Paman-
kade—among these thirteen persons the following deed of mutual
Agreement was signed and established, to wit :

30 WHEREAS a sum of Rupees Six thousand (Rs. 6,000/-) should be collected for the purpose of purchasing a land and for other work in order to establish a Pirivena for teaching knowledge and precepts, etc. pertaining to Buddhism chiefly to Bhikkhus and also to laymen, whereas a Sabha (Society) capable of receiving and safeguarding that sum of money is necessary a Sabha consisting of the abovenamed persons was appointed and the name Vidyadhara Sabha was given to it by the people assembled on . . . at Maligakande Watte, situated within the four gravets of Colombo and belonging at present to Lansage Andiris Perera. Further the thirteen members (Sabhapatheen) of this Vidyadhara Sabha having agreed to the following conditions covenanted among themselves, to wit :—

P1
 Deed No. 925
 attested by
 W. P. Rana-
 singhe, Notary
 Public
 6.12.73—
Continued

1. It is hereby agreed to use in all matters connected hereunto the name Vidyadhara Sabha for this Sabha, and this Vidyadhara Sabha having received the sum of money subscribed for the work mentioned at the beginning or a part of the same, that is any sum of money coming in from the dayakayas (supporters) and, for its protection, having appointed a Secretary and a Treasurer as sanctioned by the rules, together with them each and every one of this society to be responsible for the money collected until this work is completed.

2. It is hereby agreed, as soon as the said sum of money has been fully collected, to purchase in the name of this Sabha a suitable land, 10 or if a suitable land were conveniently to come, to build with that sum of money a Pirivena on such land, to keep as Principal thereof a learned and virtuous Bhikkhu to teach knowledge and precepts pertaining to Buddhism, to appoint with his approval other teachers, if the service of such other teachers were required from time to time, and to supply such teachers with the four needs (sivupasaya).

3. It is hereby agreed among one another and covenanted by the thirteen persons of this Sabha to do with or without the help of others all that is necessary to be done for the permanent existence of this Pirivena for a long time, that is each and every one to pay 20 monthly before the tenth day at the rate of Rs. 2/- and if, while being able to do so, anyone of these persons neglected to give or to do any thing that should be supplied or done, the Sabha is hereby vested with such authority as would enable it to recover by legal means a sum of Rs. 4/- as penalty from such person.

4. If there be any work of repair, etc., that should be done from time to time in this Pirivena all that should be done or got done without delay in accordance with the decision of these thirteen persons for the convenience of every one. But if there be any sabhapathi (member) who without agreeing thereto neglects for no reason, 30 authority is hereby given to recover by legal means his share of the expenditure together with a further amount equal to it as penalty from him.

5. This Sabha should always consist of a full complement of thirteen persons good and possessed of moral qualities. It is agreed that the Sabha consisting of any number lesser than that shall not be regarded as perfect and that any such imperfect Sabha shall not do or cause to do at the Sabha's expense any other important work than that of supplying the four needs, etc.

6. It is further agreed that if any member of this Sabha happens 40 to pass away, within a month of his passing away, the fact having been published eight days previously in such suitable manner as through newspapers, etc., a general meeting consisting of dayakayas (supporters) and the remaining Sabhapathis shall be convened and in accordance with the decision of a majority at such meeting a Sabhapathi shall be elected.

7. It was decided that this place (sthanaya) shall be considered a common property belonging to the Sabha and be utilized for the promotion of learning and religion only and that any individuals or descendants of any individuals, their children, heirs, administrators, etc. shall have no rights or privileges in it.

8. It is hereby agreed that any income derived from this place and whatever is received for the improvement of the school shall not be spent in connection with any other work than that of teaching knowledge and precepts pertaining to Buddhism and improving
10 this Pirivena.

9. It is hereby decided that if any one of these thirteen persons has done a wrong, a meeting of the dayakayas (supporters) hereof shall be convened and after inquiring into the matter, if the person concerned appears to have committed a wrong rendering him unsuitable to be a Sabhapathi he shall be removed by the decision of the majority from the office of Sabhapathi and some other suitable person shall be appointed.

10. Authority is hereby reserved that just as these thirteen persons shall appoint tutors who do teaching, etc., in the Pirivena,
20 if an unfitness or wrong is seen in any one of such teachers they also shall hold a meeting of the Sabha and if at such meeting such teacher is proved to be guilty such person or persons shall be removed from his office and others shall be appointed.

11. It is hereby agreed that for the information of dayakayas a statement of income and expenditure bearing the signatures of the Secretary and the Treasurer shall be published by the Sabha from six months to six months.

12. It is hereby agreed that during all the time the thirteen members of this Sabha are alive whenever the Sabha is convened,
30 separate notifications intimating the reasons for holding the meeting having been previously issued, if out of them seven or more attended the meeting, those present shall exercise the power of the whole Sabha and shall pass suitable orders about the work of the Pirivena. Nevertheless, it is hereby agreed and decided that orders so passed shall not be validated until they are confirmed at a second meeting.

13. It is hereby agreed between one another that while the work of the Pirivena is being carried on in the manner described heretofore, if any inability or difficulty were to occur to anyone of these thirteen Sabhapathis, and if he were to come before the other
40 Sabhapathis, inform them of the actual nature of his inability or difficulty, and beg to resign from the office of Sabhapathi, he should be released from it by those Sabhapathis who accepted his statement. It is also agreed that thereafter the general meeting itself shall be convened and another one shall be appointed instead of the person so resigned.

P1
Deed No. 925
attested by
W. P. Rana-
singhe, Notary
Public
6.12.73—
Continued

P1
Deed No. 925
attested by
W. P. Rana-
singhe, Notary
Public
6.12.73—
Continued

14. In all matters of litigation that shall be pursued by the Sabha, the Secretary of the Sabha is hereby authorised to sign and appear on behalf of this Sabha as complainant, respondent or joint litigant or in any other name and to discharge all that shall be necessary in the interest of this Sabha.

15. As the object of these presents is the existence of this Pirivena for a long time, if any agreement or covenant herein contained were to run counter to any legal system now existing in the country, it is hereby agreed that each and every one of the Sabha shall forego advantages securable from such legal proceedings and consent to be bound by these presents and work accordingly. 10

16. The thirteen Sabhapathis herein named and their successors in that office each and every one among themselves, have hereby agreed to bind themselves and bind and submit themselves strictly to fulfil and carry on all agreements, covenants, etc., contained in these presents.

In witness whereof they set their signatures to three writings of the same tenor as these presents in the presence of Mr. Johanis Perera Goonetilleke of Green Street and Don Baron Karunaratna Appuhamy of Green Street. 20

	(Sgd.) Illegibly.
<i>Witnesses :</i>	(Sgd.) DON ANDIRIS PERERA.
(Sgd.) Illegibly.	(Sgd.) DON CORNELIS SILVA.
(Sgd.) Illegibly.	(Sgd.) G. D. PALIS.
	(Sgd.) B. C. COORAY.
	(Sgd.) D. T. WEERAKKODY.
	(Sgd.) W. C. PERERA.
	(Sgd.) P. H. PERERA.
	(Sgd.) SIMON SILVA.
	(Sgd.) H. D. CAROLIS. 30
	(Sgd.) D. C. De SILVA.
	(Sgd.) L. S. PERERA.
	(Sgd.) DON HARAMANIS.

I, William Perera Ranasinghe of Colombo District in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing deed having been read over and explained by me the said Notary to the within named persons, Don Philip de Silva Epa Appuhamy, Lansage Andiris Perera Appuhamy, Kalansuriya Aratchige Don Cornelis de Silva Appuhamy, Gurunnanselage Don Palis Appuhamy, Bulathsinhalage Coranelis Cooray Appuhamy, Don Thomas Weerakkody Appuhamy, Willora Aratchige Cornelis Perera Appuhamy, Pattiya- 40

wattage Hendrick Perera Appuhamy, Hewavitarana Don Carolis Appuhamy, Simon Silva Appuhamy, Wettasinghage Don Cornelis Silva Appuhamy, Lansage Simon Perera Appuhamy, and Samarasinghe Aratchige Don Haramanis Appuhamy, in the presence of the aforesaid witnesses in my presence and in the presence of one another all being present at the same time on the sixth day of December, 1873, at Colombo. The duplicate of this deed bears stamps of the value of Rs. 15/- and the original a stamp of Re. 1/-.

Which I do hereby certify.

10

(Sgd.) W. P. RANASINGHE,
Notary Public.

P1
Deed No. 925
attested by
W. P. Rana-
singhe. Notary
Public
6.12.73—
Continued

1D6

**Extract from the Half Centenary Report of the
Vidyodaya Pirivena**

Page 23.

**HALF CENTURY REPORT OF THE VIDYODAYA
PIRIVENA, COLOMBO**

The New Buildings

Excluding the dwelling house in which the two Nayaka priests
20 reside and the small old house situated to the North of it all the remain-
ing ones are new buildings out of these buildings Kirillapone Guna-
ratana Isthawira, Rotamba Seelananda Isthawira have constructed
one room, two rooms by Andris Perera Dharmagunawardhana Muhan-
diram Ralahamy. The present teaching hall at the expense of the
Nayaka priest out of the £100 he got from Government for translating
Mahavansa into Sinhalese and from the priests who were then engaged
in studying and from the Dharmadeepthi Society. *The library was
put up at the expense to wit : Rs. 1,900/- out of money our Nayaka
priest got from Adam's Peak (Siripada) and the money received for
30 exhibiting the Casket of Tooth Relic which was fetched by Wajirarama
Terunnanse, Rs. 1,000/- from Mr. Pilo Fernando, Rs. 500/- from
Mr. Mathew, Rs. 500/- from W. Cornelis Perera Appuhamy, Rs. 1,000/-
from Andris Perera Dharmagunawardhana Ralahamy; the hall in
which the Nayaka Priest was residing was put up by Mudaliyar Don
Carolis Hewavitarne, the two back rooms of the library by Induruwe
Terunnanse and Sapugaskande Terunnanse, a room by Mr. J. Moone-
singhe, Proctor, two rooms from the money received from Adam's
Peak (Siripada) by our Nayaka Priest; The image house was put up
at an expense of Rs. 30,000/- from the money received from Adam's
40 Peak by our Nayaka Priest. The Alms Hall in memory of Mudaliyar
Don Carolis Hewavitarne. The sick room by Native Doctor J. P.*

1D6

Extract from
the Half
Centenary
Report of the
Vidyodaya
Pirivena
1874-1924

1D6
Extract from
the Half
Centenary
Report of the
Vidyodaya
Privena
1874-1924—
Continued

Jayatilleke. The avasa in which Heiyantuduwe Sri Dewa Mithra Nayaka Priest was residing by Mallika Hewavitarne Lama Etani. A room by Mr. D. D. Pedris at the request of the Vidyadhara Society for the use of the students. A room by G. D. H. Seneviratne Appuhamy. A room by Mrs. Thidoris Fernando. A room by Mrs. E. Hewavitarne. A room by Mr. S. A. Hewavitarne. A room by Weerapperumachi Athukoralalage Don Mathes Perera Jayawardena Muhandiram Ralahamy. A room by M. D. Juwanis Appuhamy and C. S. de Silva Arachchi Mahatmaya. Three rooms by Japanese priests and besides these a table for offering of flowers near the Dagoba 10 by G. D. H. Seneviratne Appuhamy. A Teaching Hall by Sri Nanesara Nayaka Priest at an expense of about Rs. 8,000/-. A latrine by Mr. G. D. G. Seneviratne Appuhamy for the use of Heiyantuduwe Nayaka Thero. A flight of steps at the Vihare compound by Mr. J. Ratnasara. The front portion of the parapet wall round the Vihare by Andris Perera Dharmagunawardhana Muhandiram Ralahamy. The back portion of the said wall by Bhikkhu pupils. The second repair of the said wall by Mudaliyar Don Carolis Hewavitarne and also by him three latrine rooms.

Translated by

(Sgd.) Illegibly.

D.C. Colombo, Sworn Translator.

20

1D6A
Extract of
the Half
Centenary
Report of the
Vidyodaya
Privena
1874-1924

1D6A

**Extract of Half Centenary Report of the Vidyodaya Privena
1874-1924**

Objects for the Establishment of the Privena

* * *

Pages 2 and 3.

With a view to disseminate the light of teaching of the Buddha and spread the light of oriental studies once again Thripitaka Vagiswaracharya Reverend Hikkaduwe Sri Sumangalabhidana established 30 the great beacon of knowledge—Vidyodaya Privena. At the inauguration of this beacon of knowledge there were five monks-students and two lay students to obtain the light of learning.

* * *

At the commencement of the Privena—7.

Increase in the number of students since—

1873-1878 is 102.	Total	109
1878-1882 is 135	„	244
1882-1887 is 188	„	432

1887-1892 is	195	Total	627
1892-1898 is	230	,,	857
1898-1903 is	275	,,	1,132
1903-1908 is	228	,,	1,420
1908-1913 is	320	,,	1,740
1913-1918 is	352	,,	2,092
1918-1923 is	428	,,	2,522

1D6A
Extract of
the Half
Centenary
Report of the
Vidyodaya
Privena
1874-1924—
Continued

The above figures are from the registers. During this period there were roughly twenty-five students a year who were preparing for Notaries Examinations and studying Sinhalese, Pali and Sanskrit. With these students there were about 1,250 students. 3,772 students were educated during this period of 50 years. Of this number there were about 3,000 priest-students. And 772 lay students.

* * *

Page 4.

Foreign Students

There were many students from abroad who joined this Pirivena from time to time to learn the Dhamma (Doctrine). Some of these are :—

- 20 (1) Pandit Mahamahopadhyaya Satischandra Vidyabhushana, M.A., Ph.D. (Bengali).
- (2) Pandit Kosambhika Dhammananda of Gujerat.
- (3) Chakuna Amarabhirakkitha, who belongs to Royal House of the King of Siam.
- (4) Pramaha Kanthachara who came down from Siam and returned to Siam having educated himself here and who is now the Principal, Devasirinda Pirivena, (Apart from this there were several others from Siam who had obtained their education here but their names are not mentioned here.)
- 30 (5) Pandit Vecharasdas Viyakarana Niyayathirtha, a Gujerati.
- (6) Haragovinda Sastri Viyakarana Niyayathirtha, a Gujerati.
- (7) N. K. Bagawath, M.A., a Gujerati.
- (8) Saddharma Visharadha Rev. Gnanandha who came here from Chattagrama, India, for learning and who is now teaching after his return.
Rev. Punnananda, a monk from Chattagrama.
- (9) Rev. Vimalabudhi, a Dravidian Brahamin of Mysore region.
- (10) Pandit Nityananda Goswami Kaviathirtha Suthravisarada, a Bengali.

1D6A
Extract of
the Half
Centenary
Report of the
Vidyodaya
Privena
1874-1924—
Continued

- (11) Kojan Gunaratana (this monk, a Japanese, who arrived here at the request of Gate Mudaliyar E. R. Gunaratna of Galle and was ordained by the Nayaka Thero. He underwent a training in Pali Dhamma Vinaya for some time and returned to Japan and is now a chief of a sect disseminating the teachings of the Buddha as it is to be found in Ceylon).
- (12) Kondanna.
- (13) Sumana.
- (14) Thachibana (These students who came here from Japan having educated themselves in the Pali Language and the Doctrine of the Buddha and returned to Japan.)¹⁰
- (15) U. Sagara.
- (16) U. Jina.
- (17) U. Medhalankara (These students who came here from Burma having educated themselves in the Pali Language and the Doctrine of the Buddha and returned to Burma.)
- (18) Subahu who came here from Tibet and educated himself.

Methods of Teaching

Going through the methods of teaching at that time it is evident that since the knowledge of Dharma Vinaya Pali and Sinhalese of the Bhikkhus of Ceylon and the knowledge of Medical Science, Pali and Sinhalese of the laity were so poor that at the beginning Bhikkhus had to be taught Dhamma Vinaya with the aid of the Pali Language and the laymen had to be taught Medical Science with the aid of Sanskrit and also Sinhalese. With the lapse of time it was learnt that a knowledge of Sanskrit Grammar would be an asset to develop Scientific knowledge and Bhikkhus were taught Sanskrit Grammar. With this end in view classes were commenced for the teaching of Mathematics.

At the orders made by the Director Mr. E. B. Denham, classes were started to teach English after the 1917 prize-giving during the Principalship of Rev. Sri Gnaneswara Nayaka Thero. According to this method Bhikkhus are taught grammatical Pali and Sinhalese and the Discipline of the Dhamma in particular and grammatical Sanskrit and history in general. The laymen were taught grammatical Sanskrit and Sinhalese and Medical Science, History and Pali Dhammapadha. Both sections were taught Mathematics while Bhikkhus alone were taught the English language.

Welfare to Ceylon Brought About by this Pirivena

The first result is the dissemination of the teachings of the doctrine in the whole of Ceylon according to the pure wishes of our Maha Nayaka Thero. We are aware that the Nayaka Thero proclaimed that at the time of the inauguration of the Pirivena that there were

not even seven or eight per cent of the monks who could understand the Pali Suththara correctly and deliver a successful sermon on the teachings of the Buddha. He had also stated that there were not four or five per cent of the physicians who could read and understand Sanskrit writing and adhere to correct methods of medical science. He also referred that there were not even three per cent of the Astrologers who could definitely decipher the good and bad aspect of a horoscope.

1D6A
Extract of
the Half
Centenary
Report of the
Vidyodaya
Privena
1874-1924--
Continued

* * * *

Pirivenas inaugurated by this Pirivena in Ceylon and their Principals

- | 10 | <i>Pirivena</i> | <i>Principal</i> |
|-----------|---|--|
| | (1) Paramadhammachethiya Pirivena | * Rev. Valane Sri Siddhartha Dhammanandha Nayaka Thero |
| | (49) Sri Sidhartha Sumangala, Pirivena | Rev. Rambukwelle Dhammaratane Thero |
| | * Though classes were conducted here earlier the Pirivena was started under the name Paramadhammachethiya by our Maha Nayaka Thero. | |

* * * *

Students who became Teachers in this Pirivena given in Chronological Order

- | | | |
|-----------|--|--|
| | 1. Rev. Heiyantuduwe Sri Devamitthabhidhana Nayaka Thero (from 1877, Assistant Teacher, from 1899, Vice-Principal, from 1911, Director). | |
| | * * * * | |
| 20 | 5. Rev. Sri Gnaneswara Maha Nayaka Thero (from 1823, Assistant Teacher, from 1899, Vice-Principal, from 1911, Principal). | |
| | * * * * | |
| | 12. Kahawe Ratnasara Maha Nayaka Thero (from 1902, Assistant Teacher, from 1911, Vice Principal, from 1922, Parivenadhipathi). | |
| | * * * * | |
| | 18. Morontuduwe Dhammanandha—Assistant Teacher. | |

* * * *

SPECIAL POSTS AND GRADUATED STUDENTS

* * * *

	<i>Name</i>	<i>Decree & Posts</i>
30	2. Rev. Heiyantuduwe Sri Dewamitthabhidhana Maha Nayaka Thero ..	(1) Dharmakirithi Sri, (2) Thripitaka Vagiswarachariya, (3) Chief Nayaka of Nine Korales in Colombo, (4) Director, Vidyodaya Privena
	3. Rev. Mahagoda Sri Gnaneswarabhidhana Thero ..	(1) Thripitaka Vagiswarachariya, (2) Mahopadhaya, (3) Chief Nayaka, Sabaragamuwa Province, (4) Principal of Vidyodaya Pirivena, (5) Chief Nayaka of Colombo, (6) Member of Education Council of Education Sastra Sala
	4. Rev. Deundara Sri Jinaratana Thero ..	(1) Sri Sumangala, (2) Mahopadhaya, (3) Deputy Chief, Nine Korales, Colombo
	* * * *	* * * *

ID6A
Extract of
the Half
Centenary
Report of the
Vidyodaya
Privena
1874-1924—
Continued

Page 15

<i>Name</i>	
21. Rev. Bhihalpola Sri Dewarakshitha- bhidhana Thero ..	(1) Dharmakirithi Sri Vagiswarachariya, (2) Chief of Devamedi Hathpaththuwe, (3) Vice-Principal, Vidyodaya Pirivena
* * *	* * *
47. Kukulnape Dewarakhitha Thero ..	(1) Abhidharmika Vagiswarachariya, (2) Lecturer, Calcutta University, (3) Examiner in Calcutta's Sanskrit Con- gress
* * *	* * *

General Assistance to Pirivena

10

The Vidyadhara Sabha which is the Trustee of the Pirivena assists it by providing facilities for its further development and alms and other requirements of the Bhikkhu Teachers.

Translated by me.

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

P2A
Translation
of Deed No.
1259 attested
by W. P. Rana-
singhe, Notary
Public
31.3.1876

P2A
Translation of Deed No. 1259

No. 1259

This deed made and entered into between the three parties: 20
Lansage Andiris Perera of the Pettah, Colombo, of the first part,
hereinafter referred to as the party of the first part, and (1) Don Phillip
de Silva Epa of St. Joseph's Street, Colombo, (2) Lansage Andiris
Perera of the Pettah, (3) Kalansuriya Aratchige Don Cornelis de
Silva, (4) Bulathsinalage Cornelis Cooray, (5) Willora Aratchige
Cornelis Perera, (6) Hewavitaranage Don Carolis, (7) Pattiyawattage
Hendrick Perera of Slave Island, (8) Wettasinghage Don Cornelis
de Silva, (9) Mahaveediyage Don Girigoris of Maradana, (10) Raja-
pakse Kumarannehelage Johanis Alponso of Peliyagoda, (11) Gurun-
nanselage Don Pelis of St. Joseph's Street, (12) Don Thomas Weerak- 30
kody, (13) Kahawe Guruge Jabi Peeris of the Pettah, (14) Pilo
Fernando Wijesekera Aratchi of the Pettah, (15) Lansage Simon

Perera, and (16) Don Manuel of Maradana, forming members of the Vidyadhara Sabha appointed upon deed No. 925 attested by W. P. Ranasinghe, Notary, on the sixth day of December, 1873, of the second part, hereinafter referred to as the party of the second part, and Venerable Sipkaduwe Sumangala Nayaka Thero of Sri Padasthana, Principal of the Vidyodaya Pirivena, Colombo, of the third part hereinafter referred to as party of the third part.

P2A
Translation of
Deed No.
1259 attested by
W. P. Rana-
singhe, Notary
Public
31.3.76—
Continued

Witnesseth :

WHEREAS the parties of the second part have established for
10 the purpose of teaching Buddhism and imparting knowledge both to
the Bhikkhus and laymen an educational institution called Vidyodaya
Pirivena in the halls built on the land called Maligakande situated
in Dematagoda, Colombo, belonging to the party of the first part,
and valued at Rs. Six Thousand, mentioned in the deed dated August
15, 1871, and hereinafter are more fully described—

AND WHEREAS the parties of the second part, although they
undertook to collect Rupees Six Thousand for the purpose of purchasing
the said land and carrying on the Pirivena for a long time have collected
only Rupees Two Thousand and Seventy and were not able to collect
20 the balance sum of Rupees Three Thousand Nine hundred and Thirty.

As the said party of the first part, with the approval of the parties
of the second part (as testified to by affixing their signatures hereto)
in consideration of the sum of Rupees Two Thousand and Seventy
paid to him by the parties of the second part, and in consideration of
his devotion to Buddhism and of merit acquired thereby and for
diverse other reasons, has agreed to dedicate the said land and the
houses built thereon to the said Venerable Sipkaduwe Sumangala
Nayake Thero, Principal of Vidyodaya Pirivena, and on his demise
30 of the said Pirivena as Sanghika property, so long as they live in
accordance with the Buddhist doctrine, for the establishment of a
Pirivena to impart knowledge both to the Buddhist laymen and
Bhikkhus and also to all religionists of all countries with no difference
in treatment as long as they conduct themselves in good manner,
and also for the long continuance of such a Pirivena subject always
to the protection and orders of the said Vidyadhara Sabha, constituted
upon the said deed, namely the gentlemen forming the parties of the
second part and on their death those joining the said Sabha.

And also as the said Venerable Sipkaduwe Sumangala Nayaka
40 Thero, Principal of the Vidyodaya Pirivena, as Principal of the said
Pirivena and on behalf of the Principals of the said Pirivena, who
may be appointed on his demise by the said parties of the second part
and on their death by those succeeding them, has agreed to accept
this as a deed of trust subject to all the aforesaid directions, stipulations
and conditions.

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 Translation
 of Deed No.
 1259 attested by
 W. P. Rana-
 singhe, Notary
 Public
 31.3.76—
Continued

And in consideration of the sum of Rupees Two Thousand and Seventy paid by the said parties of the second part to the said Lansage Andiris Perera the receipt whereof the latter acknowledges and in consideration of his devotion to the Buddhist religion and for diverse other reasons, the said party of the first part (Lansage Andiris Perera) with the approval of the parties of the second part do hereby give and assign, and has given and assigned to the said Venerable Suman-gala Nayaka Thero, Principal of the Vidyodaya Pirivena, and on his demise to the Principals appointed to the Pirivena by the parties of the second part and on their death by the gentlemen who join 10 the said Sabha as and by way of a dedication absolute and irrevocable and as Sanghika property.

All that allotment of land called Maligakanda belonging to the said Lansage Andiris Perera Appuhamy upon deed No. 3030 dated August 15, 1871, and attested by W. M. Wolf, Notary Public, of Colombo, hereto annexed, situated in Dematagoda, Colombo, and bounded on the North by the land belonging to Tangachchi Pulle Meera Naatchiya, on the East by the land belonging to Don Lewis Maha Vidane, on the South by the land belonging to Rev. J. D. Palm and on the West by the land belonging to Asan Meera Achchiya, 20 containing within these boundaries, as shown in Plan certified by H. F. de Silva, Surveyor, and attached to the deed annexed hereto, in extent three square roods, forming an Arama valued at Rs. 2,500/- together with all the houses built on it and plantations, etc.

And all that allotment of land in Maligakanda marked Lots three and four and situated in the village Dematagoda within the Colombo Municipality and bounded on the North by the land said to belong to the person called Sinna Thangachchi—on the East by the land marked 5, on the South by high road and on the West by the land said to belong to Mr. Mackwood and by the land said to belong 30 to Kande Addara Badalge Don Lewis Maha Vidane, containing within these boundaries an allotment of land in extent three-square roods and twenty-four perches, excluding therefrom an allotment of land in extent five perches gifted to Kande Addare Badalge Maria Nachchire, the remaining whole aramaya, together with all the houses built thereon, plantations, etc., valued at Rs. 3,500, to be held and possessed chiefly by the said Principal of the Pirivena, so long as they live according to the Buddhist doctrine and conduct the Vidyodaya Pirivena and impart knowledge to the members of both the laity and the clergy of all countries and religions with no difference in treatment 40 as long as they conduct themselves in good manner.

Power is hereby given to the said Principal of the Pirivena and the Principals who succeed him on his demise, to frame disciplinary rules regarding the welfare and good conduct of the person or persons receiving education at the said Pirivena, and in the event of any student violating such rules the said Principals are empowered to expel such student and to refuse re-admission.

For the purpose of ensuring the long continuance of this Pirivena the said parties of the second part the Vidyadhara Sabha and the Sabha formed of those who join it on the death of the gentlemen of that Sabha, are hereby appointed as an executive committee to pass in consultation with a Principal of the Pirivena rules and regulations for such continuance of the Pirivena and authority is granted with the approval of a Sangha Sabha to the parties of the second part to do such acts, from time to time, as the removal of Principals who transgress such rules and regulations and the appointment of Principals
 10 in their place.

The parties of the second part having agreed, it is hereby directed that the said parties of the second part and on their death those who succeed them to the Sabha shall have no right to give directions or frame rules regarding the internal affairs of the said Pirivena and that the Theros who from time to time hold the office of Principal shall have the right to attend to the said affairs as they desire without any interference or obstruction from the said parties of the second part.

The said party of the first part Lansage Andiris Perera Appuhamy
 20 for himself and his heirs, executors and administrators, covenants and declares with the parties of the said two parts and those who succeed them on their death that the said lands and houses are free from encumbrances and that he shall warrant and defend the title to the said lands against any person or persons whomscever.

In witness whereof the said parties signed this instrument and two others of the same tenor and date as this instrument on this 9th day of March, 1876, in the presence of the witnesses who sign below :—

Witnesses :—

(Sgd.) JAMES de ALWIS.
 30 „ T. KARUNARATNE.
 „ JAMES P. WEERASINGHE.
 „ HENRY E. WIJETUNGE.

(Sgd.) ANDIRIS PERERA.
 „ Illegibly.
 „ ANDIRIS PERERA.
 „ DON CORNELIS De SILVA.
 „ B. C. COORAY.
 „ W. C. PERERA.
 „ H. D. CAROLIS.
 40 „ P. H. PERERA.
 „ D. C. de SILVA.

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 Translation
 of Deed No.
 1259 attested by
 W. P. Rana-
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Continued

P2A
 Translation
 of Deed No.
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 31.3.76—
Continued

(Sgd.) DON GIRIGORIS.
 „ JOHANIS ALPHONSU.
 „ G. D. PELIS.
 „ D. T. WEERAKKODY.
 „ JABIR PEIRIS.
 „ Illegibly.
 „ L. S. PERERA.
 „ D. MANUEL.

For having accepted this deed.

(Sgd.) H. SUMANGALA.

10

„ H.P., A.P.

I, William Perera Ranasinghe, of Colombo District, in the Island of Ceylon, Notary Public, certify and attest that the foregoing deed having been read over and explained by me to the within named persons in the presence of Christombuge James de Alwis of Maradana in Colombo, and Thomas Karunaratne of St. Joseph's Street, Colombo, James Perera Weerasinghe, and Henry Edward Wijetunge, the witnesses hereto who are known to me the same was signed by the said persons and by the said witnesses in my presence and in the presence of one another, all being present at the same time on the 20 9th day and on the 31st day of March, 1876, at Colombo. The duplicate of this deed bears stamps of the value of Rupees 30/- and the original a Rupee stamp.

Which I hereby certify.

(Sgd.) W. P. RANASINGHE,
Notary Public.

Translated by me.

(Sgd.) Illegibly.
Interpreter, D.C., Colombo.

P2B
 Translation of
 Deed No.
 1259 attested
 by W. P. Rana-
 singhe, Notary
 Public
 31.3.1876

P2B
Translation of Deed No. 1259

30

No. 1259

This Deed made and entered into between the three parties—
 Lansage Andiris Perera of the Pettah, Colombo, of the first part,
 hereinafter referred to as the party of the first part, and 1. Don
 Philip de Silva Epa of St. Joseph's Street, Colombo, 2. Lansage
 Andiris Perera of the Pettah, 3. Kalansuriya Aratchige Don Cornelis

de Silva, 4. Bulath Sinhalage Cornelis Cooray, 5. Willora Aratchige Cornelis Perera, 6. Hevavitaranage Don Carolis, 7. Pattiyawattage Hendrick Perera of Slave Island, 8. Wettasinghage Don Cornelis de Silva, 9. Mahaveediyage Don Girigoris of Maradana, 10. Rajapakse Kumarannehelage Johanis Alponsu of Peliyagoda, 11. Gurunanselage Don Pelis of St. Joseph's Street, 12. Don Thomas Weerakody, 13. Kahawe Duwage Janchi Peeris of the Pettah, 14. Pilo Fernando Wijesekera Aratchi of the Pettah, 15. Lansage Simon Perera, and 16. Don Manuel of Maradana, forming members of the

10 Vidyadhara Sabha appointed upon deed No. 925 attested by W. P. Ranasinghe, Notary, on the sixth day of December, 1873, of the second part, hereinafter referred to as the party of the second part, and Venerable Sipkaduwe Sumangala Nayake Thero of Sri Padasthana, Principal of the Vidyodaya Pirivena, Colombo, of the third part hereinafter referred to as the party of the third part.

Witnesseth :

Whereas the parties of the second part established for the purpose of teaching Buddhism and imparting knowledge both to the Bhikkhus and laymen an educational institution called Vidyodaya

20 Pirivena in the halls built on the land called Maligakande situated in Dematagoda, Colombo, belonging to the party of the first part and valued at Rupees Six thousand, mentioned in the deed dated August 15th, 1871, and hereinafter more fully described.

And Whereas the parties of the second part, although they undertook to collect Rupees Six thousand for the purpose of purchasing the said land and carrying on the Pirivena for a long time have collected only Rupees Two thousand and Seventy and were not able to collect the balance sum of Rupees Three thousand Nine hundred and Thirty.

30 As the said party of the first part with the approval of the parties of the second part (as testified to by affixing their signatures hereto) in consideration of the sum of Rupees Two thousand and Seventy paid to him by the parties of the second part, and in consideration of his devotion to Buddhism and of merit acquired thereby and for diverse other reasons has agreed to dedicate the said land and the houses built thereon chiefly and in the first instance to the said Venerable

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Deed No.
1259 attested
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31.3.76—
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P2B
 Translation
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 1259 attested
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 Public
 31.3.76---
Continued

Sipkaduwe Sri Sumangala Nayake Thero, Principal of the Vidyodaya Pirivena, and thereafter on his demise to his successors in the said office of Principal of the said Pirivena so long as they live in accordance with the Buddhist doctrine and to the other members of the Sangha as a Sanghika property for the establishment of a Pirivena for the purpose of imparting knowledge to the members of both the laity and the clergy of all communities and religions with no difference in treatment as long as they conduct themselves in good manner and also for the long continuance of such a Pirivena, subject always to the protection and orders of the said Vidyadhara Sabha constituted upon the said 10 deed, namely the gentlemen forming the parties of the second part and on their death those joining the said Sabha.

And also as the said Venerable Sipkaduwe Sumangala Nayaka Thero, Principal of the Vidyodaya Pirivena as Principal of the said Pirivena and on behalf of the Principals of the said Pirivena, who may be appointed on his demise by the said parties of the second part and on their death by those succeeding them, has agreed to accept this as a deed of trust subject to all the aforesaid directions, stipulations and conditions.

And in consideration of the sum of Rupees Two thousand and 20 Seventy paid by the said parties of the second part to the said Lansage Andiris Perera and receipt whereof the latter acknowledges and in consideration of the merits to be gained and of his devotion to the Buddhist religion and for diverse other reasons the said party of the first part (Lansage Andiris Perera) with the approval of the parties of the second part do hereby give and assign and has given and assigned to the said Venerable Sumangala Nayake Thero, Principal of the Vidyodaya Pirivena and on his demise to the Principals appointed to the Pirivena by the parties of the second part, and on their death by the gentlemen who join the said Sabha as and by way of a 30 dedication absolute and irrevocable and as Sangika property.

All that allotment of land called Maligakanda belonging to the said Lansage Andiris Perera Appuhamy upon deed No. 3030 dated August 15, 1871, and attested by W. M. Wolf, Notary Public of Colombo, hereto annexed situated in Dematagoda, Colombo, and bounded on the North by the land belonging to Tangachchi Pulle

Meera Naatchiya, on the East by the land belonging to Don Lewis Maha Vidane, on the South by the land belonging to Revd. J. D. Palm and on the West by the land belonging to Asan Meera Nachchiya containing within these boundaries, as shown in Plan certified by R. F. de Silva, Surveyor, and attached to the deed annexed hereto, in extent three square roods, forming an Aramaya valued at Rs. 2,500/- together with all the houses built on it and plantations, etc.

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Translation of
Deed No.
1259 attested by
W. P. Rana-
singhe, Notary
Public
31.3.76—
Continued

And all that allotment of land in Maligakanda marked lots three and four and situated in the village Dematagoda within the Colombo
10 Municipality and bounded on the North by the land said to belong to person called Sinna Thangachchi marked 3 and 4, on the East by the land marked 5, on the South by High Road and on the West by the land said to belong to Mr. Mackwood and by the land said to belong to the Kande Addara Badalge Don Lewis Maha Vidane, containing within these boundaries an allotment of land in extent three square roods and twenty-four perches, excluding therefrom an allotment of land in extent five perches gifted to Kande Addara Badalge Maria Nachchire, the remaining whole Aramaya, together with all the houses built thereon, plantations, etc., valued at Rs. 3,500/- to be
20 held and possessed chiefly by the said Principal of the Pirivena as a perpetual Sanghika property for ever for the purpose of imparting knowledge to the members of both the laity and the clergy of all countries and religions with no difference in treatment as long as they conduct themselves in good manner.

Power is hereby given to the said Principal of the Pirivena and the Principals who succeed him on his demise, to frame disciplinary rules regarding the welfare and good conduct of the person or persons receiving education of the said Pirivena, and in the event of any student violating such rules the said Principals are empowered to
30 expel such student and to refuse re-admission.

For the purpose of enduring the long continuance of this Pirivena the said parties of the second part the Vidyadhara Sabha and also the Sabha formed of those who join it on the death of the gentlemen of that Sabha, are hereby appointed as executive committee to pass in consultation with a Principal of the Pirivena, rules and regulations for such continuance of the Pirivena and authority is granted with the approval of a Sangha to the parties of the second part to do such

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 Translation
 of Deed No.
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 31.3.76—
Continued

acts, from time to time, as the removal of Principals who transgress such rules and regulations and the appointment of Principals in their place.

The parties of the second part having agreed, it is hereby directed that the said parties to the Sabha shall have no right to give directions to frame rules regarding the internal affairs of the said Pirivena and that the Theros who from time to time hold the office of Principal shall have the right to attend to the said affairs as they desire without any interference or obstruction from the said parties of the second part.

10

The said party of the first part Lansage Andiris Perera Appuhamy for himself and his heirs, etc., covenants and declares with the parties of the said two parts and those who succeed them on their death that the said lands and houses are free from encumbrances and that he shall warrant and defend that title to the said lands against any person or persons whomsoever.

“ The said party of the third part on behalf of himself and on behalf of his successors in the said office of Principal of the Pirivena doth hereby accept the said gift as a Sanghika offering subject to the agreements, covenants and rules aforesaid.”

20

In Witness Whereof the said parties sign this Instrument and three others of the same tenor and date as this instrument on this 9th day of March, 1876, in the presence of the witnesses who signed below.

(Sgd.) James de Alwis.

(Sgd.) T. Karunaratne.

(Sgd.) James P. Weerasinghe.

(Sgd.) Henry E. Wijetunge.

(Sgd.) Andiris Perera.

(Sgd.) Illegibly.

(Sgd.) Andiris Perera.

(Sgd.) Don Cornelis de Silva.

(Sgd.) B. C. Cooray.

(Sgd.) W. C. Perera.

(Sgd.) H. D. Carolis.

(Sgd.) P. H. Perera.

(Sgd.) D. C. de Silva.

30

(Sgd.) Don Girigoris.
 (Sgd.) Johanis Alphonsu.
 (Sgd.) G. D. Pelis.
 (Sgd.) D. T. Weerakkody.
 (Sgd.) Janchi Peiris.
 (Sgd.) Illegibly.
 (Sgd.) L. S. Perera.
 (Sgd.) D. Manuel.

P2B
 Translation
 of Deed No.
 1259 attested
 by W. P. Rana-
 singhe, Notary
 Public
 31.3.76—
Continued

For having been accepted this offering :

10 (Sgd.) H. Sumangala.
 H.P. & A.P.

I, William, Perera Ranasinghe of Colombo District in the Island of Ceylon, Notary Public, certify and attest that the foregoing deed having been read over and explained by me to the within named persons in the presence of Christombuge James de Alwis of Maradana in Colombo, and Thomas Karunaratne of St. Joseph's Street, Colombo, James Perera Weerasinghe and Henry Edward Wijetunge the witnesses thereto who are known to me the same was signed by the said persons and by the said witnesses in my presence and in the
 20 presence of one another, all being present at the same time on the 9th day and on the 31st day of March, 1876, at Colombo.

The duplicate of this deed bears stamps of the value of Rs. 30/- and the original a Rupee stamp.

Which I hereby certify.

(Sgd.) W. P. RANASINGHE,
Notary Public.

Translated by me.

(Sgd.) Illegibly.
Interpreter, D.C., Colombo.

30

P10
Deed No. 1676

Application No. L. 2394.

No. 1676.

P10
 Deed No. 1676
 attested by
 W. P. Rana-
 singhe, Notary
 Public
 31.5.1879

Whereas I, Hikkaduwe Sumangala Terunannse, High Priest of Adam's Peak, of Maligakanda in Colombo, have no pupil of my own to succeed me after my death—

And Whereas my spiritual preceptor Mabotuwana Revata Terunnanse of Nalagasdeniya in Hikkaduwa has requested me to appoint Mabotuwana Siddhatta Unnanse a pupil of him the said

P10
Deed No. 1676
attested by
W. P. Rana-
singhe, Notary
Public
31.5.79—
Continued

Mabotuwana Revata Terunanse as my pupil and I have consented to appoint him the said Mabotuwana Siddhatta Unnanse as my pupil with the consent of him the said Mabotuwana Siddhatta Unnanse as is testified by his being a party to these presents.

Now Know All Men by These Presents that I the said Hikkaduwe Sumangala Terunanse for and in consideration of the learning good and sincerely religious life of him the said Mabotuwana Siddhatta Unnanse of Nalagashena in Hikkaduwa have taken, nominated, constituted and appointed and by these presents do take, nominate, constitute and appoint him the said Mabotuwana Siddhatta Unnanse 10 to be my pupil.

To Have and To Hold and enjoy all and singular the benefits, liberties, privileges, advantages, rights, interest and emoluments which do or shall belong and are and shall be due to a pupil and of right ought to belong to such in as full and ample a manner as a pupil ought to have, possess or enjoy and to succeed according to the laws prevailing in this Colony to all and singular the property I now hold or hereafter may hold in any manner whatsoever.

In witness whereof I have set my hand to three of the same tenor as these presents at Colombo this 31st day of May, A.D. 1879. 20

Witnesses :

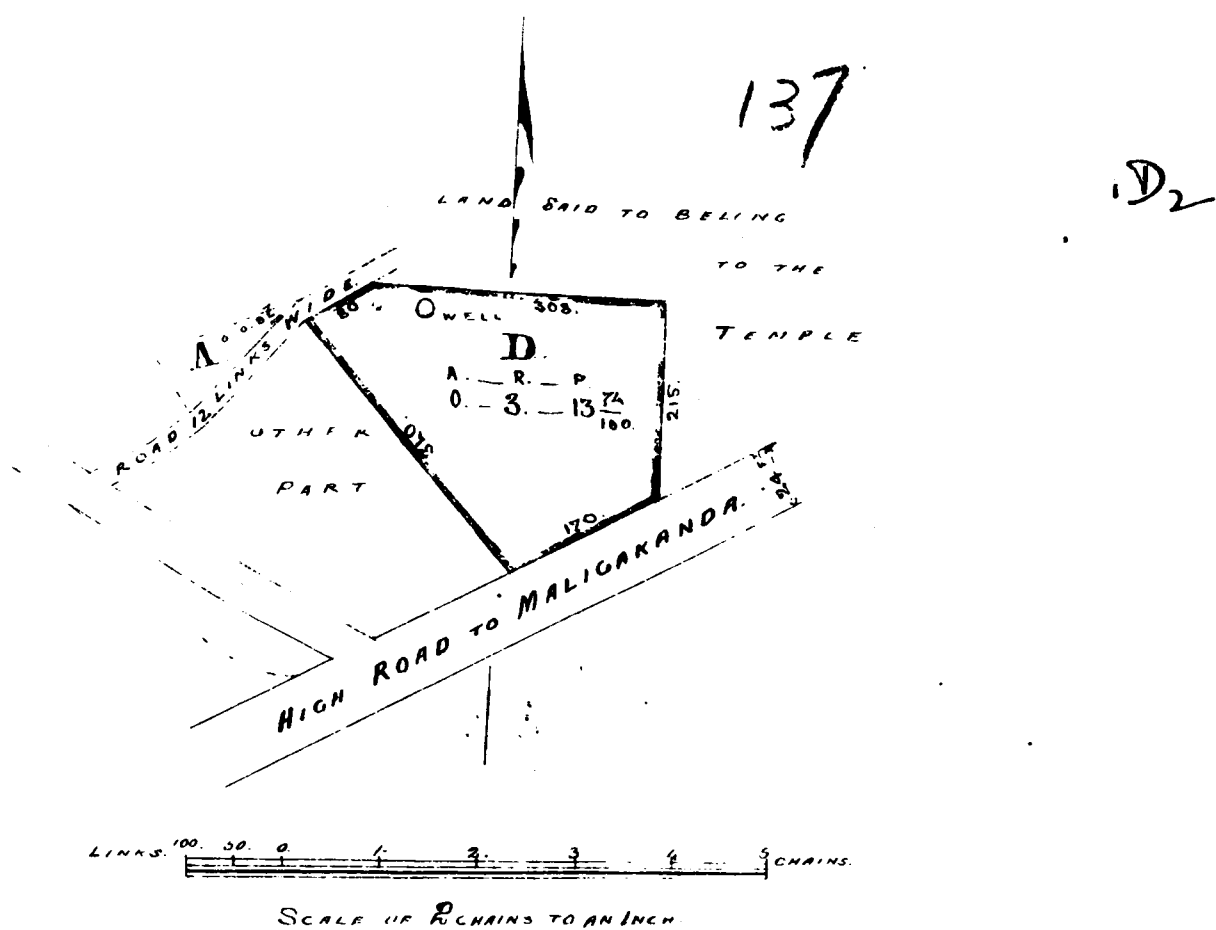
	(Sgd.) H. SUMANGALA.
(Sgd.) M. GUNARATNE.	(Sgd.) M. SIDDHATTA.
(Sgd.) H. DEWAMITTA.	

I, William Perera Ranasinghe of Colombo, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the said Hikkaduwe Sumangala Therunanse and Mabotuwana Siddhatta Unnanse who are known to me in presence of Mulleriyawa Gunaratne of Mulleriyawa in the Adekari Pattu of Hewagam Korale and Heyyantuduwa Dewamitta of Colombo the subscribing witnesses thereto 30 both of whom are known to me the same was signed by them and by the said witnesses in my presence and in the presence of one another at Colombo, all being present at the same time on this 31st day of May, A.D. 1789.

I further certify and attest that the duplicate of this deed bears stamps amounting to Rs. 10/- and the original a stamp of Re. 1/-.

Dated the 31st May, 1879.

(Sgd.) W. P. RANASINGHE,
Notary Public.



SURVEY of a portion of Land from
 Lots 1st 182. Shaded tint in the Plan
 and marked Lot D. Situated in the Village
 Demillegodda within the Municipality
 of Colombo in the Western Province.

Belonging to Suman Kera Derma Gunawidana
Bounded as Follows.

On the North & East Land said to belong
 to the Temple.

On the South by the Road to Maligakanda

On the West by the other part of the same
 Land

829

1D2
Plan

1D2
Plan
1.5.1880

P23
Deed No. 751
attested by
H. Van
Cuylenberg,
Notary Public
7.6.1880

P23
Deed No. 751

Application No. L. 2703.

No. 751.

This Indenture made the 3rd and 7th day of June, One thousand Eight hundred and Eighty between Michael Cocburn of Colombo of the one part and Simon Perera Dharma Goonawardana of the Pettah in Colombo of the other part—

Whereas the said Michael Cocburn is seized and possessed of all that piece of high ground with the buildings standing thereon called ¹⁰ and known as Palm House situated in Maligakanda in the District of Colombo comprised of lots Nos. 1 and 2 upon the general Plan of Maligakanda situated in the village of Dematagoda within the gravets of Colombo with the buildings thereon bounded on the North by a road twelve links wide and by gardens claimed by Segoo Pitchi Atchy and Lebbe Pakeer Lebbe, South by land claimed by Mr. Taylor and by Mahamadoe Lebbe—Constable Pitchi Tamby, East by land claimed by Mr. Mackwood, West by the aforesaid road twelve links wide and by land claimed by Mahamadoe Lebbe Susman Lebbe containing in extent two roods and eleven perches and all that ²⁰ piece of high ground being a part of Maligakanda situated at Kettewelamulle in the village Dematagoda within the gravets of Colombo with the buildings thereon bounded on the North by garden of Kandeaddare Badalgey Don Louis Vidahn, on the East West by Government ground and on the South by the road containing in extent three square roods and thirty-three square perches excluding however therefrom a portion of ground of the extent of Eight and Seven one hundred square perches under and by virtue of a deed of Conveyance No.....dated.....the day of....one thousand Eight hundred and Eighty and attested by Hector Van Cuylenberg of ³⁰ Colombo, Notary Public.

And Whereas the said Michael Cocburn hath agreed with the said Simon Perera Dharma Goonawardana for the absolute sale to him of the premises intended to be hereby granted in consideration of the sum of Rupees Two thousand (Rs. 2,000/-). And in consideration of the said Simon Perera Dharma Goonewardana entering into the covenants hereinafter on his part contained—

Now this Indenture Witnesseth that in pursuance of the aforesaid agreement and in consideration of the sum of Rupees Two thousand (Rs. 2,000/-) to the said Michael Cocburn paid by the said Simon Perera Dharma Goonewardena on or before the execution of these presents the receipt whereof the said Michael Cocburn doth hereby acknowledge and from the same doth hereby release the said Simon Perera Dharma Goonewardena and in consideration of the said covenants on the part of the said Simon Perera Dharma Goonewardena hereinafter contained the said Michael Cocburn doth hereby

10 grant unto the said Simon Perera Dharma Goonewardena and his heirs, executors, administrators and assigns all that plot, piece or parcel of ground situate in the village of Dematagoda within the gravets of Colombo now forming part of the premises called and known as Palm House which said plot, piece or parcel of ground is bounded on the North and East by land said to belong to the temple, on the South by the road to Maligakande on the West by the other part of the same land and containing in extent three roods and thirteen seventy-four one hundred square perches and the same is situated and coloured pink in the map or Plan of the premises annexed

20 to these presents made by Charles Schwallie, Land Surveyor, and dated the first day of May, One thousand Eight hundred and Eighty together with all the privileges easements appurtenances whatsoever to the said piece or parcel of land belonging or in anywise appertaining or usually held or occupied therewith or reputed to belong or be appurtenant thereto and all the estate, right, title, interest, claim and demand whatsoever of the said Michael Cocburn into and upon the said premises and every part thereof.

To Have and to Hold the said premises hereby granted or expressed so to be unto the said Simon Perera Dharma Goonewardena,

30 his heirs, executors, administrators and assigns for ever And I the said Michael Cocburn doth hereby for myself, my heirs, executors and administrators covenant with the said Simon Perera Dharma Goonewardena, his heirs, executors, administrators and assigns that the said premises are free from any encumbrance and that I shall always warrant and defend the same unto him and them against any person whomsoever.

And in pursuance of the aforesaid agreement on this behalf the said Simon Perera Dharma Goonewardena doth hereby for himself, his heirs, executors, administrators and assigns covenant with the said

40 Michael Cocburn, his heirs, executors, administrators and assigns that he the said Michael Cocburn, his heirs and assigns, owners for the time being of the house and premises called and known as Palm House forming the Western boundary of the premises firstly hereby granted or expressed so to be and his or their agents, workmen and servants and the owners, tenants and occupiers for the time being of the said Palm House and premises and all other persons authorized on that

P23

Deed No. 751
attested by
H. Van
Cuylenberg,
Notary Public
7.6.80—
Continued

P23
Deed No. 751
attested by
H. Van
Cuylenberg,
Notary Public
7.6.80—
Continued

behalf by the said Michael Cocburn, his heirs and assigns, owners for the time being aforesaid shall and will from time to time and at all time for ever hereafter and his and their will and pleasure of obtaining water from the well or spring hereinafter mentioned have full and free right, liberty and licence to go, return, pass and repass with or without a cart or other conveyances in, along and over the roadway four feet in breadth now making in and through the piece of land and premises firstly hereby granted leading to the well or spring of water at the Eastern extremity of the said premises to have and to hold the right of way and premises hereby granted or expressed so to be 10 unto and to the use of the said Michael Cocburn, his heirs and assigns for ever.

In witness whereof the said Michael Cocburn and Simon Perera Dharma Goonewardena have hereunto set their hand and seal to these presents and to two others of the same tenor and date at Colombo this third day of June in the year of Our Lord One thousand Eight hundred and Eighty.

(Sgd.) MICHAEL COCBURN.

Witnesses :

(Sgd.) S. P. D. GOONEWARDENA.

Signed in the presence of

20

(Sgd.) Illegibly.

(Sgd.) Illegibly.

Signed by the said Simon Perera Dharme Goonewardena on the 1st day of June, 1880, in our presence

(Sgd.) Illegibly.

(Sgd.) Illegibly.

I, Hector Van Cuylenberg of Colombo in the Island of Ceylon, Notary Public, by lawful authority duly admitted and practising do hereby certify and attest that the foregoing instrument having been duly read over by the within named Michael Cocburn who is known 30 to me in the presence of another Arthur Perera and Brampy Silva both of Colombo the subscribing witnesses thereto both of whom are known to me the same was signed by the said Michael Cocburn by the said witnesses and by me the said Notary in the presence of one another, all being present at the same time at Colombo on the third day of June, One thousand Eight hundred and Eighty.

And I do certify further that stamps to the value of Rupees four have been attached to the duplicate thereof.

Which I attest.

(Sgd.) HECTOR VAN CUYLENBERG, 40
Notary Public.

Date of attestation.

3rd June, 1880.

I, Hector Van Cuylenberg of Colombo in the Island of Ceylon, Notary Public, by lawful authority duly admitted and practising, do hereby certify that the foregoing instrument having been read over by the within named Simon Perera Dharma Goonewardena who is known to me in the presence of Arthur Perera and Brampy Silva, both of Colombo, the subscribing witnesses thereto both of whom are known to me the same was signed by the said Simon Perera Dharma
 10 Goonewardena by the said witnesses and by me the said Notary in the presence of one another all being present at the same time at Colombo on the seventh day of June, One thousand Eight hundred and Eighty.

And I do hereby further certify that stamps of the value of Rupees Ten have been attached to the duplicate hereof.

Which I attest.

(Sgd.) HECTOR VAN CUYLENBERG,
Notary Public.

Date of attestation :

20 June 7th, 1880.

P3

Deed No. 2134

Registered in A. Vol. 6, Folio 258.

Application No. L. 95.

Deed No. 2134

Know all men by these presents that I, Simon Perera Dharma Goonewardena, Vidana Arachchi of the Pettah in Colombo for and in consideration of the sum of Rupees Two thousand (Rs. 2,000) of lawful money of Ceylon well and truly paid to me by Mabotuwana Sidharta Unnanse of Maligakanda in Colombo (the receipt whereof
 30 I do hereby acknowledge) have granted, bargained, sold, assigned, transferred and set over as I do hereby grant, bargain, sell, assign, transfer and set over unto the said Mabotuwana Sidharta Unnanse,

P23

Deed No. 751
 attested by
 H. Van
 Cuylenberg,
 Notary Public
 7.6.80—
Continued

P3

Deed No. 2134
 attested by
 W. P. Rana-
 singhe, Notary
 Public
 4.4.1884

P3
 Deed No. 2134
 attested by
 W. P. Rana-
 singhe, Notary
 Public
 4.4.84—
Continued

heirs, executors, administrators and assigns all that plot, piece or parcel of ground situated in the village Dematagoda within the gravets of Colombo now forming part of the premises called and known as "Palm House", which said piece or parcel of ground is bounded on the North and East by land said to belong to the temple, on the South by the road to Maligakanda, on the West by the other part of the said land and containing in extent three roods and thirteen seventy-four one hundred square perches according to the Plan made by Charles Schwallie, Land Surveyor, dated 1st May, 1880, which is hereunto annexed together with all title deeds, vouchers, and 10 writings respecting the same, which said premises have been held and possessed by me the said Simon Perera Dharma Goonewardena, Vidana Arachchi, under and by virtue of the deed No. 751 dated third and seventh days of June, 1880, attested by Hector Van Cuylenberg of Colombo, Notary Public.

To have and to hold the said premises with all and singular the appurtenances thereunto belonging unto him the said Mabotuwana Sidharta Unnanse, his heirs, executors, administrators and assigns for ever.

And I the said Simon Perera Dharma Goonewardena for myself, 20 my heirs, executors and administrators, covenant, promise and agree to and with the said Mabotuwana Sidharta Unnanse, his heirs, executors, administrators and assigns that the said premises are free from any encumbrance and that I shall always warrant and defend the same unto him and them against any person whomsoever.

In witness whereof I, the said Simon Perera Dharma Goonewardena, do set my hand to three of the same tenor as these present at Colombo this 4th day of April in the year of our Lord One thousand Eight hundred and Eighty-four.

(Sgd.) S. D. P. GOONEWARDENA. 30

Witnesses :

(Sgd.) Illegibly.

(Sgd.) H. Don Carolis.

I, William Perera Ranasinghe of Colombo, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the said Simon Perera Dharma Goonewardena who is known to me in the presence of the witnesses Carolis Perera Ratnayake of St. Joseph's Street in Colombo and Hewavitarnage Don Carolis Appuhamy of Pettah in Colombo who are known to me the same was signed by him and by the said witnesses in my presence and in the presence of one another, all being present at the same time at Colombo this 4th day of April 10 in the year of Our Lord, One thousand Eight hundred and Eighty-four.

I further certify and attest that the duplicate of this deed bears a stamp of Rs. 10/- supplied by me the said Notary.

Dated the 4th day of April, 1884.

(Sgd.) W. P. RANASINGHE,
Notary Public.

1D21

Deed No. 25102

No. 25102

Deed of Gift (Offering) Rs. 2,000/-

20 Whereas I, Mahawela Lekamalage Giranhamy Lekama of Nivitigala Nindegama (a village of Royal Grant), in Medapattuwa in Nawadun Korale in the Province of Sabaragamuwa now of the age of about sixty years being of sound mind desirous of performing a meritorious deed for the good of the next world.

And Whereas the noble doctrine (Sri Saddharma) of our Lord the Omniscient is being disseminated from the Vidyodaya Pirivena (College) at the temple at Maligakanda, Colombo, throughout Ceylon and in other countries.

P3
Deed No. 2134
attested by
W. P. Rana-
singhe, Notary
Public
4.4.84—
Continued

1D21
Deed No. 25102
attested by
D. M. Abhaya-
ratne, Notary
Public
25.5.1895

1D21
 Deed No. 25102
 attested by
 D. M. Abhaya-
 ratne, Notary
 Public
 25.5.95—
Continued

And Whereas I have realised that it is highly meritorious to contribute towards the support of the said Vihara and Pirivena which encourages the cultivation of the said religious doctrine which in turn is the noblest path leading to transcendental bliss.

And Whereas a desire has arisen in me to offer the undermentioned share of the village to the said Vihara and Pirivena as a means of obtaining future heavenly bliss and having achieved liberation from Sansara (the cycle of births and re-birth) of attaining the bliss of Nirwana for myself, my deceased parents and my brother.

And Whereas I have obtained in terms of clause 48 of the 10 Buddhist Temporalities Ordinance of 1889 from His Excellency the Governor of Ceylon special permit dated the 2nd day of May, 1894, necessary for the said offering.

Now Know All Men by These Presents that I the said Mahawela Lekamalage Giranhamy Lekama by virtue of the Deed of Fiscal's Sale No. 299 dated the 4th day of September, 1863, am being seized and possessed of the Nindagama (village granted by the King) called Kottagamgoda situated in the said Pattu and bounded on the North by the Nivitigala Nindagama and Karavitiya Kumbure godella, on the East by Nivitigala Nindagama Dikhena Paula, Bandiya Aswed- 20
 dumma Wekada Kumbura Egoda Ivura, ditch of Hindurupitiyagewatta and Pansalawatta Ivura on the South by the River and on the West by Nivitigala Nindagama Kanawanadeniya Hena and Diyanagewatta and containing within these boundaries an extent of land of the sowing capacity of about one hundred and fifty amunams of paddy containing both of high and low land inclusive of Millapawela Kumbura possessed as a part and parcel thereof, together with the plantations thereon, the shares derived from Rajakari Wasan thereof, and such other customary concessions as anda and othu, etc., I do hereby assign, convey and offer an undivided one-half share of the said 30
 entire village and the appurtenances thereof valued at Rupees Two

thousand (Rs. 2,000/-) of the lawful money of Ceylon as an entire Sanghika (belonging to the community of Buddhist monks) property to the said Vihara at Maligakanda in Colombo and to the Vidyodaya Pirivena thereof vesting the same in the Ven'ble Sipkaduwe Sumangala Nayaka Thero, the incumbent thereof.

1D21
Deed No. 25102
attested by
D. M. Abhaya-
ratne, Notary
Public
25.5.95—
Continued

Therefore I do hereby assign, make over and offer to the said Maligakanda Viharasthana and Pirivena all my rights and title in and to the said half share of the said village and all appurtenances thereof together with all such other things as Rajakari, anda, othu, 10 etc., so that the same shall be held and possessed for ever for and on behalf of the said Maligakanda Viharasthana and Vidyodaya Pirivena in accordance with the rules of religion, after my death or from such a day as I shall have made the offering in public, by the said incumbent, The Ven'ble Sipkaduwe Sumangala Nayaka Thero and after him by the monks who succeed him in his line as incumbents and for supplying the four needs (Sivupasaya) to the community of monks who come from the four quarters.

Therefore, I do hereby direct and finally decide that hereafter I or any of my heirs, executors, administrators or assigns shall not do 20 by thought, word or deed any kind of interruption against this entire Sanghika offering.

In Witness Whereof this deed of offering is caused to be made and I the said Mahawela Lekamlage Giranhamy Lekama did hereby set my hand to these presents at Ratnapura on this twenty-fifth day of May, One thousand Eight hundred and Ninety-five.

(Sgd.) GIRANHAMY.

Witnesses :

(Sgd.) HERATHAMY.

(Sgd.) BANDULAHAMY.

1D21
Deed No. 25102
attested by
D. M. Abhaya-
ratne, Notary
Public
25.5.95—
Continued

Having declared that by virtue of this meritorious deed the said Mahawela Lekamlage Giranhamy Lekam Mahatmaya may and shall receive whatever prosperity thought of or wished for by him, the said Sipkaduwe Nayaka Unnanse accepted the same at Ratnapura on the twentieth day of July, 1896.

(Sgd.) H. SUMANGALA.

I, Don Marthinus Abhayaratne of Ratnapura, Notary Public, of the Sabaragamuwa Province, do hereby certify and attest that the foregoing Instrument having been read over and explained by me in the presence of Dhamma Aratchilage Herathamy, Gampaha Vidane 10 of Galagamuwa and Hettikande Aratchilage Bandulahamy of Lello-pitiya the subscribing witnesses known to me the said Mahawela Lekamlage Giranhamy Lekama, who is known to me and to the witnesses, the same was signed by the said executant and by the said witnesses in my presence and in the presence of one another all being present at the same time at Ratnapura on this twenty-fifth day of May, 1895.

The duplicate hereof bears stamps of the value of Rs. 10/- supplied by the donor and the original hereof bears one stamp of the value of one Rupee supplied by me.

20

Which I attest.

(Sgd.) D. M. ABEYRATNE,
Notary Public.

25th day of May, 1895.

Translated by me.

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

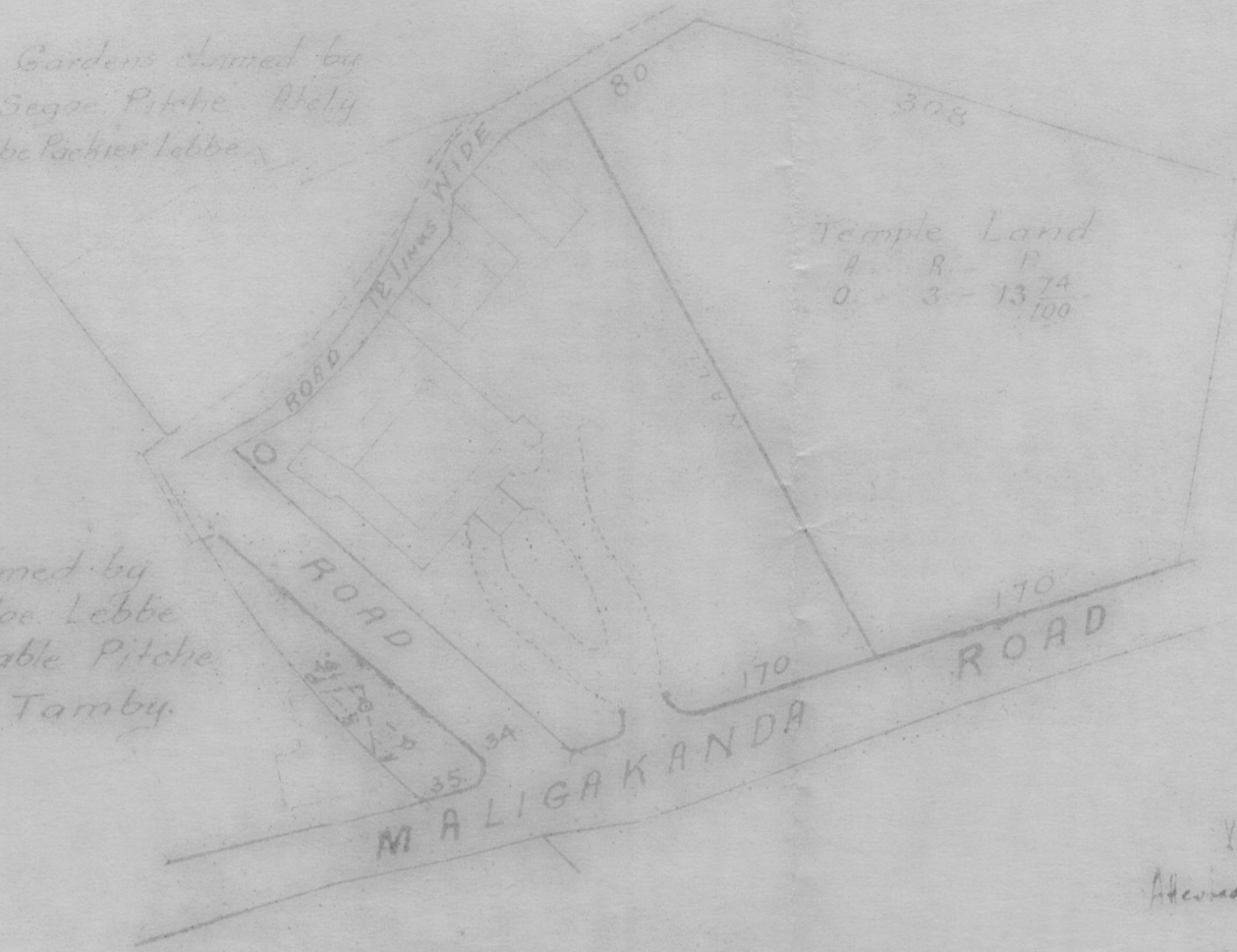
A

P?

Wijaya 20/1/13
S/S Libok...

Gardens owned by
Segoe Pitche Alaly
and Maylebbe Pachier Lebbe

Land claimed by
Mahamadoo Lebbe
Constable Pitche
Tamby



Vide Deed
Approved by PDA Mack Notary
14th July, 1898.
Colombo A $\frac{29}{217}$

Scale of One Chain to an Inch

At the Request of Mr. M. Cochran I surveyed the Property situated at
"Maligakanda" which is Bounded as above described and the following ^{is my} Report thereon:-

With reference to the Figure of Survey (dated 25th June, 1847. and authenticated by
Mr. Surveyor General Simms) attached to the Deed of Mr. Cochran, I find that on the
Southern Boundary he is less by 35 links, which ends in nothing at a distance of 270 links
towards the South Western boundary in Extent 153⁴/₁₀₀ Perches as in the above Plan. - ~~x~~ In Fact

according to
The Red line denotes the land as per Town Survey of 1871. and the
Black dotted line as per Figure of Survey dated 1847. attached to Mr. Cochran's
Title Deeds.

Colombo, 19th August, 1885.

Signed/ = Chas Schwallie
L. Surveyor.

x In fact according to the aforesaid Title Figure
Mr. Cochran is entitled to all that piece of land
adjoining the ROAD which is coloured
Pink in the Plan.

Certified TRUE COPY

Drawn by:

W. C. de Silva
F.S.I.C.
Licensed Surveyor & Leveller

Colombo. 5. 2. 1949.

W. C. de Silva, F.S.I.C.
Licensed Surveyor & Leveller

Colombo 5

839

P9
Plan

P9
Plan
19.8.1885

P24
Deed No. 2431
attested by
W. P. Rana-
singhe, Notary
Public
12.12.1887

P24

Deed No. 2431

Whereas the Sabha, constituted under the name of Vidyadhara Sabha and being maintained by virtue of conditions set out in the deed of mutual agreement bearing No. 925 and attested on the sixth of December, 1873, by Mr. W. P. Ranasinghe, Notary Public, Colombo District, convened meetings for the purpose of maintaining the Vidyo-daya Pirivena for a long time in a stable manner and whereas at such meetings the gentlemen hereinmentioned below, to wit:—

- (1) Nawalage Pedrick Cooray Appuhamy of Colombo. 10
- (2) James de Silva Seneviratne Appuhamy.
- (3) Malaviaratchige Don Juwanis Appuhamy.
- (4) Mutukutti Arachchige Don Juwanis Gunaratne Aratchi Mahatmaya.
- (5) Villora Aratchige Davith Perera Appuhamy.
- (6) Kalutrantrige Don Bastian Appuhamy.
- (7) Pora Mudalige Simon Perera Appuhamy.
- (8) Villora Arachchige Martheenus Perera Appuhamy.
- (9) Wijesinghe Aratchige Herman Phillip Perera Appuhamy.
- (10) Samarasinghe Aratchige Don James de Silva Appuhamy. 20
- (11) Hewavitaranage Don Corolis Appuhamy.
- (12) Meegama Gurunnanselage Don Hendrick Appuhamy.
- (13) Don Henry Aberatne Appuhamy.
- (14) Munasinghage Don Salmon de Silva Appuhamy.
- (15) Vithanage Don Johannes Perera Appuhamy.
- (16) Pagoda Aratchige Don Amaris Appuhamy.
- (17) Pattiyaratchige Johannes Alexander Perera Appuhamy.
- (18) Bammanaaratchige Don Peiris Appuhamy.
- (19) Don Kustan Wettasinghe Appuhamy.
- (20) Kariyawasam Loku Gamage Don Dines de Silva Appu- 30
hamy.
- (21) Meegama Gurunnanselage Don Carolis Appuhamy.
- (22) Kalansuriya Aratchige Don Adicaram de Silva Appuhamy.
- (23) Malwattage Charles Peiris Seneviratne Appuhamy.
- (24) Bulathsinhalage Swethan Cooray Appuhamy.
- (25) Talagalage Don Samuel Joromimus Karunaratne Vidane Aratchi.
- (26) Bulathsinhalage Don Bastian Jayasekera Aratchi (Mahatmaya).
- (27) Kandane Aratchige Don Arnolis Perera (Mahatmaya). 40
- (28) Attiligoda Nanayakkara Gamage Don Hendrick Silva Appuhamy.
- (29) Weeragama Bodinayake Dharmalankara Pandita Mudi-
yanselage Punchibandara Pandita Mahatmaya and

(30) Wickrama Aratchige Charles de Silva Appuhamy—these gentlemen with the gentlemen whose names are mentioned in the said deed of mutual agreement to wit:—

- (1) Don Phillip de Silva Epa Appuhamy of Colombo.
- (2) Lansage Andiris Perera Dharmagoonawardene Muhandiram Mahatmaya.
- (3) Kalansuriya Aratchige Don Theodoris de Silva Appuhamy.
- (4) Malwattage Lewis Peiris Mahatmaya.
- 10 (5) Bulathsinalage Cornelis Cooray Appuhamy.
- (6) Dionysius Gunawardena Mahatmaya.
- (7) Willora Aratchige Cornelis Perera Appuhamy.
- (8) Pattiyawattage Hendrick Perera Appuhamy.
- (9) Simon de Silva Muhandiram Mahatmaya.
- (10) Hewavitaranage Don Carolis Appuhamy.
- (11) Don David Abhayaratne Wasala Liyana Muhandiram Mahatmaya.
- (12) Lansage Simon Perera Dharmagunawardena Aratchi Mahatmaya and
- 20 (13) Samarasinghe Aratchige Don Haramanis Kawiratne Aratchi Mahatmaya having bound themselves by the promises, agreements and conditions hereinafter mentioned not only joined the Vidyadhara Sabha as Office-bearers and Advisers of the Vidyadhara Sabha, but covenanted to be bound by the promises, agreements, and conditions set out in the said deed of mutual agreement to acknowledge the promises, agreements and conditions mentioned hereinafter also on the same footing as the promises, agreements and conditions contained in the said deed of mutual agreement, and
- 30 should there be in the said deed of mutual agreement any promise, agreement or condition contrary to these presents, to regard any such as null and void. to wit:—

1. It is agreed to teach in the Vidyodaya Pirivena Buddhism and also Oriental knowledge consisting mainly of religious knowledge (Sastra), etc., to Bhikkhus chiefly and also the laymen.

2. If there be any work such as repairs, etc., to be done from time to time in this Pirivena, we agreed to do so or to get all such work as decided by the Sabha for the convenience of every one. If any adviser or office-bearer not agreeing thereto defaults without

40 any reason, it is agreed to recover by legal proceedings such person's share of expenses together with a further amount of sum equal to it as penalty.

3. It is agreed that the forty-three persons of this Sabha shall supply themselves or with the help of others all that is necessary for the maintenance of this Pirivena firmly for a long time, *i.e.* each person to pay every month before the Fifteenth day a sum of money not less than

P24
Deed No. 2431
attested by
W. P. Rana-
singhe, Notary
Public
12.12.87—
Continued

P24
Deed No. 2431
attested by
W. P. Rana-
singhe,
Notary Public
12.12.87—
Continued

one rupee and if any person, while being able to do so, either neglects to pay or do what should be supplied, to sue him at law and recover a sum of two as penalty as or to eject him from the Sabha. Nevertheless, it is decided under the rules that if any such person were to appear before the other advisers including the office-bearers and having explained the nature of his difficulty applies to resign from the Sabha, the advisers including office-bearers who accepted such explanation could either release him or if the Sabha wishes exempt him from subscription and retain him.

4. Power is hereby vested in the Treasurer duly appointed 10 under the rules of this Sabha to collect or to cause the collection of, in accordance with the rules, the monies received for the maintenance of this Pirivena or for the improvement thereof and to make payments to persons authorised by the Sabha in terms of its rules.

5. The Treasurer of this Sabha for himself, his heirs, executors, administrators, etc., shall be legally responsible for the funds received for and on behalf of this Sabha either to this Sabha or to anyone duly authorised by this Sabha.

6. It is agreed among one another that the funds received either for the maintenance of this institute or for its improvement shall 20 only be spent as directed by the pious donors thereof and not for any other work. If there were any sum of money left over after the completion of the particular work it shall be under the rules added to the funds of the Sabha.

7. It is directed to appoint in accordance with the law a board of Trustees duly nominated and competent enough to take charge of any funds allotted by this Sabha or any funds gifted by any pious person for the purpose of investing as a fund and taking only the income arising therefrom, and to safeguard and deposit all such funds in a bank recognised by the Ceylon Government. 30

8. Just as the Vidyadhara Sabha can with the consent of the Ven'ble Principal of the Pirivena to appoint the Tutors who do the teaching, etc., in this Pirivena and also the pupils, so has the power been reserved to the Sabha, with the consent of the Ven'ble Principal of the Pirivena to inquire in accordance with the rules into such unfitness or offence of the aforesaid two sections (pupils and Tutors) as has been brought in accordance with the rules to the notice of the Sabha, and to dismiss from office or to expel from the Pirivena any such unfit person or persons. Our assent is hereby declared to the continuance of the Ven'ble Hikkaduwe Sri Sumangala, Nayake Thero 40 of Sripadasthana and Galle, who holds the Principalship of the Pirivena from its commencement, so long as he has strength and desire to hold the Principalship of the Pirivena. But the Ven'ble Thero who succeeds him in the Principalship of this Pirivena shall be selected and appointed by this Sabha. Further, if any unfitness of the Principal

of the Pirivena so appointed by the Sabha were come to be known, the right is reserved to the Vidyadhara Sabha to investigate it and give a decision on it.

9. It was decided that whenever thirteen or more advisers including office-bearers were present at a meeting of this Sabha convened according to the rules, such a meeting had right to exercise full power of the Sabha.

10. Whenever any business concerning the Vidyodaya Pirivena, or the Vidyadhara Sabha, or the Vidyadhara Sangama (Society) has arisen not only power is hereby granted to convene a meeting consisting of only the members belonging to the Vidyadhara Sabha, or to the Vidyadhara Sangama, or if necessary belonging to both sections, or to send a notice only to those gentlemen or to be able to convene by letters bearing the Secretary's signature, but power is also given to spend in an emergency concerning the Pirivena the Sabha, and the Sangama, if the Secretary thinks it necessary, sum of money not exceeding Rupees five (Rs. 5/-) and to recover it after submitting with reasons the amount so spent to the next following meeting and further the Secretary has the right to look after all business concerning the Pirivena, the Sabha and Sangama, and to appear as a complainant before the Vidyadhara Sabha, and further power is hereby given to appear as directed by majority decisions of the Vidyadhara Sabha recorded in the minute book on behalf of the Pirivena. The Sabha, and the Sangama, as plaintiff or defendant in legal proceedings. Further, the Secretary is hereby held responsible to do and cause to be done all other things for the benefit of the Pirivena and of the Sabha and of the Sangama. If there be a helper (Assistant Secretary) to the Secretary, concerning him also these conditions shall be equally valid; notwithstanding the fact that all times and in all business the Assistant Secretary shall act with the consent of the Secretary.

11. It is decided to appoint in accordance with the rules, the Chairman, the Treasurer, and the Trustees or custodians, of the Funds of this Sabha from among the advisers.

12. It is decided to publish in accordance with the rules lists of income and expenditure of this Sabha once in three months under the signature of the Secretary in two public newspapers.

13. It is agreed in accordance with the rules that the advisers including office-bearers of the Sabha should with or without the help of others supply the four needs (Sivupasaya) to not less than six Bhikkhus of this Pirivena.

14. It is agreed that the advisers including office-bearers should abide by the rules framed from time to time by this Sabha, consent to be judged by it and to accept its decisions.

P24
Deed No. 2431
attested by
W. P. Rana-
singhe, Notary
Public
12.12.87—
Continued

P24
Deed No. 2431
attested by
W. P. Rana-
singhe, Notary
Public
12.12.87—
Continued

15. As the object hereof is the maintenance of this Pirivena for a long time, if any promise or condition existing in this deed or in the rules contained in the book of rules of the Vidyadhara Sabha were found to be contrary it is hereby agreed to forgo any such advantages of litigation and each and everyone of the Sabha to uphold and stand by these presents.

In witness whereof we the abovenamed set our hands hereunto and to two others of the same tenor and date as these presents on this twelfth day of December, 1887, at Colombo :—

(Sgd.) V. A. Don Gabriel.	(Sgd.) Dionysius Gunawardena. 10
(Sgd.) Appusingho.	(Sgd.) Illegibly.
(Sgd.) Illegibly.	(Sgd.) H. D. Carolis.
(Sgd.) K. D. Bastian.	(Sgd.) D. D. Abeyaratne.
(Sgd.) Illegibly.	(Sgd.) D. H. S. Kaviratne.
(Sgd.) Illegibly.	(Sgd.) F. Cooray.
(Sgd.) N. P. Perera.	(Sgd.) Illegibly.
(Sgd.) Illegibly.	(Sgd.) Illegibly.
(Sgd.) Don Carolis.	(Sgd.) Illegibly.
(Sgd.) Don Dines Silva.	(Sgd.) Illegibly.
(Sgd.) M. D. Carolis.	(Sgd.) Illegibly. 20
(Sgd.) Illegibly.	(Sgd.) Don Amaris.
(Sgd.) Illegibly.	(Sgd.) Illegibly.
(Sgd.) Illegibly.	(Sgd.) Illegibly.
(Sgd.) B. S. Cooray.	(Sgd.) Illegibly.
(Sgd.) Illegibly.	(Sgd.) Illegibly.
(Sgd.) A. D. H. de Silva.	(Sgd.) Illegibly.
(Sgd.) W. Weragama.	(Sgd.) Illegibly.
(Sgd.) W. E. de Silva.	(Sgd.) Simon de Silva.
(Sgd.) Don V. C. A.	(Sgd.) Davith Perera.
(Sgd.) D. L. de Silva.	(Sgd.) Illegibly. 30
(Sgd.) M. L. Peiris.	(Sgd.) Illegibly.
(Sgd.) Illegibly.	(Sgd.) Illegibly.

I, the undersigned William Perera Ranasinghe, Notary Public, Colombo District, do hereby certify and attest that in the presence of the subscribing witnesses Ponnampereuma Aratchige Don Gabriel Appuhamy and Koholpitranehelege Appusingho both of Maligakanda, Colombo, who are known to me the foregoing instrument having been read over and explained by me the said Notary to the persons 1 to 43 within named who are known to me the same was signed by the said persons and by the witnesses in my presence and 40 in the presence of each other which all being present together on this 12th day of December, 1887.

I do hereby further certify and attest that the duplicate hereof bears three stamps of the value of Rs. 25/- supplied by them.

(Sgd.) W. P. RANASINGHE,
Notary Public.

Attested on the 12th day of December, 1887, at Colombo.

Translated by

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

13.6.50.

P24
Deed No. 2431
attested by
W. P. Rana-
singhe,
Notary Public
12.12.87—
Continued

10

1D16

Deed No. 2431

Application No. L. 2711.

No. 2431

1D16

Deed No. 2431
attested by
W. P. Rana-
singhe, Notary
Public
12.12.1887

At the meetings convened for the purpose of permanently main-
taining the Vidyodaya Pirivena by the Sabha constituted and existing
under the name of "Vidyadhara Sabha" in terms of the Joint-Agree-
ment bearing No. 925 dated 6th day of December, 1873, and attested
by W. P. Ranasinghe, Notary Public for the Colombo District, the
undermentioned gentlemen, to wit :—Nawalage Pedrick Cooray Appu-
hamy, James de Silva Seneviratne Appuhamy, Malawiaratchige Don
20 Juwanis Appuhamy, Mutukuttiaratchige Don Juwanis Gunaratne
Aratchi, Willora Aratchige Davith Perera Appuhamy, Kastanbuge
Don Bastian Appuhamy, Poramudalige Simon Perera Appuhamy,
Willora Aratchige Martinus Perera Appuhamy, Wijayasinghe Arat-
chige Hermon Philip Perera Appuhamy, Samarasinghe Aratchige
Don James de Silva Appuhamy, Hewavitarnage Don Carolis Appu-
hamy, Meegama Gurunnanselage Don Hendrick Appuhamy, Don
Henry Abhayaratne Appuhamy, Munasinghege Salman de Silva
Appuhamy, Withanage Johannes Perera Appuhamy, Pagoda Arat-
30 chige Don Amaris Appuhamy, Pattiya Aratchige Johannes Alexander
Perera Appuhamy, Bammana Aratchige Don Peiris Appuhamy,
Don Kustan Wettasinghe Appuhamy, Kariyawasan Lokugamage
Don Dines de Silva Appuhamy, Meegama Gurunnanselage Don
Carolis Appuhamy, Kalansuriya Aratchige Don Adiriyana de Silva
Appuhamy, Malwattage Charles Peiris Seneviratne Appuhamy, Bulath-
sinhalage Don Bastian Jayasekera Aratchi, Talagalage Don Samuel
Joronimus Karunaratne Vidana Aratchi, Bulathsinhalage Suwetan
Cooray Appuhamy, Kandane Aratchige Don Arnolis Perera Appu-
hamy, Attiligoda Nanayakkaragamage Don Hendrick Silva Appu-
40 hamy, Weragama Bodhinayake Dhammalankara Pandita Mudiyan-

1D16
Deed No. 2431
attested by
W. P. Rana-
singhe, Notary
Public
12.12.87—
Continued

selage Punchi Bandara Pundit, Wickrema Aratchige Charles de Silva Appuhamy, all of Colombo with the gentlemen mentioned in the said Joint-Agreement, to wit:—Don Philip de Silva Epa Appuhamy, Lansage Andiris Perera Dharmagunawardhane Muhandiram, Kalansuriya Aratchige Don Thiadoris de Silva Appuhamy, Malwattage Luwis Peiris, Bulathsinhalage Cornelis Cooray Appuhamy, Dayonesius Gunawardena, Willora Aratchige Coranelis Perera Appuhamy, Pattiya-wattage Hendrick Perera Appuhamy, Simon Silva Muhandiram, Hewavitarnage Don Carolis Appuhamy, Don David Abhayaratne Wasalaliyana Muhandiram, Lansage Simon Perera Dharmaguna- 10 wardane Aratchi, Samarasinghe Aratchige Don Harmanis Kaviratne Aratchi, all of Colombo having bound themselves to observe the undermentioned covenants, agreements and conditions, not only became members of the Vidyadhara Sabha as its office-bearers and advisers but also hereby agreed to abide by the covenants, agreements and conditions of the said Joint Agreement, to regard the under-mentioned covenants agreements and conditions as those contained in the said Joint Agreement and to regard as cancelled any such covenants, agreements and conditions containing in the said Joint Agreement as are contrary to the following, to wit:— 20

1. It is hereby agreed to provide for teaching in the Vidyodaya Pirivena chiefly the Buddhist monks and also laymen mainly Buddhism and religious knowledge and also other oriental secular sciences.

2. It is hereby agreed that we shall do or cause to be done at the decision of the Sabha for the convenience of everyone concerned all such repairs and other work that may have to be done from time to time in this Pirivena. It is further decided that if there be any advisers and office-bearers who without agreeing thereto neglect such work it shall be lawful to recover from such person his share of the expenses and in addition an equal amount as compensation. 30

3. It is agreed that all that is necessary for permanently carrying on this Pirivena for a long time shall be done by the 43 persons of this Sabha either by themselves or with the help of others, that is each member shall pay such sum of money not less than one Rupee per month before the fifteenth day of every month and that if any one out of these persons while being able to do so, neglects to give or do whatever should be given or done it shall be lawful either to recover from such person a sum of two rupees as compensation or to eject him from the Sabha. But it is decided in accordance with the rules, that if any such person comes before the advisers including the other 40 office-bearers and declares the nature of his difficulties and begs to resign from the Sabha, the advisers and office-bearers who accepted his statement shall either release him from the Sabha, or, if the Sabha is pleased to do so, shall retain him exempting him from the subscrip-tion.

4. Authority is hereby given to the Treasurer who has been appointed under the rules of the Sabha to collect or cause to be collected in accordance with the rules such sums of money as paid either for the maintenance or for the improvement of this Pirivena and to pay such persons as have been authorised by the Sabha under its rules.

5. For the money received by the Treasurer of this Sabha for and on behalf of the Sabha, the Treasurer and his heirs, executors, administrators, etc., shall hold themselves legally responsible either to the Sabha or to any one authorised by the Sabha.

10 6. It is agreed among themselves that any sums of money received either for the maintenance or improvement of this place, shall not be spent for any other purpose other than that for which the pious donors gifted such sums of money. If there is any sum of money remaining after the completion of the decided work it will be legally added to the fund of the Sabha.

7. It is decided to appoint legally a Board of Trustees duly nominated and competent to receive any fund set apart by this Sabha such monies gifted by any pious individual for the purpose of investing as a fund and utilising only the income therefrom and to keep such 20 monies safely invested in any public treasury duly recognised by the Government of Ceylon.

8. Just as the Vidyadhara Sabha is able with the consent of the Principal of the Pirivena to appoint tutors for teaching, etc., and also pupils for this Pirivena, the right is retained by the Sabha with the consent of the Principal of the Pirivena legally to decide upon any such unsuitability of offence on the part of the said two parties (tutors and pupils) as shall be legally proved before the Sabha and either remove from office or expel from the Pirivena any such unsuitable person or persons. Our united Agreement is hereby declared 30 that the Venerable Hikkaduwe Sri Sumangala Nayaka Thera of Sripadasthana and Galle, who has been the Principal of this Pirivena from its inception, may hold the Parivenadhipathiship so long as he is able and willing to do so. Nevertheless hereafter the Venerable Thera who becomes the Principal of this Pirivena shall have been selected and appointed by this Sabha. And further if any unfitness of the Principal so appointed by the Sabha became known the right is retained in the Sabha to inquire into such unfitness and to give a suitable decision in respect of such matter.

9. It is also decided that when the number of members (advisers) 40 including the office-bearers present at any legally convened meeting of the Sabha, is not less than thirteen, such meeting shall exercise full power of the Sabha.

10. Whenever any matter concerning the Vidyodaya Pirivena or the Vidyadhara Sabha or the Vidyadhara Association, authority is hereby given either to convene a meeting of members of the Vidyadhara Sabha, or of the Vidyadhara Association, or if necessary, of

1D16

Deed No. 2431
attested by
W. P. Rana-
singhe, Notary
Public
12.12.87—
Continued

1D16
 Deed No. 2431
 attested by
 W.P. Rana-
 singhe, Notary
 Public
 12.12.87—
Continued

the members of both, or to notify to those members only by letters bearing the signature of the Secretary. And whenever an urgent matter arises in connection with the Pirivena, the Sabha or the Association, the Secretary is authorised to spend at his own discretion any sum not exceeding Rs. 5/- and to get back his money after giving particulars of such expenditure at the next meeting. Further, the Secretary is also authorised to look after all matters connected with the Pirivena, the Sabha and the Association, and to appear as a complainant before the Vidyadhara Sabha and also authority is hereby given him to appear as plaintiff or defendant in legal proceed- 10
 ings concerning the Pirivena, the Sabha and the Association in accordance with the majority decisions of the Vidyadhara Sabha as recorded in the Minute Book of the Sabha. Further, the Secretary is hereby bound to do and cause to be done all other things for the benefit of the Pirivena, the Sabha and the Association. If there is any assistant (Assistant Secretary) these rules shall equally apply to him also. Nevertheless the Assistant Secretary shall at all times and in all matters act with the consent of the Secretary.

11. It is decided to appoint as per rules of the Sabha, the President, the Treasurer, the Secretary, and Trustees to be in charge of 20
 the funds, out of the advisers (members) of this Sabha.

12. It is also decided to publish in two Newspapers the lists of receipts and disbursements of this Sabha under the signature of the Secretary once in three months as per rules.

13. It is agreed as per rules that the advisers (members) of this Sabha including the office-bearers shall with or without the help of others supply the four needs for not less than six Bhikkhus of this Pirivena.

14. It is agreed that advisers (members) of this Sabha including the office-bearers shall consent to abide by the rules framed from time 30
 to time by this Sabha, to be adjudged by it and to accept its decisions.

15. It is mutually agreed that as the main object of this, is the maintenance of this Pirivena for a long time, even if any undertaking or agreement entered into under the rules laid down in this deed or in the book of rules governing the Vidyadhara Sabha runs contrary to the laws of the country, such legal remedy should be ignored and that each and every member of the Sabha shall mutually adhere to these presents.

In Witness Whereof, We, the abovenamed have set our usual signatures to three of the same tenor as these presents at Colombo 40
 on this Twelfth day of December, One thousand Eight-hundred and Eighty-seven (1887).

Translated by

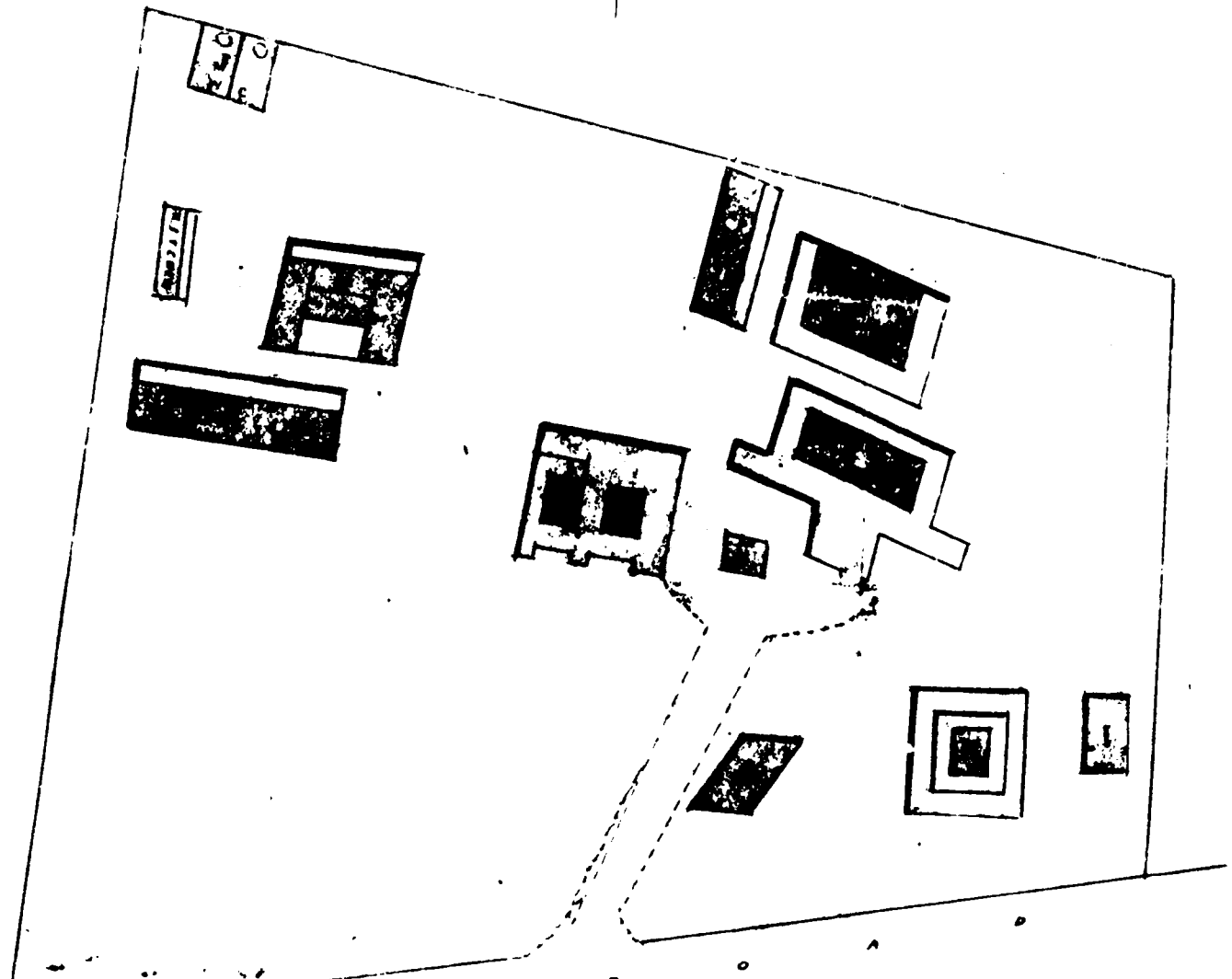
(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

Lot A

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Scale of 1 Chain to an Inch

PLAN

shewing the buildings standing on the Temple Grounds at

Maligakanda

Building marked	Le.	A	Printing Office
Do.	Do.	B	Bell Tower
Do.	Do.	C	Dana preaching hall and which is used ^{also} as School Room
Do.	Do.	DD	Priestly students Room
Do.	Do.	EE	Where Relics Images, shrines and Dana books are kept
Do.	Do.	F	House of the High Priest and of some Priestly pupils
Do.	Do.	G	Dining Hall
Do.	Do.	H	Temple or Shrine Room
Do.	Do.	I	Upasaka's Room
Do.	Do.	J	Water closet

Colombo 11th July 1888.

Frederick Southey

849

1D1
Plan

1D1
Plan
11.7.1888

P25A
Deed No. 5193
attested by
W. P. Rana-
singhe, Notary
Public
8.5.1907

P25A
Deed No. 5193

Registered (1), (2), Colombo, 10/55.
Ratnapura 13, 61/25

No. 5193

Deed of Appointment

The Deed of appointment entered into between the members of the Sabha existing in Maligakanda, Colombo, under the name and title of Vidyadhara Sabha constituted by virtue of agreements and conditions set out in the two deeds of mutual agreement, one 10 bearing No. 925 and dated 6th of December, 1873, and the other bearing No. 2431 and dated the 12th December, 1887, attested by W. P. Ranasinghe, Notary Public of Colombo District, to wit:—
(1) Don David Abhayaratne Muhandiram Mahatmaya of Wellawatta, (2) Simon Perera Dharmagunawardena Muhandiram Mahatmaya of Maradana, Colombo, (3) Proctor Jacob Moonesinghe Mahatmaya of Kollupitiya, Colombo, (4) Edmund Hewavitarne Mahatmaya of Kollupitiya, Colombo, (5) Weerakkodige John Perera of the Pettah, Colombo, (6) Divunuge Disan Pedris Mahatmaya of Kollupitiya, Colombo, (7) Simon Hewavitarne Mahatmaya of Kollupitiya, Colombo, 20 (8) John de Silva Mahatmaya of Maradana, Colombo, (9) Malavi Aratchige Don Juwanis Appuhamy of New Chetty Street, Colombo, (10) Don Spater Senanayake Mudaliyar of Borella, Colombo, (11) Kalansuriya Aratchige Edmund Silva Mahatmaya of Jambugas Street, Colombo, (12) Kadugoda Aratchige D. M. Perera Mahatmaya of Price Park, Colombo and (13) Liyanage Don Hendrick Appuhamy of Maradana, Colombo—these thirteen and Ven'ble Hikkaduwe Sri Sumangala Nayaka Thero, Principal of the aforesaid Vidyodaya Pirivena, Maligakanda, Colombo, of the first part, hereinafter described as the party of the first part, and the following three members of 30 the said Sabha, hereinafter sometimes referred to as Trustees or Nyasadhari, the said Jacob Moonesinghe, Proctor, David Abhayaratne Muhandiram and Divunuge Pedris of the second part—Witnesseth:

Whereas at the meeting of the said Vidyadhara Sabha held on the 24th of July, 1901, the resolution to appoint by a deed the three persons the said Don David Abhayaratne Muhandiram Mahatmaya out of the said party of the second part, the then living but since deceased N. S. F. Waniga Wijesekera Muhandiram Mahatmaya and Don Carolis Hewavitarne Wijayaguneratne Mudaliyar as Nyasadharis or Trustees of the said Sabha to be in charge of and protect 40 the lands, properties, monies, etc., belonging to the said Sabha proposed by Mr. J. Moonesinghe and seconded by Mr. W. C. de Silva was carried.

Whereas at a date subsequent to the said meeting the said N. S. F. Waniga Wijesekera Muhandiram having died, a resolution to appoint in place of the said N. S. F. Waniga Wijesekera Muhandiram the said Mr. Divunuge Disan Pedris to hold the said post of Nyasadhari (Trustee) with the said two gentlemen was proposed by Mr. W. John Perera at the meeting of the said Vidyadhara Sabha held on the 19th of July, 1903, and seconded by Mr. D. P. Jayawardena —was carried. And as the said Don Carolis Hewavitarne Wijeyagunaratne Mudaliyar departed this life on a date subsequent to the said two meetings, Mr. S. D. P. Gunawardena proposed at the meeting of the said Sabha held on the 14th of October, 1906, that the said Mr. Jacob Moonesinghe, Proctor, should be appointed in place of the said Don Carolis Hewavitarne Wijeyagunaratne Mudaliyar to be with the said two gentlemen one of the said Trustees. It was seconded by Mr. D. D. Abhayaratne, Muhandiram and carried.

Whereas it has become necessary that the said three gentlemen the party of the second part, should be appointed by the gentlemen of the Vidyadhara Sabha, the party of the first part, as trustees to take care and manage the properties hereinafter described and belonging to the said Sabha and with power to say, do or discharge matters and duties hereinafter described and connected with the said Sabha.

Know All Men by These Presents That it has been hereby agreed by the aforesaid (1) Mr. Don David Abhayaratne Muhandiram, (2) Mr. Simon Perera Dharmagunawardena Muhandiram, (3) Mr. Jacob Moonesinghe, (4) Mr. Edmund Hewavitarne, (5) Mr. Weerakkodige John Perera, (6) Divunuge Disan Pedris, (7) Mr. Simon Hewavitarne, (8) Mr. John de Silva, (9) Mr. Malavi Aratchige Don Juwanis Appuhamy, (10) Mr. Don Spater Senanayake, Mudaliyar (11) Mr. Kalansuriya Aratchige Edmund Silva, (12) Mr. Kadugoda Aratchige D. M. Perera, (13) Liyanage Don Hendrick Appuhamy—these members of the Vidyadhara Sabha and Ven'ble Hikkaduwe Sri Sumangala Nayaka Thero who constitute the party of the first part and by the three persons, namely, Mr. Jacob Moonesinghe, Proctor, Mr. David Abhayaratne, Muhandiram and Divunuge Disan Pedris who constitute the party of the second part to have set over and assigned hereby the matters and duties set out in the aforesaid deeds bearing No. 925 and 2431 true copies of which are herewith annexed and also to say, do or discharge matters and duties hereinafter described for the improvement and the benefit of the Vidyodaya Pirivena at Maligakanda in Colombo which is being conducted by the said Sabha, wherefore, all the lands, properties and everything thereto belonging which are more fully described in the Schedule given here below and conveyed to the said Vidyadhara Sabha, are hereby conveyed and assigned unto the said three Trustees or Nyasadharis who are vested with power and further to bind themselves unto the agreements and conditions mentioned here below and also in the said deeds of mutual agreement,

P25A

Deed No. 5193
attested by
W. P. Rana-
singhe, Notary
Public
8.5.07--
Continued

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 Deed No. 5193
 attested by
 W. P. Rana-
 singhe, Notary
 Public
 8.5.07—
Continued

to accept these covenants and stipulations set for in the said two deeds of mutual agreement or agreements and conditions herein given and if there be any promises, covenant or stipulation in the said deeds of mutual agreement contrary to this regard such as invalid.

The aforesaid agreements and conditions are :—

1. The said Trustees according to the orders of the Vidyadhara Sabha to expend the income derived from the said properties, lands, buildings and all things movable and immovable which are now held and which shall in the future come into the possession of the said Vidyadhara Sabha for the performance of the matters and duties ¹⁰ described in the said deeds bearing Nos. 925 and 2431 being duties entrusted to the Vidyadhara Sabha aforesaid for the development and firm existence for a long time of the Vidyodaya Pirivena aforementioned.

2. In the event of any balance sum of money remaining after meeting such expenditure all such moneys to be deposited in the name of the said Vidyadhara Sabha in a bank that shall be named by the said Sabha.

3. Further the said Trustees are empowered to issue and draft in their name all writings such as drafts, cheques, orders and receipts ²⁰ for the purpose of withdrawing moneys so deposited in full or in part.

4. Nevertheless, before issuing all such drafts, cheques, orders or receipts for the purpose of withdrawals they shall upon the consent of the Vidyadhara Sabha aforesaid obtain in writing the permission of the Secretary then officiating.

5. The Trustees shall use such withdrawals or any income derived from the aforesaid properties only for the development of the Vidyodaya Pirivena aforementioned but not for their personal requirements or any other matter or duty.

And also it is hereby stipulated that in the event of the death ³⁰ of any one of the Trustees aforesaid, or such Trustee tending resignation from the office of the Trusteeship, resignation therefrom, becomes disqualified or leaves the Island of Ceylon for a foreign country, the surviving Trustee or Trustees shall have the power to appoint one or several Trustees in the place of the Trustee or Trustees so resigned as agreed upon and appointed by the said Vidyadhara Sabha.

Further Mr. Jacob Moonesinghe, Proctor, Mr. David Abhayaratne Muhandiram and Mr. Divunuge Disan Pedris, the three persons who constitute the party of the second part having consented to the aforementioned agreement and conditions the said Trusteeship was ⁴⁰ hereby accepted.

The Aforementioned Schedule

That land called Maligakanda Aramaya now bearing Assessment No. 16, situate at Dematagoda, within the gravets of Colombo, in the Colombo District, W.P., held by the Vidyadhara Sabha aforesaid

under and by virtue of Deed No. 1265 bearing date 9th and 31st March, 1876, attested by W. P. Ranasinghe, Notary Public, Colombo District, which is bounded on the North by the land of Tangachi Pulle Mira Nachchiya, East by Don Lewis Mahavidanegewatte, South by the land of Rev. J. D. Palm, West by Asan Mira Nachchiyagewatte and containing in extent Three Roods (A0. 3R. 0P.) within these boundaries together with all the buildings thereof valued at Rupees Five thousand (Rs. 5,000/-) of the lawful money of Ceylon.

P25A
Deed No. 5193
attested by
W. P. Rana-
singhe, Notary
Public
8.5.07—
Continued

2. That remaining share of land (exclusive of a share of five perches
10 of land gifted to Kandeadderabadalge Maria Nachchire) from and out of the two lots of land Nos. 3 and 4 now bearing Assessment No. 17, situate at Maligakande in Dematagoda, aforesaid and held by the said Vidyadhara Sabha under the said deed, which is bounded North by the land said to be belonging to Sinnatangachchi, East by the lot of land No. and South by a public road and West by the land belonging to Mr. Mackwood and Kandeaddera Badalge Don Lewis Maha Vidane and containing in extent within these boundaries Three Roods and Twenty-four Perches (A0. R3. P24) valued at Rupees Two thousand (Rs. 2,000/-) of the lawful money of Ceylon.

30 3. An undivided one-half share of Kottegoda Nindagama, situate at Meda Pattuwa in Nawadum Korale, Ratnapura District, Sab. Province held by (1) said Vidyadhara Sabha and (1) Vidyodaya Pirivena under the trusteeship of Hikkaduwe Sri Sumangala, Chief Nayake Thero of the Vidyodaya Pirivena aforesaid under and by virtue of the Deed of Puja (donation) No. 25102 dated 25th May, 1885, attested by D. M. Abayaratne, N.P. of Sab. Province, which land is bounded on the North by Nivitigala Nindagama and Karavitige Kumbure Godella, East by Nivitigala Nindagamadikhenepavula, Bandiya Aswedduma, Wekade Kumbure Egoda Iwura, the ditch
30 of Hindurupitiyagewatte and the boundary of Pansalawatte, South by the river, West by Nivitigala Nindagama Kanavannideniyahena and Diyanegewatte and containing in extent within these boundaries about One hundred and Fifty amunus of paddy sowing land together with Millapawela Kumbura which is being held and possessed as part thereof and also all the trees, together with customary dues such as Rajakari (service tenure), Wasampangu, and (share) otu (tithes) valued at Rupees Two thousand (Rs. 2,000/-) of the lawful money of Ceylon.

In witness whereof we the aforesaid thirteen persons, namely :
40 (1) Mr. Don David Abeyratne Muhandiram, (2) Simon Perera Dharmagunawardena Muhandiram, (3) Mr. Jacob Munasinghe, Proctor, (4) Mr. Edmund Hewavitarne, (5) Mr. Weerakkodige John Perera, (6) Mr. Divunuge Disan Pedris, (7) Mr. Simon Hewavitarne, (8) Mr. John de Silva, (9) Malaviaratchige Don Juwanis Appuhamy, (10) Mr. Don Spater Senanayake, (11) Kalansuriya Aratchige Edmund Silva, (12) Mr. Kadugoda Aratchige D. M. Perera, (13) Liyanage

P25A
Deed No. 5193
attested by
W. P. Rana-
singhe, Notary
Public
8.5.07—
Continued

Don Hendrick Appuhamy and Hikkaduwe Sri Sumangala Nayaka Thero, have set their respective signatures hereto and to two other writings of the same tenor on the 8th day of May in the year 1907 and on the days mentioned here below.

The witnesses who are aware that the aforesaid (1) Don David Abeyratne Muhandiram, (2) Simon Perera Dharmagunawardena, (3) Jacob Munasinghe, Proctor, (4) Edmund Hewavitarne, (5) Weerakkodyge John Perera, (6) Simon Hewavitarne, (7) John de Silva, (8) Malaviaratchige Don Juwanis Appuhamy, (9) Kalansuriya Aratchige Edmund Silva, (10) Liyanage Don Hendrick Appuhamy, have 10 set their signatures hereto at Colombo on 8th May, 1907 :—

(Sgd.) G. D. ABEYRATNE.

(Sgd.) S. P. D. GUNAWARDENA MUHANDIRAM.

(Sgd.) J. MUNASINGHE.

(Sgd.) E. HEWAWITARNE.

(Sgd.) W. JOHN PERERA.

(Sgd.) S. HEWAVITARNE.

(Sgd.) JOHN DE SILVA.

(Sgd.) M. D. JUWANIS APPUHAMY.

(Sgd.) K. E. SILVA.

20

(Sgd.) DON HENDRICK APPUHAMY.

(Sgd.) D. Y. SAMARATUNGE.

(Sgd.) W. W. RANASINGHE.

(Sgd.) W. P. RANASINGHE,

Notary Public.

I, William Perera Ranasinghe of Colombo District, Notary Public, do hereby certify and attest that having duly read over and explained the following deed unto the aforementioned ten persons, namely: (1) Don David Abeyratne Muhandiram, (2) Simon Perera Dharmagunawardene Muhandiram, (3) Jacob Munasinghe, Proctor, (4) Edmund 30 Hewavitarne, (5) Weerakkodyge John Perera, (6) Simon Hewavitarne, (7) John de Silva, (8) Malaviaratchige Don Juwanis Appuhamy, (10) Liyanage Don Hendrick Appuhamy who are not known to me in the presence of the witnesses Don Yohanis Samaratunge (D. Y. Samaratunga) and William Walter Ranasinghe of Grandpass, Colombo, who are known to me the same was signed by the said ten persons: (1) Don David Abeyratne Muhandiram, (2) Simon Perera Dharmagunawardene Muhandiram, (3) Jacob Munasinghe, (4) Edmund Hewavitarne, (5) Weerakkodige John Perera, (6) Simon Hewavitarane, (7) John de Silva, (8) Malaviaratchige Don Juwanis 40 Appuhamy, (9) Kalansuriya Aratchige Edmund Silva, (10) Liyanage

Don Hendrick Appuhamy and the said witnesses in my presence and in the presence of one another, all being present at the same time at Colombo on the 8th day of May, 1907.

And I further certify and attest that before the foregoing was read and explained the words "bearing assessment No. 16" on page 7, line 27, "now bearing assessment No. 17" on page 8, line 3 on the 17th line of the same page the words "in Meda Pattuwa of the Ratnapura District" were interpolated and that the duplicate thereof bears stamps to the value of Rupees 15/- and the original a stamp of one
 10 Rupee which stamps were affixed and supplied by me the said Notary.

Attested on the 8th day of May, 1907.

(Sgd.) W. P. RANASINGHE,
Notary Public.

Translated by
 (Sgd.) Illegibly.
Sworn Translator, D.C., Colombo,
 7.7.50

1D14
Deed No. 5193

20 Translation.

Registered (1 & 2) Colombo A 10/55.
 (3) Ratnapura B 61/25.

No. 5193

Deed of Trust

This Deed of Trust made by and between (1) Don Daivd Abeyaratne Muhandiram of Wellawatte, (2) Simon Perera Dharmagunawardhana Muhandiram of Maradana in Colombo, (3) Jacob Moonesinghe, Proctor, of Kollupitiya in Colombo, (4) Edmund Hewavitarne of Kollupitiya in Colombo, (5) Weerakkodige John Perera of Pettah
 30 in Colombo, (6) Diwunuge Dissan Pedris of Kollupitiya in Colombo, (7) Simon Hewavitarne of Kollupitiya in Colombo, (8) John de Silva of Maradana in Colombo, (9) Malawi Aratchige Don Juwanis Appuhamy of New Chetty Street in Colombo, (10) Don Spater Senanayake Mudaliyar of Borella in Colombo, (11) Kalansuriya Aratchige Edmund de Silva of Small Pass in Colombo, (12) Kadugoda Aratchige D. M. Perera of Price Park in Colombo, and (13) Liyanage Don Hendrick Appuhamy of Maradana in Colombo the members of the Vidyadhara Sabha Society at Maligakanda in Colombo established in terms of the Joint Agreements bearing No. 925 dated 6th December,

P25A
 Deed No. 5193
 attested by
 W. P. Rana-
 singhe, Notary
 Public
 8.5.07—
Continued

1D14
 Deed No. 5193
 attested by
 W. P. Rana-
 singhe, Notary
 Public
 8.5.1907

1D14
Deed No. 5193
attested by
W. P. Rana-
singhe, Notary
Public
8.5.07—
Continued

1873, and No. 2431 dated 12th December, 1887, both attested by W. P. Ranasinghe, Notary Public for the Colombo District and Hikkaduwe Sri Sumangala Nayaka Thero, the Principal of the Vidyodaya Pirivena at Maligakanda aforesaid (hereinafter called the parties of the first part) of the one part and the said Jacob Moonesinghe, Proctor, David Abeyeratne Muhandiram and Diwunuge Dissan Pedris being three members of the said Society (hereinafter called the Trustees) of the second Part Witnesseth as follows :—

Whereas at a meeting of the said Vidyadhara Sabha Society held on the 24th day of July, 1901, the said Don David Abeyratne 10 Muhandiram, one of the parties of the second part and the late N. S. F. Waniga Wijeyesekera Muhandiram and Don Carolis Hewavitarne Wijayagunaratne Mudaliyar were appointed trustees of the said Vidyadhara Sabha Society with the consent and advice of the said Society.

And Whereas the said N. S. F. Waniga Wijeyesekera Muhandiram having died, the said Diwunuge Dissan Pedris was substituted in place of the said N. S. F. Waniga Wijeyesekera Muhandiram deceased at a meeting of the said Vidyadhara Sabha Society held on the 19th day of July, 1903, resolved by W. John Perera and seconded by D. P. 20 Jayawardhana and with the consent and advice of the said Society to act as a trustee along with the two other trustees aforesaid.

And Whereas the said Don Carolis Hewavitarne Wijayagunaratne Mudaliyar also having died, the said Jacob Moonesinghe, Proctor, was substituted in place of the said Don Carolis Hewavitharne, Wijayagunaratne Mudaliyar deceased at a meeting of the said Vidyadhara Sabha Society held on the 14th day of October, 1906, resolved by S. P. D. Gunawardhane and seconded by D. D. Abeyeratne Muhandiram and with the consent and advice of the said Society to act as a trustee along with the other two trustees aforesaid. 30

And Whereas it has now become necessary that the said parties of the second part being the trustees of the said Vidyadhara Sabha Society should be empowered by the said parties of the first part as members of the said Society to manage and control the property hereinafter described which belong to the said Society and to do and perform all and every act, deed, matter or thing as hereinafter mentioned.

Now Therefore Know All Men by These Presents that the said (1) Don David Abeyeratne Muhandiram, (2) Simon Perera Dharmagunawardhane, (3) Jacob Moonesinghe, Proctor, (4) Edmund Hewa- 40 vitarne, (5) Weerakkodige John Perera, (6) Diwunuge Dissan Pedris, (7) Simon Hewavitarne, (8) John de Silva, (9) Malawi Aratchige Don Juwanis Appuhamy, (10) Don Spater Senanayake Mudaliyar, (11) Kalansuriya Aratchige Edmund Silva, (12) Kadugoda Aratchige D. M. Perera, and (13) Liyanage Don Hendrick Appuhamy

the members of the said Vidyadhara Sabha Society and the said Hikkaduwe Sri Sumangala Nayaka Thero in consideration of the premises do hereby constitute the said Jacob Moonesinghe, Proctor, David Abeyeratne Muhandiram and Diwunuge Dissan Pedris as trustees of the said Vidyadhara Sabha Society together with full power warrant and authority for them to act as such in terms of the aforesaid Deeds Nos. 925 and 2431 (certified copies of which are hereto annexed) and to do and perform all and every act, deed, matter or thing therein contained as are hereinafter provided for the benefit and welfare of the said Vidyodaya Pirivena carrying on by the said Vidyadhara Sabha Society and to manage and control the properties in the Schedule hereto described which belong to the said Society in accordance with the conditions in the said Joint Agreements and herein contained : Provided, however and it is hereby agreed that the conditions in the said Joint Agreements contained shall be considered as are herein contained and that the conditions if any against the conditions herein contained to be null and void.

1D14
Deed No. 5193
attested by
W. P. Rana-
singhe, Notary
Public
8.5.07—
Continued

The Conditions above referred to :

1. The said trustees shall collect the income of the lands, buildings and things now belonging to the said Vidyadhara Sabha Society and all other movable and immovable properties that may hereafter become entitled and shall spend the said income for the benefit and welfare and long continuation of the said Vidyodaya Pirivena in connection with all matters that should be done in terms of the said deeds Nos. 925 and 2431 and with the direction of the said Vidyadhara Sabha Society and that they shall deposit the surplus of the said income in a Bank in favour of the said Society as the said Society may direct so to do.

2. The said trustees shall draw, sign and endorse drafts, cheques, orders receipts and other writings for the purpose of drawing moneys so deposited or any part thereof but before doing so they shall obtain the written permission of the Secretary of the said Vidyadhara Sabha Society for the time being with the consent of the said Society.

3. The said trustees shall not spend such moneys or any other income so received by them for their own personal matters or any other things except in matters for the welfare of the said Vidyodaya Pirivena.

4. That in case of death of any one of the said trustees or of retirement or refusal to act or if any one of the said trustees shall become unsuitable to act as such or in case of leaving the Island of Ceylon then and in that event the surviving trustee or trustees shall be at liberty to appoint any one or more persons in place of the retiring trustee or trustees with the consent and advice of the said Vidyadhara Sabha Society.

1D14
Deed No. 5193
attested by
W. P. Rana-
singhe, Notary
Public
8.5.07—
Continued

That the said Jacob Moonesinghe, Proctor, David Abeyeratne Muhandiram and Diwunuge Dissan Pedris the parties of the second part do hereby accept the foregoing trusteeships subject to the conditions hereinbefore mentioned.

The Schedule above referred to :

1. All that Temple known as Maligakanda Viharaya now bearing assessment No. 16 together with all the buildings and everything else standing thereon situated at Dematagoda within the Gravets of Colombo and in the District of Colombo, Western Province, and bounded on the North by the garden of Tangachchipulle Meera Natchiya, on the East by the garden of Don Luwis Mahavidane, on the South by the garden of J. D. Palm Padili and on the West by the garden of Assena Meera Natchiya and containing in extent three roods ; which said premises are held by the said Vidyadhara Sabha under and by virtue of Deed No. 1265 dated 9th March, 1876, attested by W. P. Ranasinghe, Notary Public for the Colombo District ; and which are of the value of Rupees Five thousand (Rs. 5,000/-).

2. All those allotments of land marked No. 3 and No. 4 bearing assessment No. 17 situated at Maligakanda in Dematagoda aforesaid and bounded on the North by the land said to belong to Sinne Tangatchi, on the East by lot No. 5, on the South by a Public high road and on the West by the lands belonging to Mr. Mackwood and Kandeaddera Badalge Don Luwis Mahavidane and containing in extent three roods and twenty-four perches ; which said premises are held by the said Society under and by virtue of the deed aforesaid ; and which are of the value of Rupees Two thousand (excluding however therefrom the portion of land of the extent of five perches gifted to Kandeaddera Badalge Mariya Natchire).

3. The undivided half share of Kottagoda Nindagama of the extent of about one hundred and fifty amunams of paddy sowing inclusive of Milpawela paddy fields and all the plantations and Rajakariwasan-Pangus and Anda-shares and other usual grants appertaining thereto situated in the Meda Pattu of Nawadun Korale in the District of Ratnapura Sabaragamuwa Province and bounded on the East by Niwitigala-Nindagama, Dikhonewawula-Bandiya aswed-duma, Egoda-Ivura of Wekadakumbure, ditch of Hindurupitiyawa and Ivura of Pansalawatte on the South by the River on the West by Niwitigala-Nindagama, Kanawannideniyehena and Diyanagawatta and on the North by Niwitigala-Nindagama and Karawitayakumbure-godella ; which said premises are held by the said Vidyadhara-Sabha Society and the Vidyodaya Pirivena under and by virtue of a Deed of Dedication bearing No. 25102 dated 25th May, 1895, attested by D. M. Abeyaratne, Notary Public for the Sabaragamuwa Province and managed and controlled with the directions of the said Hikkaduwe Sri Sumangala the Principal Nayaka Thero of the said Vidyodaya Pirivena and which are of the value of Rupees Two thousand (Rs. 2,000/-) of lawful money of Ceylon.

In Witness Whereof the said Don David Abeyratne Muhandiram, (2) Simon Perera Dharmagunawardene Muhandiram, (3) Jacob Munasinghe, Proctor, (4) Edmund Hewavitarne, (5) Weerakkodyge John Perera, (6) Diwunuge Disan Pedris, (7) Simon Hewavitarne, (8) John de Silva, (9) Malawiaratchige Don Juwanis Appuhamy, (10) Don Staper Senanayake Mudaliyar, (11) Kalanasuriya Aratchige Edmund Silva, (12) Kadugoda Aratchige D. M. Perera and (13) Liyanage Don Hendrick Appuhamy and the said Hikkaduwe Sri Sumangala Nayaka Thero have hereunto and to two others of the same tenor as these
 10 presents set their respective hands on this 8th day of May, One thousand Nine hundred and Seven and on the dates hereinafter mentioned.

The said Don David Abeyratne Muhandiram, Simon Perera Dharmagunawardene Muhandiram, Jacob Munasinghe, Proctor, Edmund Hewavitarne, Weerakkodige John Perera, Simon Hewavitarne, John de Silva, Don Juwanis Appuhamy, Edmund Silva, and Don Hendrick Appuhamy signed at Colombo on this eighth day of May, 1907.

	(Sgd.) D. Y. Samaratunga.	(Sgd.) D. D. Abeyratne
20	„ W. W. Ranasinghe.	„ S. P. D. Gunawardene,
		„ J. Munasinghe.
		„ E. Hewavitarne.
		„ W. John Perera.
		„ S. Hewavitarne.
		„ John de Silva.
		„ M. D. Juwanis.
		„ E. de Silva.
		„ Don Hendrick.

30 (Sgd.) W. P. RANASINGHE,
Notary Public.

I, William Perera Ranasinghe, Notary Public, for the Colombo District do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the thereinnamed Don David Abeyratne Muhandiram, Simon Perera Dharmagunawardene Muhandiram, Jacob Munasinghe, Edmund Hewavitarne, Weerakkodige John Perera, Simon Hewavitarne, John de Silva, Malawi Aratchige Don Juwanis Appuhamy, Kalansuriya

1D14
 Deed No. 5193
 attested by
 W. P. Ranasinghe, Notary
 Public
 8.5.07—
Continued

ID14
Deed No. 5193
attested by
W. P. Rana-
singhe, Notary
Public
8.5.07---
Continued

Aratchige Edmund Silva, and Liyanage Don Hendrick Appuhamy who are known to me in the presence of Don Yahonis Samaratunga of Grandpass in Colombo and William Walter Ranasinghe also of Grandpass in Colombo the witnesses thereto both of whom are also known to me the same was signed by the said Don David Abeyratne Muhandiram, Simon Perera Dharmagunawardene Muhandiram, Jacob Munasinghe, Edmund Hewavitarne, Weerakkodige John Perera, Simon Hewavitarne, John de Silva, Malawi Aratchige Don Juwanis Appuhamy, Kalansuriya Aratchige Edmund Silva and Liyanage Don Hendrick Appuhamy and by each of the said witnesses in my 10 presence and in the presence of one another all being present together at the same time at Colombo on this eighth day of May, One thousand Nine hundred and Seven.

I further certify and attest that certain alterations were made in this deed before the same was read over and explained as aforesaid and that two stamps of the value of Rupees 15/- and a stamp of Rupee One were affixed to the duplicate and the original respectively of this deed and that the said stamps were supplied by me the said Notary.

Date of attestation :
8th May, 1907.

-20

(Sgd.) W. P. RANASINGHE,
Notary Public.

Translated by me :
(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
10th September, 1943

ID43
Letter by H.
Sumangala
9.8.07

1D43
Letter by H. Sumangala

Confidential

30

Regarding that deed do not give a word just now. Let me know what assistance should be received from me for the Preaching Hall.

Yours sincerely,
(Sgd.) H. SUMANGALA.

Dated : 9.8.1907.

Translated by me :
(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.

P4

**Certificate of Death of Venerable Mahabotuwana Siddhartha
Thero**

No. 25670.

P4
Certificate of
Death of
Venerable
Mahabotuwana
Siddhartha
Thero
15.1.09

CEYLON

CERTIFICATE OF DEATH

Western Province, Colombo District,
Maradana, No. 3, Colombo Town Division.

1. Date and place of death	Fifteenth January, 1909. No. 16, Maligakande Road.
2. Name in full	Mahabotuwana Siddhartha Thero.
3. Sex and Nationality	Male—Sinhalese.
4. Age	Seventy-three years.
5. Rank or Profession	Buddhist Priest.
6. Names of Parents	Not known.
7. Cause of Death, and Place of Burial or Cremation	Influenza. Dr. M. Sinnetamby.
8. Name and residence of informant, and in what capacity he gives information	Wattahena Sangharakkhita of No. 16, Maligakande Road, Person present at death.
9. Informant's signature	(Sgd.) W. Sangharakkhita.
10. When registered	Sixteenth January, 1909.
11. Signature of Registrar	(Sgd.) H. L. Loos—L.M.S.

I, W. D. Jayasinghe, Additional Assistant Provincial Registrar of Births and Deaths of the Colombo District, do hereby certify that the foregoing is a true copy of the Original Register of Deaths of Dr. H. L. Loos—L.M.S., Registrar of the Maradana, No. 3 Division of the Colombo District, filed in this Office, and the same is granted on the application of Mr. D. E. Weerasooria.

(Sgd.) W. D. JAYASINGHE,
Addl. Asst. Provincial Registrar.

Colombo, 30th November, 1944.

P5
 Certificate of
 Death of
 Venerable
 Hikkaduwe
 Sri Sumangala
 30.4.11

P5

Certificate of Death of Venerable Hikkaduwe Sri Sumangala

CEYLON

CERTIFICATE OF DEATH

No. 31621.

Western Province, Colombo District,
 Maradana, Colombo Town Division

1. Date and place of death	Thirtieth April, 1911. Maligakanda Temple, Maligakanda.
2. Name in full	The Ven'ble Hikkaduwe Sri Sumangala.
3. Sex and nationality	Male—Sinhalese.
4. Age	Eighty-five years.
5. Rank or profession	Buddhist High Priest.
6. Names of parents	Father : Don Johanes Abeywira Guna-wardena Mother : Dannangoda Gamwasa Dona Carlina Hamine.
7. Cause of death, etc.	Pneumonia. Dr. C. A. Hewavitarne.
8. Name and residence of informant etc.	Kuruppu Singho of Maligakande Temple— person present at death.
9. Informant's signature	(Sgd.) Mark X of Kuruppu Singho.
10. When registered	30th April, 1911.
11. Signature of Registrar	Dr. H. S. Loos—L.M.S.

I, W. D. Jayasinghe, Additional Assistant Provincial Registrar of Births and Deaths of the Colombo District, do hereby certify that the foregoing is a true copy of the Original Register of Deaths of Dr. H. S. Loos Registrar of the Colombo Town Maradana Division, of the Colombo District, filed in this Office, and the same is granted on the application of Mr. D. E. Weerasooria.

(Sgd.) W. D. JAYASINGHE,
Asst. Provincial Registrar.

Colombo, 5th December, 1944.

Extract from "Lakminipahana"

Extracts from "Lakminipahana", June 30th, 1917.

The Title of "Pahatarata Upadhyaya"

After the establishment of the Siamese Sect in Ceylon, the Principal of Vidyodaya College, and Chief High Priest of the Low-country nine korales and of Sri Pada, the Rt. Rev. Tripitakavagisvaracharya Sri Sumangala, has appointed the Chief Upadhyaya of the Higher Ordination Premises—(Upasampadamalakaya) by the great
 10 Bhikku assembly of Kandy. The Higher Ordination Ceremony (Upasampada) is being annually performed, in these premises, by the great assembly of monks, with the ten great monks such as Ven. Upali at its head, who were invited to Ceylon by King Kirti Sri with the permission of the king of Siam and who were residents of Pushparama Mahavihara of Senkadagalapura, Kandy.

In this great Buddhist order, of the titles such as Anuthva, Mahathva, Anunayaka, Mahanayaka, etc., that could be achieved by bhikkus, there is no title as honourable as Mahopadhyaya. It is not customary to confer this title on Low-country bhikkus. But the late
 20 Rt. Hon. Sri Sumangala, the only Pandit of this kind for a period of 500 years back from the present day, and a virtuous and wise king among bhikkus has been appointed the chief of the nine korales and conferred this title of Mahopadhyaya, by the great assembly of bhikkus.

After his death the Honourable place had fallen vacant. Therefore the present chief of the Siamese sect, the Rt. Hon. Galhriyave Sri Dhammaraksita, Buddharaksita, with the consent of an assembly of monks of over 200, appointed to this position the Rt. Hon. Devinuvara Jinaratana, chief of Gangaramaya, Hunupitiya, Colombo,
 30 in the absence of another suitable and deserving bhikku of the Low-country Siamese sect. This Rev. Devinuvara Jinaratana Thero, who was chosen from among the pupils of Tripitakavagisvaracharya Hikkaduwe Sri Sumangala late of Vidyodaya College, and an assembly of monks was suddenly invited to the Uposatha Pushparama Viharaya, Kandy, on the 26th of this month, and in the midst of over 200 monks, was conferred in a written form, the Honourable title of "Mahopadhyaya Kirti Sri Sumangalabhidana Devinuvara Jinaratane Mahasthavira.

1D57
 Extract from
 "Lakmini-
 pahana"
 30.6.17—
 Continued

Here we present our honour and thanks to our assembly of monks including our Chief High Priest who conferred to the deserving what he deserves. The reasons for this are many. Very few know from which family the Rt. Rev. Devinuvara Jinaratana comes. This venerable thero's lay relations descend from Mahanama, a royal minister of the Vaisya clan, in the service of king Dapulusen, who built the Devanarayane Temple, Dondra and established the throne at Dondra and ruled Ceylon for a long time. The great streets built by this king Dapulusen, could be still seen in Dondra. Similarly the carved stone doorway of the palace, was seen in a standing position 10 even in our time. An area with a public road, named Sinhasana Valla is still known. King Dapulusen seeing that a group of Portuguese warships were approaching Dondra, fled towards Dambulla, taking along with him the treasures and the statues of God Narayane, made of the invaluable piece of red sandalwood brought from Himalayas by his grandson. After his flight the cruel Portuguese landed in Dondra and started destroying everything by setting fire to the palace. But the ministers and others instead of following the king remained in the city itself and it is apparent that the generations of some of them still continue. Of these the family of Ilangkone is 20 one descending from a chief minister. Thus it is clear that several families like that of Rev. Jinaratana descending from ministers still continue.

In the capacity of a Buddhist bhikku this thero descends from his senior Ven. Angahawatte Ratanajoti also a descendant from a line of a royal minister. He was at that time the pupil of the chief of the Petanghawatte Viharaya, Bowale Dharmananda Thero, the head of the Low-country Siamese sect. His senior pupil Attudave Dharmaraksita was sent with a written message (Sandesa) to Sangharaja Itanabhivamsa Thero of Amarapura, where he got his higher ordina- 30 tion (Upasampada). After this Thero Attudave Dharmaraksita returned Anghawatte Ratanajoti Thero and ordered that his pupil be entrusted to him ; and he, the latter, came to Dondra and continued to reside in Galgame Viharaya taking on himself the responsibility of Rev. Dharmaraksita's sect, for the rest of his life.

It can be considered that his was the last line of bhikkus that observed such rules as begging alms. It was the Ven. Angahawatte Thero who gave our first ordination and the first teacher who admonished us giving the name Dhammaratana.

After that, the Rev. Jinaratana Thero who is also a relation, was ordained as the great Thero was growing infirm by old age, he, the former, was entrusted to Ven. Dodanpahala Dipankara Mahathero, the pupil of Palmadulle Sumangala Thero, chief of Sri Pada, and a great savant of the time. As the great thero died very shortly after this event, Rev. Jinaratana Thero was entrusted with all rights to Hikkaduwe Sri Sumangala Thero with the words: "It is left to you to train this son-like pupil of mine as you wish and treat him as a son." Therefore in the capacity of the chief pupil of Hikkaduwe Sri
 10 Sumangala, Rev. Jinaratana was invited to the great assembly of monks in Kandy, was given the Higher Ordination and transferred on to him his possessions, such as Vidyodaya Pirivena, Gangaramaya, Hunupitiya, Hikkaduwe Tilakaramaya, Nalagasdeniye Viharaya and other Viharas and pupils inherited by his line. After this event, the great thero died.

Therefore we thank Galshiriyave Dhammaraksita, Buddharaksitabhidana Nayaka Thero, who performed a great service to the order by appointing to the proper place the deserving. It could be seen that Jinaratana Thero is pure in all sides, laity and clergy. It could
 20 be definitely be said that in pearl necklace of the line of monks in Kandy, this great thero is the most invaluable pearl. There are many reasons for this. The chief reason is that if the line was weak they would not be able to rise so as to deserve high positions.

At the time that Ceylon passed into the hands of the English, it was a grandfather of Sri Dharmaraksita Thero who now holds the title of Mahanayake of Kandy, that held this title. That generation
 • was not only a line of wealthy chiefs but is held in high esteem by the public. The accounts of the last Sinhalese royal dynasties and the conquest of Ceylon by the English, were not at that time entered
 30 in the Mahavamsa. And Governor Brownrigg found it necessary to get written in Pali stanzas and complete the Mahavamsa. The assembly of up-country nobles as well as the assembly of bhikkus said that there was none so competent as Galhiriyave Maha Thero. Therefore he was invited to the royal palace in Kandy and asked to complete the later chapters of the Mahavamsa, and it was duly done. It will be

1D57
 Extract from
 "Lakmini-
 pahana"
 30.6.17—
Continued

1D57
Extract from
"Lakminipahana"
30.6.17—
Continued

clear to anyone who reads these stanzas, that this Thero is the last savant of the present bhikku order of Ceylon. Also, there, is not a work of Pali stanzas so pleasant to the ear as this. At this time there appeared a slight change in the way of wearing robes as inherited from the line of Ven. Upali Thero. Therefore Galhiriyaave Mahanayake Thero laid down a Katikavata (Code of rules) according to the Vinaya. This Katikavata was written by the Rev. Sri Sumangala Thera and was printed by us as "Parupane Vata". A reader of this work will be convinced of the knowledge of the Dhamma and the extent of his observation Vinaya rules of this great thero. In order to attain this 10 title of Upadhyaya, several chief theros from the low-country who are well known, as well as wealthy, made many efforts by unlawful means such as bribery. But suddenly Rev. Jinaratana Thero was invited to Kandy and in the midst of over 200 was unanimously elected as the Mahopadhyaya, as a mark of respect to the late Sri Sumangala Mahanayaka Thero. As Angahawatte Ratanajoti Thero is an uncle on the lay side and a teacher on the side of the Order and also a teacher, this thero Jinaratana Thero too has a fraternal relationship to us. The younger brother of this Angahewatte Ratanajoti Thero, a noble of the area, well known as Mahanama Gurunnanse 20 Mahatmaya, on account of his knowledge of Buddhism and astrology and of having been a teacher.

The title "Mahanama" had been conferred by our Sinhalese king Dapulusen to a minister of the Vaisya clan, who came from Kanchi in South India to the service of the king. Although it is usual for people to fall into oblivion when they become poor, the generations of Andhaka Brahmin and Andhaka Vaisyas who were invited to Ceylon to the king's service as ministers, from Kanchi in South India in the time of Buvanekabahu of Kotte, still continue in places like Matara. 30

Buddhaghosa, Buddhadatta, Anuruddha, Dharmapala, Buddhapiya and other commentarians are all Andhaka Brahmins. Therefore finally we ask from the honourable assembly of bhikkus of Kandy, to confer the honourable titles of the order on Rev. Jinaratana, the chief pupil of Hikkaduwe Sri Sumangala Thero, just as he (the former) was conferred the title of Mahopadhyaya.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

P6

Certificate of Death of Venerable Sri Nanissara

CEYLON

CERTIFICATE OF DEATH

P6
Certificate of
Death of
Venerable Sri
Nanissara
6.11.22

Western Province, Colombo District, No. 3, Maradana Division.

1. Date and place of death	6th November, 1922. Maligakande Temple, Maradana North.
2. Name in full	Mahagoda Sri Nanissara.
3. Sex and nationality	Male—Sinhalese.
4. Age	Sixty-nine years.
5. Rank or profession	Principal, Vidyodaya College.
6. Names of parents	Father : Wickrama Achchige Don Abraham Gunawardena. Mother : Don Simon Hettiaratchige Don Apaloria Hamine.
7. Cause of death, etc.	Diabetes. Dr. I. David.
8. Name and residence of informant, etc.	Suriyagoda Sumangala, Sri Wardhanarama, Colpetty, person present at death.
9. Informant's signature	(Sgd.) Suriyagoda Sumangala.
10. When registered	11th November, 1922.
11. Signature of Registrar	(Sgd.) A. C. Fernando.

I, W. D. Jayasinghe, Additional Assistant Provincial Registrar of Births and Deaths of the Colombo District, do hereby certify that the foregoing is a true copy of the Original Register of Deaths of Dr. A. C. Fernando, Registrar of the No. 3, Maradana Division, Colombo District, filed in this Office, and the same is granted on the application of D. E. Weerasooria, Esq., Proctor and Notary, St. Sebastian Hill.

(Sgd.) W. D. JAYASINGHE,
Adtl. Asst. Provincial Registrar.

Colombo, 20th December, 1944.

2D29A
Minutes of the
Sabha Meeting
6.2.23

2D29A

Minutes of the Sabha Meeting

Reference Page 1 of Minute Book

Minutes of the meeting of the Vidyadhara Sabha held on 6th February, 1923, at 6 p.m.

Those present : Mr. J. Munasinghe (Chairman), Dr. C. A. Hewavitarne, Mr. J. A. P. Nanayakkara, Dr. D. B. Perera, Messrs. W. H. W. Perera, D. D. Pedris, D. Dias, C. S. de Silva, Dr. W. A. de Silva, Mr. J. Ratnasara and the Secretary.

Minutes of the meeting held on 30th January were read and ¹⁰ adopted.

It was decided to hold the annual meeting on the 18th of this month at 3 p.m.

In view of the fact that Mr. K. D. M. Perera has not written to the "Sandaresa" paper as agreed at the meeting on 23rd ultimo it was decided to write to him reminding it.

After a prolonged discussion on the increase in the number of presidents and amendments to the constitution the following decision was arrived at:—"That the work should proceed in the manner prescribed in the documents (deeds) and any changes would be ²⁰ considered after the 50th Anniversary."

At this stage the proceedings for the day terminated at 9 p.m. and those present happily departed.

(Sgd.) C. A. HEWAVITARNA,

Secretary.

13th March, 1923.

President

(Sgd.) J. MUNASINGHE.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

30

2D29B
Minutes of the
Sabha Meeting
13.3.23

2D29B

Minutes of the Sabha Meeting

Reference Page A

Minutes of the meeting of the Vidyadhara Sabha held on 13th March, 1923, at about 5.30 p.m.

Those Present : Messrs. J. Munasinghe (Chairman), J. A. P. Nanayakkara, C. S. de Silva, J. Ratnasara, Dr. D. B. Perera, Mr. W. H. W. Perera and Dr. C. A. Hewavitarne (Secretary).

Minutes of the meeting of 6th February were read and adopted.

Sattayawabodha Samithiya had written to the effect that though they had asked for permission to hold their anniversary meeting on 30th April (Wesak day) that they are unable to hold it owing to certain difficulties.

Permission was given to Sugatha Samayanurakshaka Samithiya to hold the Esala Festival from 16th to 27th July and to conduct two bana-preachings on Wesak nights.

It was decided to inform Mr. C. Dias that the Sabha considers 10 that his letter of 18th January is withdrawn by him.

It was also decided to hold the Sri Sumangala Festival falling on 30th April in the following manner.

From 22nd to 28th April—Bana Preachings from the Jataka Book.

29th April—A Bana Preaching by an effective preacher 30th Heel Dana (Breakfast) and Dawal Dana (Lunch) with presentation of articles to 100 monks.

29th and 30th lighting of coconut oil lamps.

30th April 7 p.m. to 3 a.m. the following day Bana Preaching at 20 every two hours.

Dr. D. B. Perera agreed to get an estimate for the repairs of drains in the premises and to inspect the premises personally for one month from the 14th as to whether it is kept in cleanliness.

Mr. C. S. de Silva promised to pay a sum of Rs. 30/- towards the expenses incurred in the repairs of drains.

Mr. J. Ratnsara was authorised to forward an estimate on the repairs to lavatories.

Consideration of the construction of avasas (living quarters) was deferred to be taken up after the work connected with the hall 30 and lavatories has been completed.

Mr. J. Ratnasara, Dr. D. B. Perera, and the Secretary were authorised to select a suitable spot of land to erect living quarters for the Pirivena of the Pirivena as the House had agreed on it.

The House dispersed at this stage.

Secretary :

(Sgd.) C. A. HEWAVITARNE.

29.5.23.

President :

(Sgd.) Dr. D. B. PERERA,

12.6.23.

Translated by :

40 (Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

Minutes of the Sabha Meeting

Reference Pages 5 and 6

Minutes of the meeting of the Vidyadhara Sabha held on 12th June, 1923.

Those Present : Dr. D. B. Perera (Chairman), Messrs. Jacob Munasinghe, C. S. de Silva, J. Ratnasara, J. A. P. Nanayakkara, W. H. W. Perera, and Dr. C. A. Hewavitarne (Secretary).

Minutes of the meeting held on 29th May were read and adopted. A letter from Rev. Pemananda referring to the alms of visitor-monks 20 was read and it was decided that the Sabha cannot meet such expenses.

It was decided to repair the gutters of Room No. 7.

As requested by the Committee of Maradana Temperance Movement permission was given to use the premises to conduct a pinkama (religious ceremony) on the 17th of last month.

The Puspadana Samithiya was informed that their request seeking permission to erect a hall to distribute flowers cannot be met owing to lack of sufficient space in the premises.

The Sabha accepted with regret the resignation of Mr. J. Ratnasara from membership on grounds of being unable to find sufficient 20 time to discharge the duties of a member.

It was decided to forward the letter sent by the teachers of English to the manager and to order the long writing tables asked for in their letter.

It was decided to start work connected with the construction of the living quarters.

The Hewavitarne family agreed to construct drains according to the new methods.

President :

(Sgd.) J. MUNASINGHE. 30

Secretary.

10.7.23.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29D**Minutes of the Sabha Meeting***Reference Pages 6 and 7*

Minutes of the Committee meeting held on 21st August, 1923.

Those Present : Mr. J. Munasinghe (Chairman), Dr. D. B. Perera, Messrs. Neil Hewavitarne, J. A. P. Nanayakkara, W. H. W. Perera, Proctor and Dr. C. A. Hewavitarne (Secretary).

After the administration of pansil the minutes were adopted.

The expenditure from January to 21st August was Rs. 2,793·56 10 cts. and the income inclusive of the grant was Rs. 3,213·07 cts. It was agreed to forward a proper statement for the next meeting.

It was decided to hold the next meeting on 4th September and to write to Mr. T. D. Byron Seneviratne asking his consent to be appointed as a president of the Committee. If Mr. Seneviratne declines Mr. D. P. A. Wijewardane's name was proposed.

Decided to write letters in detail stating the difficulties that confronts the holding of meeting owing to the non-attendance of members at meetings.

Mr. R. P. Tilakaratne was elected a donor member and decided 20 to ask for the arrears of membership fees from Mr. K. D. M. Perera.

(Sgd.) D. D. PEDRIS,
President.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.
4th September, 1923.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.
30.6.50.

30

2D29E**Minutes of the Sabha Meeting***Reference Pages 7 and 8.*

Minutes of the Committee meeting held on 4th September, 1923.

Those Present : Messrs. D. D. Pedris (Chairman), J. Moonesinghe, Neil Hewavitarane, Dr. D. B. Perera, Dr. C. A. Hewavitarne (Hony. Secretary).

After the administration of pansil (Five Precepts) the minutes were adopted.

It was decided :—

40 1. To examine the accounts further.

2D29D

Minutes of the
Sabha Meeting
21.8.23

2D29E

Minutes of the
Sabha Meeting
4.9.23

2D29E
Minutes of the
Sabha Meeting
4.9.23—
Continued

2. To hand over to the Vidyadhara Sabha the balance of Rs. 50/42 of the Cremation fund as shown by Mr. D. D. Pedris.

3. To deposit the money of the Siamese Fund in the Imperial Bank.

4. Election of Mr. Byron Seneviratne as a committee member.

5. Acceptance of the resignation of Mr. K. D. M. Perera.

6. To write asking Mrs. Wijewardene to propose a member of the Wijewardene family to the Committee failing which to propose the name of Mr. W. E. Bastian.

7. To hold the 50th Anniversary in the proper manner. 10

(Sgd.) J. A. P. NANAYAKKARA.

(Sgd.) C. A. HEWAVITARNE,

25th September, 1923.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29F
Minutes of the
Sabha Meeting
14.10.23

2D29F

Minutes of the Sabha Meeting

Reference Page 9

20

Minutes of the General Meeting held on 14th October, 1923.

The meeting was held under the chairmanship of Rev. Sri Sumangala Ratanasara Nayaka Thero.

Those Present : Messrs. J. Moonesinghe, W. H. W. Perera, Dr. D. B. Perera, Messrs. T. D. Byron Seneviratne, A. Samarasinghe, John de Silva, M. William Perera, K. S. Charles, D. E. Ranasinghe, W. E. P. Seemon, C. D. Gurusinghe, P. C. Gunasekera, R. S. S. Gunawardane, J. Ratnasara, P. V. Gunasekera, C. S. de Silva, J. A. P. Wijenayake, D. F. Suraweera, M. M. Silva, Sudharmadhara Samithiya, K. Andrew Silva, K. M. Marthelis Singho, B. K. John Appuhamy, N. W. Romiel Perera, N. M. Marthelis Appuhamy, E. P. Tilakaratne, M. W. Edwin Perera, H. P. Almaida, H. D. James Appuhamy, A. A. Richard, J. P. Ratnayake, J. M. Piyadasa, P. D. Jinadasa, D. M. Karunaratne, S. W. Higet, D. M. Samarasinghe, P. de S. Kularatne, D. D. Pedris and Dr. C. A. Hewavitarne. 30

After the administration of pansil the minutes were adopted.

The following decisions were taken :—

1. Election of Messrs. T. D. Byron Seneviratne and P. de S. Kularatne as presidents.

2. Duly proposed and carried to hold the 50th (Jubilee) Anniversary in proper manner.
3. Convening a general meeting for 28th October.

2D 29F
Minutes of the
Sabha Meeting
14.10.23—
Continued

(Sgd.) K. RATANASARA.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29G

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Minutes of the Sabha Meeting

2D29G
Minutes of the
Sabha Meeting
16.10.23

Reference Page 10.

Minutes of the Committee held on 16th October 2467 B.E./
1923 A.D.

Those Present :—Messrs. W. H. W. Perera, Proctor (Chairman),
T. D. Byron Seneviratne, Neil Hewavitarne, J. A. P. Nanayakkara,
Dr. C. A. Hewavitarne (Hony. Secretary).

The proceedings started with the administration of Thisarana
Pancha-Sila.

The minutes of the last meeting were read by the Secretary and
20 adopted.

The meeting decided :—

1. To hold a general meeting on the 18th of this month.
2. 50th Anniversary—To conduct religious ceremonies between
the periods 30 December and 30th January, 1924.
3. Laying of foundation stone for Sri Sumangala Dharmasala
(Preaching Hall) Foundation stone to be layed by the Ven'ble Maha
Nayaka Thero of Malwatta on January 20th 1924, and the function
connected with it to be presided by the said Maha Nayaka Thero.
To invite learned old students and supporters of the Pirivena.
- 30 4. To send out collection papers to collect funds from old students
and members of the Buddhist public.
5. To allocate various religious functions during this period to
various religious organisations. To Elect a committee to check up
the work in this connection. Election of Messrs. D. D. Pedris and
T. D. Byron Seneviratne as Treasurers of the Dharmasala (Preaching
Hall) Fund.
- 40 6. To grant permission to the Fort Wandana Sahodara Samithiya
to conduct the Durutu Perahera from 21st to 30th January on condition
that the collections during this period should be given to the Sri
Sumangala Dharmasala (Preaching Hall) Fund.

2D29G
Minutes of the
Sabha Meeting
16.10.23—
Continued

7. Election of Dr. C. A. Hewavitarne and Mr. P. de S. Kularatna as Secretaries of the Building Fund.

8. To name building Fund as "Sri Sumangala Dharmasala Fund" and to keep a proper record of all income and expenditure of it.

9. To place before the Sabha a Plan of the proposed hall and an estimate of expenditure.

Proceedings for the day terminated at this stage.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.

.....
Hony. President, 10
(Sgd.) Illegibly.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29H
Minutes of the
Sabha Meeting
28.10.23

2D29H

Minutes of the Sabha Meeting

Reference Page 12.

Minutes of the Special General Meeting held on 28th October 2467 B.E./1923 A.D. 20

Rev. Kahawe Sri Sumangala Ratanasarabhidana Nayaka Thero presided.

Those Present :—Messrs. D. D. Pedris, T. D. Byron Seneviratne, D. F. Suraweera, J. A. P. Nanayakkara, W. H. W. Perera, Proctor, Dr. C. A. Hewavitarne (Secretary), Messrs. J. D. P. Perera, D. G. Wanniarachchi, M. G. Jayasekera, R. Albert Perera, G. E. Abeywickrema, K. G. George, B. W. D. Gunapala, P. D. Jinadasa, A. Edirisinha, D. R. Jayasena, K. Alwis Appuhamy, W. A. William, K. K. Bice Appuhamy, P. V. Perera, N. W. Romiel Perera, Dr. W. J. Gunawardene, Messrs. A. S. Perera, M. W. Edwin Perera, M. M. Silva, P. K. W. Siriwardane, J. K. S. Perera, M. K. D. Abeysena, E. P. Tilakaratne, D. M. Manoratne, H. W. Baron Perera, V. S. Peter, R. H. Simon Perera, R. Edwin Singho, M. Diyonis, L. H. Sederis Silva, W. James, H. Jothi, A. L. P. Samaranayake, B. E. Wijeyasekera, W. E. P. Simon, P. N. H. Liyanage, M. William Perera, K. D. Amarasadasa, H. Simon Perera, V. D. David, P. D. Charlis Appu, P. A. Somapala, A. S. Perera and others.

The Nayaka Thero in the chair administered Thisarana-Panchasila, Dr. C. A. Hewavitarne the Hony. Secretary read the minutes of the last meeting and explained the purpose of this meeting. The Nayaka Thero speaking from the chair said that— though the number of people turned up for the meeting is insufficient the Pirivena has done much in the spreading of the knowledge of the Doctrine (Dharma-sastralokaya). He also stated that it would not be sufficient to hold a ceremony in memory of late Rev. Sri Sumangala Nayaka Thero who was responsible for the spreading of the knowledge of the Doctrine 10 (Dharmasastralokaya). In his (Chairman's) speech of many useful points he stated that the proposed building of a Sri Sumangala Dharmasala should be expedited and a ceremony on a larger scale than the proposed one should be held next year and such a function is the duty of every Buddhist of the Siamese Sect. A Pirith-Pinkama from 30th December to 6th January.

2D29H
Minutes of the
Sabha Meeting
28.10.23—
Continued

Having explained the necessity and manner in which three Pirith Pinkamas and Bana Preachings should be conducted the House showed its approval by a show of hands.

Dr. C. A. Hewavitarne explaining the manner in which these 20 ceremonies ought to be conducted said that difficulties would arise in the allocation of various pinkamas to various societies. He also stated it is not fair to put the responsibility of erecting the 'pirith mandape' on one society and that proper arrangements are necessary. Mr. M. M. Silva asked whether the participation of other organisations in the ceremony is necessary as the ceremony is in connection with the 50th Anniversary of the Vidyadhara Sabha. Dr. C. A. Hewavitarne replying stated that the proposed ceremony is not that of the Vidyadhara Sabha but only a memorial ceremony of late Sri Sumangala Nayaka Thero, founder of this Pirivena run by the Sabha.

30 Thereafter Mr. P. K. W. Siriwardane proposed " In view of the fact that wrong ideas have got across to the people of the country a special committee consisting of the members of Vidyadhara Sabha and Buddhist of other organisations and otherwise should be formed, called Sri Sumangala Ceremony Sabha."

2D29H
Minutes of the
Sabha Meeting
28.10.23—
Continued

This resolution was unanimously adopted. The Nayaka Thero in the chair speaking on the administration of the Pirivena said that he is also aware of wrong version in the minds of the public that the affairs of the Pirivena are conducted according to the views of a particular section. He also said that that version was incorrect, the proper version should be explained and all Buddhists must work united forgetting wrong versions of things. The respect and regard for this place is great because it surpasses all other institutions in the teaching of the Dhamma (Doctrine) daily.

Thereafter, it was decided to convene a general meeting to elect 10 a committee for the ceremony to be held on 6th November.

Dr. C. A. Hewavitarne, Hony. Secretary, dealing with the plan and expenses for the construction of pillars of the Dharmasala (Preaching Hall) to be built by him said that sums of Rs. Rs. and Rs. would be donated on behalf of Srimat Anagarika Dharmapala, Simon Hewavitarne and himself respectively.

All present including representatives from other organisations expressed their willingness to participate in the work as much as they could and the House terminated its work at this stage and those present happily departed. 20

.....
Hony. Secretary.

(Sgd.) J. MOONASINGHE,
Hony. President.

(Sgd.) H. PREMADASA,
6.11.23.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29I
Minutes of the
Sabha Meeting
20.11.23

2D29I

30

Minutes of the Sabha Meeting

Reference Page 18.

Minutes of the Special General Meeting held at Vidyodaya Pirivena on 20th November, 2467 B.E./1923 A.D.

Those Present :—Rev. Kahawe Sri Sumangala Ratanasarabhidana Nayaka Thero, Principal of the Pirivena (Chairman), Rev. Sri Saddharmakirthi Sri Jinaratana Thero, Rev. Suriyagoda Sumangala Thero, Mr. P. De S. Kularatne, Dr. D. B. Perera, Messrs. J. Munasinghe, Proctor, W. H. W. Perera, Proctor, T. D. Byron Seneviratne, D. D. Pedris, Dr. P. C. Gunasekera, Messrs. D. F. Suraweera, U. P. Ekanayake, V. R. Dias, Panditha M. S. P. Samarasinghe, T. G. M. Perera, G. D. Granvil Seneviratne, Dr. C. A. Hewavitarne and others.

2D29I
Minutes of the
Sabha Meeting
20.11.23—
Continued

The work commenced after Thisarana Panchasila has been
10 administered. To begin with the said Nayaka Thero and Rev. Karandana Sri Jinaratana Thero spoke words of religious advice. Thereafter Dr. C. A. Hewavitarne explained the purpose of the meeting and moved that a Samithiya called “The Ardasatha Sanwathsarika Maha Punnyothsava Samithiya” be formed consisting of the members of the Vidyadhara Sabha and those present at this meeting, with the right to co-opt any others desirable, in order to perform the necessary work connected with the proposed ceremony to be held from 30th December to the end of January 1924. Dr. P. C. Gunasekera seconded the motion and it was carried.

20 Mr. U. P. Ekanayake and Dr. D. B. Perera proposed and seconded respectively that Dr. C. A. Hewavitarne and Mr. G. D. Granvil Seneviratne be elected as Secretaries of the newly formed Samithiya. This was adopted.

Next Dr. C. A. Hewavitarne moved that Messrs. D. D. Pedris and Byron Seneviratne be elected as Treasurers of the “Punnyothsava Samithiya”. Mr. J. Moonesinghe, Proctor, seconded the motion and it was carried.

Those present happily departed having decided to enlist any
30 others at the next meeting and having made the organisational arrangements necessary for the ceremony.

(Sgd.) K. RATANASARA,
President.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

Minutes of the Sabha Meeting

Reference Page 21.

Minutes of the Vidyadhara Sabha held on 5th February 2467 B.E./
1924 A.D.

Those Present :—Principal of the Pirivena (Chairman), Messrs. J. Moonasinghe, Proctor, D. D. Pedris, J. A. P. Nanayakkara, T. D. Byron Seneviratne, N. Hewavitarne, P. de S. Kularatne, W. H. W. Perera, Proctor, and Dr. C. A. Hewavitarne.

The work of the meeting commenced after Thisarana Panchasila 10 has been administered. The Hony. Secretary read a letter of resignation from Mr. Charles Dias, Proctor. After a discussion on the letter Mr. W. H. W. Perera, Proctor, moved “That the Sabha while accepting the resignation of Mr. Charles Dias with regret expresses its appreciation of the work carried out by him, and that he be informed of this decision in writing”.

This motion was seconded by Mr. J. A. P. Nanayakkara and passed.

It was decided to examine the income and expenditure of the ceremony and the Dharmasala (Preaching Hall) Fund at the next 20 meeting.

Further it was decided :

1. To elect Mr. Piyadasa in place of Mr. Dias who resigned if Mr. Piyadasa consents.
2. Election of Mr. J. A. P. Nanayakkara as Temporary Secretary.

It was further decided to appoint at the next meeting a baas who knows his work and a clerk to do the work of the Preaching Hall.

The proceedings terminated at this stage.

(Sgd.) K. RATANASARA,
Hony. President. 30

(Sgd.) J. A. P. NANAYAKKARA,
Hony. Secretary. 17.2.24.

Translated by:

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29K

Minutes of the Sabha Meeting

2D29K
Minutes of the
Sabha Meeting
4.3.24

Reference Page 25.

Minutes of Vidyadhara Sabha held on 4th March 2467 B.E./
1924 A.D.

Those Present :—The Principal of the Pirivena (Chairman), Messrs. P. de S. Kularatne, Neil Hewavitarne, D. D. Pedris, T. D. M. Perera, Byron Seneviratne, W. H. W. Perera, Proctor, Dr. D. B. Perera and Mr. J. A. P. Nanayakkara (Secretary).

10 *Commencement* :—The meeting commenced with the administration of Pancil by those present.

Letters received :—A letter from Mr. Charles Dias, Proctor, dealing with the illness of the Rev. Vice-Principal of the Pirivena was read. The Sabha while thanking Mr. Dias for his letter agreed to look into the conditions of health of the monk and expressed its unawareness of the changed conditions of health of the monk since his arrival in Bandarawela.

A letter from the incumbent of Subadrarama Gammana was read. It was decided to call for necessary particulars and take action immediately after that.
20

With regard to a sum of Rs. 227·40 from Rev. Somananda it was decided to allocate Rs. 75/- to the religious ceremony committee, and Rs. 152·40 to the Preaching Hall (Dharmasala) Building Fund.

With reference to a letter of the Gas Company it was decided to reply asking the amount they expect for the gas light installed in the compound and to remove the gas-pipes.

In connection with Mr. Piyadasa's letter Mr. Kularatne proposed and Dr. D. B. Perera recorded that Mr. Piyadasa be elected a President of the Sabha. The House agreed and it was decided to inform him
30 of this decision.

Any other Business :

Mr. Kularatne and Mr. W. H. W. Perera proposed and seconded respectively that the engineer and baas be requested to attend the next meeting and that the clerk paid Rs. 40/- per mensem.

Messrs. W. H. W. Perera and Kularatne were elected to ask the monk who is having the key of the letter box to register all inward letters and obtain the signature of the addresses at delivery. Further Messrs. Kularatne and Perera were asked to discuss matters with Rev. Pemananda with a view to better the library arrangements.

2D29K
Minutes of the
Sabha Meeting
4.3.24—
Continued

Conclusion :—The Proceedings terminated at this stage and the House happily departed.

(Sgd.) K. RATANASARA,
Hony. President.

(Sgd.) J. A. P. NANAYAKKARA,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

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2D29L
Minutes of the
Sabha
Meeting
25.3.24

2D29L

Minutes of the Sabha Meeting

Reference Page 28.

Minutes of the Sabha held on 25th March 2467 B.E./1924 A.D.

Commencement—With the administration of Pancil (Five Precepts) the work of the meeting commenced.

Those Present—Nayaka Thero (Chairman), Mr. J. Moonasinghe, Proctor, Dr. D. B. Perera, Messrs. Byron Seneviratne, M. Piyadasa, W. H. W. Perera, Proctor, P. de S. Kularatne, R. P. Tilakaratne and J. A. P. Nanayakkara (Secretary). 20

Minutes.—The minutes of the last meeting were read by the Secretary. Messrs. J. Moonasinghe and Byron Seneviratne proposed and seconded respectively that the minutes be adopted and it was carried.

Letters Received.—A Letter referring to a pirith-mandape was read. Proposed and seconded by Messrs. Piyadasa and Seneviratne it was decided (arising from the reading of a letter by the Engineer) that a copy of the agreement between the engineer and Dr. Hewavitarne and all particulars pertaining to the Plan of the Hall should be handed over the secretary before the next meeting. It was agreed on resolution moved and seconded by Messrs. Moonasinghe and Seneviratne respectively to send a sum of Rs. 50/- to Rev. Pandit Devananda Thero for his expenses. With reference to a long letter from the High Priest of Hunupitiya the House agreed to defer the reply. The Secretary was authorised to reply Mr. Charles Dias' letter. 30

Hall.—Having obtained particulars from the engineer relating to the building of the Hall it was decided to advertise in the "Dinamina", "Daily News" and "Morning Leader" (thrice in each paper) calling for contractors.

Conclusion.—At this stage the proceedings of the meeting terminated and those present happily departed.

(Sgd.) D. D. Pedris,
Hony. President.

(Sgd.) J. A. P. Nanayakkara,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

10 30.6.50.

2D29L
Minutes of the
Sabha Meeting
25.3.24—
Continued

2D29M

Minutes of the Sabha Meeting

2D29M
Minutes of the
Sabha Meeting
8.4.24

Reference Page 30.

Minutes.—Minutes of the Sabha held on Tuesday, 8th April, 2467 B.E./1924 A.D.

Commencement.—The work commenced with the administration of Pancil (Five Precepts).

Chairman.—Proposed and seconded by Messrs. Moonesinghe and D. B. Perera, Mr. D. D. Pedris was elected to the chair.

20 *Those Present.*—Mr. D. D. Pedris, Dr. D. B. Perera, Messrs. P. de S. Kularatne, J. Moonesinghe, W. H. W. Perera, Proctor, Byron Seneviratne, C. S. de Silva Arachchi, R. P. Tillakaratne and J. A. P. Nanayakkara.

Minutes.—The minutes of the last meeting were read by the Secretary. Proposed and seconded by Messrs. D. B. Perera and Kularatne respectively the minutes were adopted.

30 *Hall.*—The engineer attended the meeting with the plan and explained it. It was the opinion of all that the plan should be altered. Messrs. Kularatne and Moonesinghe, Proctor, proposed and seconded respectively that the plan should be altered in consultation with the Rev. Principal of the Pirivena, Mr. W. H. W. Perera supported it and was accepted.

Letters.—A bill from “Sinhala Bauddhaya” paper was placed before the House and Mr. Moonesinghe was authorised to obtain details of it.

Sri Sumangala Festival.—Messrs. Moonesinghe and Seneviratne proposed and seconded respectively that there be a pahan pinkama (lighting of lamps ceremony) and a religious sermon on the night of

2D29M
Minutes of the
Sabha Meeting
8.4.24—
Continued

29th followed by alms (lunch) on the following day for bhikkhus in the Pirivena and thus bestow merits to the late Maha Nayaka Thero. Further it was agreed that the expenses for the festival should be collected from the members of the Sabha.

Any other Business.—The House was told that the present arrangements made to take round the foreign visitors to the temple are not satisfactory and that they would lead to unexpected trouble. It was agreed to hand over the conducting of foreign visitors to the temple to Mr. Simon Ratnayake who has had previous experience.

Conclusion : The meeting came to a close at this stage and those present happily departed. 10

(Sgd.) K RATANASARA,
Hony. President.

(Sgd.) J. A. P. NANAYAKKARA,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29N
Minutes of the
Sabha Meeting
21.5.24

2D29N
Minutes of the Sabha Meeting

20

Reference Page 33.

Minutes.—Minutes of the Sabha held on Wednesday 21st May, 2468 B.E./1924 A.D.

Those Present.—The Rev. Principal of the Pirivena (Chairman), Messrs. P. de S. Kularatne, W. H. W. Perera, Proctor, M. Piyadasa, Dr. D. B. Perera, Messrs. Byron Seneviratne and J. A. P. Nanayakkara.

Commencement.—The work commenced with the administration of Pansil (Five Precepts) by all.

Minutes.—The minutes of the last meeting were read. Proposed and seconded by Mr. Kularatne and Dr. D. B. Perera respectively the minutes were adopted. 30

It was decided to pay the present teachers of English for the month of April and the new appointments to be made if possible on condition not to pay for months when no teaching is done.

The Secretary informed the House of the expenses of the premises. With regard to the supply of gas, proposed and seconded by the Secretary and Dr. D. B. Perera respectively it was agreed to conduct daily “ pujas ” and to enlist thirty donors who would meet the expenses incurred on gas. Messrs. Kularatne, W. H. W. Perera, Proctor, 40

and Byron Seneviratne were authorised to implement the decision. The Secretary was asked to supply particulars with regard to the prosecution by the Police of a thief who was caught for breaking open a charity box near the dagaba. The Sabha decided that Mr. W. H. W. Perera, Proctor, should appear on behalf of the Sabha when the case will be taken up for hearing.

Mr. W. H. W. Perera, Proctor, had discussed the matter of lowering Municipal taxes on the Pirivena premises with the authorities. Mr. Perera also stated that a Municipal officer would visit the premises
 10 to inspect it and the Secretary was asked to draw up a list of all inmates (lay and deity) within a week.

Hall.—The Secretary referred to a number of resolutions and the first plan with regard to the construction of the preaching hall. Mr. Kularatne proposed and Dr. D. B. Perera seconded that steps be taken to begin work in accordance with the first plan.

Conclusion.—The proceedings of the meeting terminated at this stage and those present happily departed.

(Sgd.) D. D. PEDRIS,
Hony. President.

20 (Sgd.) J. A. P. NANAYAKKARA,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D290

Minutes of the Sabha Meeting

Reference Pages 36 and 37.

Minutes of the Sabha held on 3rd June 2468 B.E./1924 A.D.

30 *Those Present* :—The Rev. Principal of the Pirivena (Chairman), Dr. D. B. Perera, Messrs. P. de S. Kularatne, J. Moonesinghe, W. H. W. Perera, Proctor, M. Piyadasa and J. A. P. Nanayakkara.

Commencement.—The work commenced with the administration of Pancil (Five Precepts).

Minutes.—The minutes of the last meeting were read. Proposed and seconded by Messrs. Kularatne and Dr. D. B. Perera respectively the minutes were adopted.

Letters.—With reference to a letter sent by the Engineer with the approval of Dr. D. B. Perera it was decided to instruct the Secretary

2D29N
 Minutes of the
 Sabha Meeting
 21.5.24—
Continued

2D29O
 Minutes of the
 Sabha Meeting
 3.6.24

2D29O
Minutes of the
Sabha Meeting
3.6.24—
Continued

to write to the Engineer stating that if the necessary particulars would not be supplied before the next meeting, the Sabha would get the work done by someone else.

Mr. Kularatne proposed and Mr. W. H. W. Perera, Proctor, seconded that the House approves of the letters written to the papers with regard to the post of Vice-Principal.

With regard to two letters of Mr. Byron Seneviratne placed before the House, it instructed the Secretary on a resolution proposed and seconded by Messrs. D. B. Perera and Kularatne respectively to prepare a draft reply for the next meeting. 10

Conclusion.—The work of the meeting at this stage came to a close and the gathering departed happily.

(Sgd.) D. D. PEDRIS,
Hony. President.

(Sgd.) J. A. P. NANAYAKKARA,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

20

2D29P
Minutes of the
Sabha Meeting
11.6.24

2D29P
Minutes of the Sabha Meeting

Reference Pages 37 and 38.

Minutes of the Sabha held on 11th June 2468 B.E./1924 A.D.

Those Present.—Messrs. D. D. Pedris, W. H. W. Perera, Proctor, J. Moonesinghe, Proctor, M. Piyadasa, Dr. D. B. Perera, R. P. Tilakaratne and J. A. P. Nanayakkara.

Commencement.—The work commenced with the administration of Pencil (Five Precepts).

Chairman.—Mr. D. D. Pedris was elected to the chair on a resolution proposed and seconded by the Secretary and Dr. D. B. Perera respectively. 30

Minutes.—The minutes of the last meeting were read. Proposed and seconded by Mr. Moonesinghe and Dr. D. B. Perera respectively, the minutes were adopted.

Hall.—The engineer was present at the meeting and supplied the necessary particulars. Mr. Piyadasa proposed and Dr. D. B. Perera seconded that advertisements be inserted in the papers calling for contracts.

Letters.—With regard to the draft of a reply to Mr. Byron Seneviratne, it was decided on a resolution moved and seconded by Messrs. W. H. W. Perera, Proctor, and Piyadasa respectively to incorporate the acceptance of his resignation.

2D29P
Minutes of the
Sabha Meeting
11.6.24—
Continued

With regard to a draft of a reply to a number of letters in the press, the Sabha agreed on a resolution proposed and seconded by Messrs. W. H. W. Perera, Proctor, and Piyadasa respectively to forward the reply for publication in the papers.

With regard to a letter sent by the daughters of Mr. P. H. Perera
10 the Sabha decided on a resolution proposed and seconded by Messrs. Moonesinghe and Piyadasa respectively to forward the letter to the Theosophical Society on behalf of the Sabha.

Conclusion : The proceedings of the meeting terminated at this stage and the House dispersed.

(Sgd.) J. MOONESINGHE,
Hony. President.

(Sgd.) J. A. P. NANAYAKKARA,
Hony. Secretary.

Translated by :

20 (Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29Q

Minutes of the Sabha Meeting

2D29Q
Minutes of the
Sabha Meeting
s.7.24

Reference Page 39.

Minutes of the Sabha held on 8th July 2468 B.E./1924 A.D.

Those Present : Mr. J. Moonesinghe, Proctor, Muhandiram C. S. de Silva Ratnayake, Messrs. D. D. Pedris, W. H. W. Perera, Proctor, M. Piyadasa, Dr. D. B. Perera, Messrs. P. de S. Kularatne, R. P.
30 Tilakaratne and the Secretary.

Commencement : The work commenced with the administration of Pansil (Five Precepts).

Chairman : Mr. Moonesinghe was elected to the chair on a resolution proposed and seconded by Dr. D. B. Perera and Mr. M. Piyadasa, respectively.

Hall : Proposed and seconded by Dr. D. B. Perera and W. H. W. Perera, Proctor, respectively the Sabha elected a committee consisting of Messrs. P. de S. Kularatne, M. Piyadasa and the Secretary to examine the applications of the following applicants :—

2D29Q
Minutes of the
Sabha Meeting
8.7.24—
Continued

U. L. M. Sāhidu, Cotta Road.

K. D. Perera, Moratuwa.

A. J. Dabare, Wellawatte.

Letters : The Secretary placed a letter and a list of books sent by Mr. Byron Seneviratne. Proposed and seconded by Messrs. Kularatne and W. H. W. Perera, Proctor, the Sabha agreed to send a list of books sent by Mr. Seneviratne. It also called upon Mr. Seneviratne to forward the books that are missing or to state his reason in that connection. The House also decided to ask Mr. Seneviratne to show reasons as to how he would reconcile his statement that there has been a collection of over Rs. 20,000/- on the one hand and the list submitted on the other hand. 10

The House was informed that as a result of representations made by Mr. Perera, Proctor, the Municipal authorities have promised to lower the present tax of Rs. 75/-.

With regard to a letter sent by Mr. Piyadasa, after a few words of explanation by the chair the Secretary was authorised to submit the accounts at another meeting.

Conclusion : The proceedings of the meeting terminated at this stage and the gathering departed happily. 20

(Sgd.) J. MOONESINGHE,
Hony. President.
5.8.24.

(Sgd.) J. A. P. NANAYAKKARA,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29R
Minutes of the
Sabha Meeting
5.8.24

2D29R
Minutes of the Sabha Meeting

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Reference Pages 41 and 42.

Minutes of the Sabha held on Tuesday 5th August 2468 B.E./1924 A.D.

Those Present : Messrs. J. Moonesinghe, Proctor, P. de S. Kularatne, Dr. D. B. Perera, Messrs. W. H. W. Perera, Proctor, M. Piyadasa, R. P. Tilakaratne and the Secretary. Mr. Alles, Engineer, was present as an observer.

Commencement : The work commenced with the administration of Pancil (Five Precepts).

Chairman : Mr. Moonesinghe was elected to the chair on a resolution proposed and seconded by Dr. Perera and Mr. Piyadasa respectively.

Minutes : The minutes of the last meeting were adopted on a resolution moved and seconded by Mr. Kularatne and Dr. Perera, respectively.

In view of the fact that Mr. Byron Seneviratne has not replied
10 a letter sent to him up-to-date, the Sabha decided to send him a letter under registered cover.

Hall : As the estimates of the applicants are too high the Sabha decided to reject those applications and to authorise a committee of Messrs. Kularatne, Piyadasa and Nanayakkara to finalise the matter. Proposed and seconded by Messrs. Moonesinghe and Kularatne, the House agreed to send a telegram to Mr. K. D. Perera, Contractor, asking him to come to Ananda College on 6th evening.

Proposed and seconded by Mr. Moonesinghe and Dr. D. B. Perera,
20 respectively, Mr. Kularatne was elected to fill the vacancy occurred in the trusteeship of the Sri Sumangala Preaching Hall Fund, with the resignation of Mr. Byron Seneviratne. The Secretary was instructed to inform the Bank where the monies of the Funds are deposited about the changes and to advertise in the papers the resignation of Mr. Seneviratne.

Incumbency : The Sabha expressed its great pleasure at the appointment of the Rev. Weliwitiye Devananda, Vice-Principal of this Pirivena, as Deputy Nayaka Thero of Matara and Hambantota Districts by the Maha Nayaka Theros in Kandy. The ceremonial
30 function is to take place on the 16th when the official papers of the post would be handed over. It was decided to vote a sum of Rs. 50/- for it from the funds of the Sabha. A sum of Rs. 25/- was collected among the members to be handed over to the priest. It was agreed to hold a public reception on the evening of the 17th. Messrs. Moonesinghe, Kularatne and Perera, Proctor, expressed their willingness to attend the function on behalf of the Sabha.

It was decided to forward the letters of Rev. Sorata, a teacher of the Pirivena, and Rev. Manijoti, an inmate of the Pirivena, to the Nayaka Thero for necessary action, and to state that the Sabha is anxious to be enlightened on the matter.

40 The Secretary was instructed to consult Mr. Kularatne on a letter sent by the teacher of the English School.

2D29R
Minutes of the
Sabha Meeting
5.8.24—
Continued

Conclusion : With the adoption a vote of thanks to the Chair moved and seconded by Mr. Piyadasa and Dr. Perera respectively, the House departed at about 8 p.m.

(Sgd.) J. MOONESINGHE.

(Sgd.) J. A. P. NANAYAKKARA,
Hony. Secretary,
16.9.24.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

10

2D29S
Minutes of the
Sabha Meeting
16.9.24

2D29S
Minutes of the Sabha Meeting

Reference Page 44.

Minutes of the General Meeting held on 16th September, 1924.

Those Present : Messrs. J. Moonesinghe, Proctor, W. H. W. Perera, Proctor, Muhandiram C. S. de Silva Ratnayake, Dr. D. B. Perera, Messrs. P. de S. Kularatne, R. P. Tilakaratne and the Secretary.

Commencement : The work commenced with the administration 20 of Pencil (Five Precepts).

Chairman : Proposed and seconded by Dr. Perera and the Secretary, Mr. Moonesinghe was elected to the chair.

Letters : After having read a letter from Mr. Byron Seneviratne the House agreed on a resolution proposed by Dr. Perera and seconded by the Muhandiram to send somebody to copy down particulars relating to collections.

A Statement : The Secretary read out a leaflet published with a view to confer title of a Nayaka Thero on Rev. Morontuduwe Dhammananda Thero. Proposed and seconded by Dr. Perera and the 30 Muhandiram respectively the House decided to inform the Nayaka Thero and the Hony. Committee in detail that as stated in the leaflet there was no appointment of a deputy Nayaka Thero and to write a letter to the said monk, with the approval of the Rev. Principal of the Pirivena, asking whether the leaflet referred to was published with his (Rev. Morontuduwe's) knowledge.

Hall : Mr. Perera, Proctor, placed before the House a copy of the terms of agreement with the contractor and it decided to add the following clauses :—(i) to finish the work within 7 months from the

date in writing the agreement (ii) To make payment monthly on or before 10th with the consent of the Sabha for one-third (3/4) of the work completed and certified by the engineer.

New Row of Rooms : The Committee in charge of the work of the hall was authorised to build a row of rooms out of the unwanted timber and other material of the old hall.

Charity Box Collections : in Vihare (Shrine Room) and Pothgula. (Library). It was decided to deposit the collections in the charity boxes of the Vihare (Shrine Room) and Pothgula (Library) in a bank 10 in sums of Rs. 500/-.

Siamese Fund : The Secretary was authorised to withdraw the money of this Fund from the Bank where it is presently deposited and to place that money as a permanent fund in a bank that would give a higher interest.

Conclusion : A vote of thanks on the chair was moved and seconded by Dr. Perera and Mr. Perera, Proctor, respectively and the gathering departed happily.

(Sgd.) D. D. PEDRIS,
Hony. President.
13/11/24.

20

(Sgd.) J. A. P. NANAYAKKARA,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29T

Minutes of the Sabha Meeting

Reference Page 46.

30 Minutes of the General Meeting held on 13th November, 2468 B.E. / 1924 A.D.

Those Present : Messrs. J. Moonesinghe, Proctor, D. D. Pedris, Dr. D. B. Perera, Messrs. W. H. W. Perera, Proctor, R. P. Tilakaratne and J. A. P. Nanayakkara (Secretary).

Commencement : The work commenced with the administration of Pancil (Five Precepts).

Chairman : Mr. D. D. Pedris was elected to the chair on a resolution moved and seconded by Mr. Moonesinghe and Dr. Perera.

2D29S
Minutes of the
Sabha Meeting
16.9.24—
Continued

2D29T
Minutes of the
Sabha Meeting
13.11.24

2D29T
 Minutes of the
 Sabha Meeting
 13.11.24—
 Continued

Minutes : The minutes of the last meeting were proposed and seconded by Messrs. Moonesinghe and Perera, Proctor, respectively, they were adopted.

Hall : A discussion took place with regard to the hall as the engineer was present and the Sabha decided :—(1) to alter places that need be altered; (ii) to pay the additional expenses in this connection where no mention is made in the agreement; (iii) to pay to the contractor 90% of the expenses every month; and (iv) to postpone the work of the upstairs of the hall till the arrival of Dr. Hewavitarne.

Siamese Fund : On a resolution moved and seconded by Dr. 10 Perera and the Secretary respectively the Sabha authorised Mr. D. D. Pedris to withdraw the money of this Fund from its present bank and deposit it in the Mercantile Bank which has agreed to give a bigger interest.

Letters received : A letter from Rev. Morontuduwe Dhammananda Thero was read and decided to reply in the following manner : That up to date the Sabha has not received a reply for its earlier letter and that it expects a reply. Further to acknowledge his (Rev. Morontuduwe's) second letter.

A letter sent by the National Bank was read and it was decided 20 to ask Mr. Moonesinghe as the President of the Sabha to write to the Bank confirming the specimen of Mr. D. D. Pedris's signature.

At this stage the work terminated and those present happily departed.

(Sgd.) C. S. DE SILVA,
Hony. President.
 26/11/24.

(Sgd.) J. A. P. NANAYAKKARA,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29U

Minutes of the Sabha Meeting2D29U
Minutes of the
Sabha Meeting
26.11.24*Reference Page 47.*

Minutes of the General Meeting held on 26th November 2468 B.E./
1924 A.D.

Those Present : The Rev. Principal of the Pirivena Nayaka Thero, Dr. Hewavitarne, Muhandiram C. S. de Silva, Messrs. M. Piyadasa, D. D. Pedris, R. P. Tilakaratne, Dr. D. B. Perera and J. A. P. Nanayakkara (Secretary).

10 *Commencement :* The work commenced with the administration of Pencil (Five Precepts).

Chairman : The Nayaka Thero was in the chair. Muhandiram C. S. de Silva was elected President after a resolution moved and seconded by Messrs. Hewavitarne and D. B. Perera respectively.

Letters : A letter from the Upasaka stating that he will resign from work in December was read and he agreed to do the work till another is found.

20 *Rev. Devananda Upanayaka Thero, Vice-Principal :—*A discussion took place on the illness of this monk and Dr. Hewavitarne agreed to meet Mr. Dias, Proctor, who is attending on the monk and discuss matters with him.

Any other Business : Dr. Hewavitarne said that it is his knowledge that Mr. Meedeniya Adigar is willing to come into the vacant post in the Sabha. As none of the members of the Sabha were opposed to this idea Dr. Hewavitarne agreed to proceed with the matter.

Conclusion : At this stage the meeting came to a close and those present happily departed.

(Sgd.) J. MOONESINGHE,
Hony. President.

30

15.1.25.

(Sgd.) J. A. P. NANAYAKKARA,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D31A
Statement of Income and Expenditure of the Sabha in pages 63 of 2D29

Reference Pages 70-71 Minute Book

Statement of Income and Expenditure of the Vidyadhara Sabha for the Period 1st January to 30th June, 1925

INCOME		Rs.	c.	EXPENDITURE	Rs.	c.
To Membership fees ..		296	00	By Alms and other requirements of the teacher monks ..	1,097	50
" Alms to Upasakas ..		120	25	" Alms giving to Upasakas on full moon days ..	94	31
" Charity box collections ..		423	30	" Gas ..	647	09
" Yearly Government grant ..		100	00	" Taxes paid during the above 6 months :-	1,838	90
" Yearly lease of Kottégangoda land ..		50	00	3rd Quarter of 1924 ..	82	50
" Do. do. (1926) ..		500	00	4th Quarter of 1924 ..	82	50
" Special Donations :-				1st Quarter of 1925 ..	75	00
Educational work on behalf of late Mr. Don David Dias ..				2nd Quarter of 1925 ..	75	00
Alms giving for monks assembled on 27th February, 1925, met by Dr. C. A. Hewavitarne ..		31	75	Municipal taxes to Poyage, Humupitiya ..	1	50
		3,521	30	Return of some of money received by Upasaka Dana ..	12	79
				Wages :-		
" Construction of living quarters :-				Two teachers of English ..	300	00
Mr. A. D. Jayasundera, Proctor and Mrs. Jayasundera of Galle (2 rooms) ..		800	00	Employees ..	274	00
On behalf of late Muhandiram Sadrir Perera Wickremasinha of Panapitiya, Kalutara (1 room) ..		400	00	Dhoby fees (April, 1924 to April, 1925) ..	30	00
Furniture and fixtures for that room ..		71	90	Furniture and fixtures for the living quarters of Rev. Baddegama Piyaratana, Vice-Principal ..	96	25
Dr. Brampy Gunawardena, Pettigalawatta, Galle (1 room) ..		400	00	Alms to monks who assembled on 27th February ..	31	75
Mr. John Silva of Queensland (1 room) ..		400	00	Renovation and repairs to room occupied by Rev. Devananda Nayake ..	31	75

To Cremation of late Rev. Devananda Nayako			
Thero, former Vice-Principal :—			
Dr. C. A. Hewavitarne	100 00		
Mr. F. R. Senanayake	100 00		
Alfred Silva	5 00		
Rodrigo	1 00		
A. S. Fernando	5 00		
D. C. Pedris, Proctor	15 00		
Hon. Mr. W. A. de Silva	50 00		
Hon. Mr. D. S. Senanayake	25 00		
Dr. D. B. Perera	10 00		
Mr. W. H. W. Perera, Proctor	25 00		
D. D. Pedris	20 00		
D. C. Senanayake	15 00		
P. de S. Kularatne	10 00		
D. W. Wickremaratthy	10 00		
Mhandiram C. S. de Silva	10 00		
T. D. S. Seneviratne	10 00		
Name not clear	5 00		
W. E. Bastian & Co.	15 00		
M. Piyadasa	10 00		
J. A. P. Nanayakkara	140 00	606 00	
Collections for illness			
By Advertisement charges (Papers)			36 00
Printing charges			54 50
Brooms, umbrellas, kerosine oil, etc.			20 68
Settlement of bill for goods bought from H. Don Carolis & Sons			274 10
Two sentries on Wesak day			4 00
Stationery, envelopes, stamps, etc.			20 00
Cremation of late Rev. Devananda Nayako Thero :—			491 85
3 rolls of cloth			21 00
1 tin of oil			5 35
Drummers			12 00
Kitson lights (2)			5 50
Tonic			5 28
Rickshaw hire			6 60
Morning and Midday alms			41 58
Do.			22 32
Do.			4 98
Do.			1 50
Printing charges of handbills			33 00
Alms and other requirements of visitor monks			256 50
Coffin and decorated carrier			150 00
Pyre			10 00
Licence			575 61
Balance in hand			2,231 55
	Rs. ..	6,199 20	

Rs. .. 6,199 20

Rs. .. 6,199 20

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.

(Sgd.) D. D. PEDRIS,
Hony. Treasurer.

Translated by :
(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
30.6.50.

2D31A
Statement of
Income and
Expenditure
of the Sabha in
page 63 of 2D29
1.1.25 to
30.6.25—
Continued

Minutes of the Sabha Meeting

Reference Page 48.

Minutes of the Sabha held on 15th January, 2468 B.E. 1925 A.D. at Vidyodaya Pirivena.

Those Present : Rev. Kahawe Sri Sumangala Ratanasara Nayaka Thero, Principal of the Pirivena (Chairman), Messrs. J. Moonesinghe, Proctor, W. H. W. Perera, Proctor, J. A. P. Nanayakkara, Dr. D. B. Perera and Dr. C. A. Hewavitarne (Hony. Secretary).

The work commenced with the administration of Pancil (Five 10 Precepts). The Secretary read the minutes of the last meeting and Mr. J. Moonesinghe as President for the day signed the minutes after they were duly adopted.

The Secretary tabled an estimate of expenditure for the construction of four living rooms. With the approval of the House Dr. C. A. Hewavitarne, Hony. Secretary, was authorised to proceed with the work at the rate of Rs. 400/- per room and to deduct from this amount the value of any timber, bricks, tiles and other material supplied.

Subsequently Mr. J. A. P. Nanayakkara tabled a list of payments made to the contractor of the preaching hall to the amount of 20 Rs. 4,792.17 cts. Proposed and seconded by Messrs. J. Moonesinghe, Proctor, and Dr. D. B. Perera respectively the list was adopted.

It was stated that a sum of Rs. 500/- was paid to the engineer in charge of the construction of the hall and that a sum of Rs. 2,436.48 has to be paid to Mr. K. D. Perera, contractor, for the month of December. The Sabha on a resolution moved and seconded by Mr. W. H. W. Perera, Proctor, and Dr. D. B. Perera respectively, passed this amount.

Mr. J. A. P. Nanayakkara said that Mr. Meedeniya Adigar has expressed his willingness to join the Sabha. A discussion took place on the subject and further action was deferred for the next meeting. 30

It was decided :—(a) to call a general meeting on February 7th, (b) to disinfect the room occupied by Rev. Devananda Nayaka Thero and (c) to settle the gas bill.

Mr. J. A. P. Nanayakkara tabled letters from the following :— Rev. Welivitiye Soratha and Rev. Paravahera Vajiranana who are teachers on the lack of facilities in the living quarters, (2) Rev. Morontuduwe Nayaka Thero and (3) a petition signed by four monks. All letters were discussed and decided to take action. Finally discussing the question of appointment of a Vice-Principal Dr. C. A. Hewavitarne, Hony. Secretary, pointed out that the Sabha must be con- 40
scious of the amount of its power in the internal affairs of the Pirivena

and requested that the Principal of the Pirivena should give consideration to this appointment. At this stage the day's proceedings terminated.

2D29V
Minutes of the
Sabha Meeting
15.1.25—
Continued

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.

Adopted.

(Sgd.) W. H. W. PERERA,
President.
1.2.25.

10 Translated by :

(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
30.6.50.

2D29W

Minutes of the Sabha Meeting

2D29W
Minutes of the
Sabha Meeting
7.2.25

Reference Page 52.

Minutes of the General Meeting held at Vidyodaya Pirivena on 7th February, 2468 B.E./1925 A.D.

Those Present : The Rev. Principal of the Pirivena, Nayaka Thero,
20 Messrs. J. Moonesinghe, Proctor, J. A. P. Nanayakkara, M. Piyadasa,
Muhandiram C. S. de Silva, Mr. W. H. W. Perera and Dr. C. A. Hewavitarne (Hony. Secretary).

The work commenced with the administration of Pancil (Five Precepts). The Secretary read a brief report of the work done by the Sabha for the betterment and welfare of the Vidyodaya Pirivena, Maligakanda, during the period 31st December, 2467 B.E./1923 A.D. to 7th February, 2468 B.E./1925 A.D. Subsequently a statement of Income and Expenditure for period 1st January to 31st December, 1924, was read. It was decided to publish the report and the statement
30 of accounts after their adoption.

Dr. C. A. Hewavitarne, Hony. Secretary, proposed the name of Mr. J. H. Meedeniya Adigar to fill the vacancy of the post of President. Mr. J. A. P. Nanayakkara seconded it.

2D29W
Minutes of the
Sabha Meeting
7.2.25—
Continued

Having decided to inform Mr. Meedeniya Adigar of his election the meeting came to a close and those present happily departed.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.
17th February, 1925.

(Sgd.) K. RATANASARA,
Hony. President.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.
30.6.50.

10

2D30
Report of the
Sabha *re*
Pirivena
31.12.23
to 7.2.25

2D30

Report of the Sabha *re* Pirivena

Reference Page 53.

BRIEF REPORT ON FEBRUARY 7th, 1925

A brief report of the work done for the betterment and welfare of Vidyodaya Pirivena, by the Vidyadhara Sabha for the period 31st December, 2467 B.E./1923 A.D. to 7th February, 2468 B.E./1925 A.D.

The Vidyodaya Pirivena was inaugurated in the year 1873 under the leadership of the Most Ven'ble Hikkaduwe Sri Sumangalabhidana 20 Chief Nayaka Thero. The Pirivena had existed for a half a century on 30th December, 1923. In this connection a religious ceremony was held with the help of the public for four weeks from 30th December. The expenditure incurred in that connection amounts to Rs. 3,394/64 cts.

During the period of the ceremony, on Tuesday, 11th January, 1924, laying of the foundation stone of the proposed Sri Sumangala Dharmasala was done with great pomp and pageantry in memory of and to bestow merit to Rev. Sri Sumangala Nayaka Thero, founder of the Vidyodaya Pirivena. The Sabha considered the collection 30 of Rs. 50,000/- from the supporters of the Pirivena and Ceylonese public to meet the expenses needed to complete the work of Sri Sumangala Dharmasala.

In this connection the Maha Nayaka Thero, present Principal of the Pirivena and the Vidyadhara Sabha sent out appeals. The response to the appeal so far is Rs. 11,593/66 cts. A detailed list of these contributions were published in the press. Though a good portion of the work has been completed still there is a considerable

amount to be done which needs a lot of money. When the amount of money so far received is compared with the amount to be spent it is evident that a considerable amount is still required.

2D30
Report of the
Sabha *re*
Pirivena
31.12.23 to
7.2.25—
Continued

DEATH OF REV. VICE-PRINCIPAL

We mention with regret Rev. Panditha Weliwitiye Devananda Nayaka Thero who was Vice-Principal of this Pirivena up to December 9th and who was ill became critical in his conditions and passed away on the said date. We consider the passing away of the said Nayaka Thero as a special setback to the useful work carried out by the Pirivena
10 for the benefit of the Sasana.

APPOINTMENTS

Rev. Principal of the Pirivena appointed Rev. Baddegama Piyaratana, Rev. Principal of Kitulampitiya Pirivena, to fill the vacancy of the post of Vice-Principal created by the death of Rev. Weliwitiye Devananda Nayaka Thero. We mention with great expectations that this monk who has a fame for his Scholastic Achievements should prove to be a special asset to the Vidyodaya Pirivena. Further, since Mr. J. H. Meedeniya Adigar has expressed his willingness to take up the post of President (now vacant) a resolu-
20 tion will be moved to that effect at this meeting. The expression of consent to be elected as President of the Vidyadhara Sabha, the highest centre presently for the development of the Teachings by Mr. Meedeniya Adigar, who is a learned, rich and prominent Buddhist public figure, is a pleasure for all. We also look forward with great hopes that this will make the fruitless differences between up-country and low-country vanish and thus enable to do a lot of useful work.

WORK DONE FOR THE BETTERMENT AND WELFARE OF THE PIRIVENA

A good deal of work has been done by the Vidyadhara Sabha in
30 the premises of the Vidyodaya Pirivena. However, the expenditure incurred for the maintenance of the Pirivena for a year is in excess of the income. Irrespective of the financial situation, the construction of Sri Sumangala Dharmasala, a row of bed rooms for the benefit of the teacher and student monks and a number of lavatories were built involving a large sum of money.

A sum of money not less than Rs. 8,000/- has been spent on the work of Sumangala Hall. A sum of Rs. 47,000/- is further required. We have mentioned in the report the amount so far received. If

2D30
 Report of the
 Sabha re
 Pirivena
 31.12.23 to
 7.2.25—
Continued

further contributions are not received from the members of the public, work will be delayed, therefore, we state with kind thoughts that we require the assistance of the Buddhist public to do all this work. The attention of prominent Buddhist public must be drawn to the proposed row of rooms. It costs Rs. 400/- to construct each room. It is desirable if a number of prominent Buddhists could be pressed to construct a room each. If there are anybody wishing to do so, could inform us without delay.

DONATIONS FOR EDUCATIONAL WORK OF VIDYODAYA PIRIVENA

10

Late Mr. Don David Dias before his death had set aside in his Last Will a sum of Rs. 500/- towards the educational work of the Vidyodaya Pirivena. Mr. A. C. Dias, who is the trustee has sent that amount of money to us. This gracious act was published in English, Sinhalese and Tamil papers for knowledge of the members of the public. We wish to mention with pleasure, that it is a special obligation of the prominent Buddhist public to bear this gracious act of contributing a sum of money for the special activities organised by the Vidyadhara Sabha at Vidyodaya Pirivena.

Further a sum of Rs. 100/- has been contributed in memory of 20 late Muhandiram D. D. Abeyratne from his estate.

SPECIAL CONTRIBUTIONS FOR THE UPKEEP OF VIDYODAYA PIRIVENA

The daily expenses, monthly expenses such as the gas bill and expenses incurred for special activities are met by the annual government grant, donations from members and other contributions. We are compelled to spend more than the income every year. As a result of this when certain urgent work is held up Dr. C. A. Hewavitarne, Hony. Secretary, spends on this from his own pocket. In view of the fact that there is no sufficient income gaslight in the rooms of the 30 teachers had to be disconnected recently.

Under the present circumstances, those who desire the progress of Vidyodaya Pirivena and those societies that have worked in co-operation should bear in mind to set aside monthly whatever monies that could be afforded for the betterment of the Pirivena.

Although a certain section opposed to the interests of the Vidyodaya Pirivena started a useless quarrel, it could not hinder the progress of the Pirivena.

While praying that our members and other benign gentlemen who have given every kind of assistance for the betterment, welfare and progress of Vidyodaya Pirivena established with a view of developing the Teachings of the Buddha may attain the Blissful State of Nibbana, we hope that Vidyodaya Pirivena will continue to serve the noble cause so long as Buddhism remains.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary,
Vidyadhara Sabha.

10 7th February, 2468 B.E./1925 A.D. at Maligakanda.

Report adopted.

(Sgd.) H. PEMANANDA,
Hony. President.

Translated by :

(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
30.6.50.

2D29X

Minutes of the Sabha Meeting

20 *Reference Page 58.*

Minutes of the meeting of Vidyadhara Sabha held on 13th March, 2468 B.E./1925 A.D. at Vidyodaya Pirivena.

Those present :—Mr. J. Moonesinghe, Proctor, Dr. D. B. Perera, Messrs. Neil Hewavitarne, J. A. P. Nanayakkara, W. H. W. Perera, Proctor, M. Piyadasa and Dr. C. A. Hewavitarne.

The work commenced with the administration of Pancil (Five Precepts), Dr. C. A. Hewavitarne, Hony. Secretary, read the minutes of the last meeting.

30 A discussion took place on the appointment of a suitable monk for the library and the maintaining of a register. Mr. J. A. P. Nanayakkara moved a resolution on the appointment of a suitable monk for the library and the maintaining of a register. Mr. J. Moonesinghe, Proctor, seconded the resolution.

This been adopted all agreed to meet the Rev. Principal of the Pirivena in order to discuss the appointment of a suitable monk.

Subsequently Mr. J. Moonesinghe, Proctor, read from constitutions, articles pertaining to the betterment and welfare of the Pirivena and in accordance with the old constitution of the Vidyadhara Sabha.

2D30
Report of the
Sabha *re*
Pirivena
31.12.23 to
7.2.25—
Continued

2D29X
Minutes of the
Sabha Meeting
13.3.25

2D29X
Minutes of the
Sabha Meeting
13.3.25—
Continued

The Sabha agreed that the constitutions read were of importance and decided to provide each member with a copy for further consideration.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.

(Sgd.) K. RATANASARA,
Patron.

(Sgd.) Illegibly.
Hony. President.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

10

2D29Y
Minutes of the
Sabha Meeting
18.5.25

2D29Y
Minutes of the Sabha Meeting

Reference Page 59.

Minutes of the Vidyadhara Sabha held on 18th May, 2469 B.E./1925 A.D. at Vidyodaya Pirivena.

Those Present : The Rev. Principal of the Pirivena, Messrs. J. H. Meedeniya Adigar, F. R. Senanayake, Advocate, J. Moonesinghe, Proctor, Neil Hewavitarne, Dr. D. B. Perera, M. Piyadasa and 20 Dr. C. A. Hewavitarne, *Hony. Secretary.*

The work commenced with the administration of Pansil (Five Precepts). Proposed and seconded by Dr. D. B. Perera and Mr. J. Moonesinghe, Proctor, respectively, Mr. J. H. Meedeniya Adigar was elected President for the day.

The Secretary read and submitted the minute of the last meeting and they were adopted. A discussion took place on the appointment of a suitable monk for the library. The Rev. Principal of the Pirivena said that Rev. Hikkaduwe Pemananda was attending to the work of the library for a long time and that it will be suitable to appoint 30 Rev. Welivitiye Soratha as an Assistant. The House agreed to this suggestion.

A letter sent by the Fort Puspadana Samithiya seeking permission to hold the Mahinda Festival on the 6th and 7th of the following month at the temple premises was discussed. It was decided to grant permission and to write to the Samithiya asking assistance for the new works started in the premises.

Discussing the work of the new Sri Sumangala Dharmasala (Preaching Hall) the Secretary explained that sufficiently strong iron

bars are not available to be erected inside the hall and therefore stone pillars would be suitable as outlined in the first plan. Since the House agreed to this suggestion, it was adopted.

It was the opinion of the majority of the House that the floor of the hall should be made up of marble slabs. In this connection the President stated that the necessary monies could be raised from the public.

The Hony. Secretary stated that a considerable amount of money could be collected for the Sri Sumangala Dharmasala (Preaching Hall) Fund if Mr. Neil Hewavitarne starts on the job.

Mr. C. A. Hewavitarne, Hony. Secretary, stated that vacancy of the post of President should be filled and that he has given thought to a number of persons suitable for the post. He also said that he would make further inquiries on this matter and inform the House at its next meeting.

At this stage the meeting terminated.

(Sgd.) D. B. PERERA,
Hony. President.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.
10.8.25.

20

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29Z

Minutes of the Sabha Meeting

Reference Page 61.

Minutes of the Vidyadhara Sabha held on 10th August, 2469 B.E./
30 1925 A.D. at Vidyodaya Pirivena, Maligakanda.

Those Present : The Rev. Principal of the Pirivena, Dr. D. B. Perera, Messrs. J. Moonesinghe, Proctor, M. Piyadasa, Neil Hewavitarne, and Dr. C. A. Hewavitarne, Hony. Secretary.

The work commenced with the administration of Pansil (Five Precepts), proposed and seconded by Messrs. J. Moonesinghe, Proctor, and M. Piyadasa respectively, Dr. D. B. Perera was elected President for the meeting. The Secretary read and submitted the minutes of the last meeting. After the adoption of the minutes the following were discussed.

2D29Y

Minutes of the
Sabha Meeting
18.5.25—
Continued

2D29Z

Minutes of the
Sabha Meeting
10.8.25

2 D29Z
 Minutes of the
 Sabha Meeting
 10.8.25—
 Continued

(1) A discussion took place regarding the vacancy for the post of President of the Sabha, occurred by the death of Muhandiram C. S. De Silva of Jampettah Street, Colombo, who as president of the Sabha worked magnificently for a long time. Dr. C. A. Hewavitarne, Hony. Secretary, speaking stated that he would think that Mudaliyar E.A. Abayasekara, Interpreter of the Education Department, is suitable to fill the post. Thereafter a decision was taken to convene a general meeting by advertisements in the papers. It was further decided to convene the meeting for 12th September, at 4 p.m. and to send letters to all donor-members. 10

Subsequently, a discussion arose on the opening of the newly constructed living quarters. Mr. J. Moonesinghe, Proctor, stated that this function should take place after the completion of the construction of the other two rooms. Hony. Secretary tabled a letter from Rev. Kukulnape Devarakkhitha Thero, teacher, stating lack of facilities in living quarters. As stated in the letter the Sabha agreed to fix up a screen in the room presently occupied by this priest.

The Hony. Secretary stated that this temple is in possession of a sacred bowl used by Lord Buddha and that an exposition of the sacred relics for the public to acquire merit should be held. 20

Since all expressed their agreement a date for exposition was deferred for the next meeting. At this stage the proceedings of the meeting terminated and those present happily departed.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.
 3.12.1925.

Minutes adopted.

(Sgd.) E. A. ABAYASEKARA,
Hony. President.
 31.12.1925. 30

Translated by :
 (Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
 30.6.50.

2D29(iii)**Notice of the Sabha in the Sinhala Bauddhaya**

The Sinhala Bauddhaya, Colombo, Saturday 22nd, August, 1925.

Translation of Advertisement Appearing on page 1

VIDYADHARA SABHAWA*A Public Meeting*

A public meeting will be held at 4 p.m. on 12th September, 1925, at Vidyodaya Pirivena, Maligakanda, to appoint a Sabhathi Member to fill the vacancy created by the death of the above Vidyadhara 10 Sabha (Sabhathi) Member, Muhandiram C. S. de Silva.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary,
Vidyadhara Sabha.

10.8.1925.

Vidyodaya Pirivena,
Maligakanda, Colombo.

2D29(i)**Minutes of the Sabha Meeting**

Reference Page 64.

20 Minutes of the General Meeting held on 12th September, 2465 B.E./ 1925 A.D. at Vidyodaya Pirivena, Maligakanda.

Those Present : Rev. Hikkaduwe Pemananda Thero, Rev. Paravahera Vajiranana Thero, Mr. J. Moonesinghe, Proctor, Dr. D. B. Perera, Messrs. Neil Hewavitarne, J. A. P. Nanayakkara, R. P. Thilakaratne, Dr. C. A. Hewavitarne, Hony. Secretary, and others.

Proposed and seconded by Dr. C. A. Hewavitarne and Mr. J. Moonesinghe, Proctor, respectively, Rev. H. Pemananda Thero was elected Chairman. The work commenced with administration of Pencil (Five Precepts).

30 Hony. Secretary read the minutes of the General Meeting held on 7th February. The minutes were adopted. A report of the work done for the betterment and welfare of the Vidyodaya Pirivena and a statement of income and expenditure for the period 1st January to 30th June, 1925, were read.

Dr. D. B. Perera proposed the adoption of the report thanked the Hony. Secretary for preparing the statement of accounts and the report. Mr. J. A. P. Nanayakkara seconded it.

2D29(iii)

Notice of the
Sabha in the
Sinhala
Bauddhaya
22.8.25

2D29(i)

Minutes of the
Sabha Meeting
12.9.25

2D29(i)
Minutes of the
Sabha Meeting
12.9.25—
Continued

Further it was decided to send this report for publication in the press and to distribute it after printing.

Dr. C. A. Hewavitarne, Hony. Secretary, proposed the name of Mudaliyar E. A. Abayasekara to the vacant post of President of the Sabha. Mr. Neil Hewavitarne seconded it. At this stage the meeting came to a close.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.
19.3.26.

(Sgd.) K. RATANASARA,
Hony. President.
19.3.26.

10

Translated by :
(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
30.6.50.

2D29(iv)
Minutes of the
Sabha Meeting
28.1.26

2D29(iv)
Minutes of the Sabha Meeting

Reference Page 73.

Minutes of the Vidyadhara Sabha held on 28th January, 2469 B.E. / 20 1926 A.D. at Vidyodaya Pirivena, Maligakanda.

Those Present : Rev. Principal of the Pirivena Nayaka Thero, Mr. J. Moonesinghe, Proctor, Mudaliyar E. A. Abayasekara, J. A. P. Nanayakkara and Dr. C. A. Hewavitarne, Hony. Secretary.

Proposed and seconded by Mr. J. Moonesinghe, Proctor and Dr. C. A. Hewavitarne respectively, Mudaliyar E. A. Abayasekara was elected Chairman.

The Hony. Secretary read and submitted the minutes of the last meeting. After the adoption of the minutes a statement of Income and Expenditure from 1st July to 31st December, 1925, was 30 read.

After the decision to publish the statement of accounts, a discussion took place on the appointment of a President to fill the present vacancy of that post. The Secretary informed that he discussed this matter with Mr. D. C. Senanayake and that he (Mr. Senanayake) has expressed his willingness.

Having deferred further discussion on the topic for the next meeting the House terminated its work.

(Sgd.) D. C. SENANAYAKE,

Adopted.

Chairman.

Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29(iv)
Minutes of the
Sabha Meeting
28.1.26—
Continued

10

2D29(v)

Minutes of the Sabha Meeting

2D29(v)
Minutes of the
Sabha Meeting
19.3.26

Minutes of the General Meeting held on March 19, 2469 B.E./1926.
A.D.

At this meeting there were present the Ven'ble Nayaka Thero, Principal of the Pirivena, and several other Bhikkhus, Mudaliyar E. A. Abayasekara, Dr. D. B. Perera, Mr. J. Moonesinghe, Proctor, Mr. U. B. Dolapihille and several others.

After the Pansil was taken, the Secretary read the minutes of the last general meeting and the meeting approved of the same. The
20 Honorary Secretary submitted to the meeting the following motion :—

“ That Mr. D. C. Senanayake shall be appointed a Sabhapathi of this Sabha in succession to Mr. F. R. Senanayake who was a Sabhapathi of this Sabha and whose death has caused the vacancy.”
Seconded by Dr. D. B. Perera, the motion was carried.

Here the meeting having ended the gathering dispersed.

Minutes were confirmed.

(Sgd.) K. RATANASARA,

Hony. Chairman.

(Sgd.) C. A. HEWAVITARNE,

Hony. Secretary.

29th July, 1928.

30

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

5.10.54.

2D29(vi)

Minutes of the Sabha Meeting

Reference Page 77.

Minutes of the Vidyadhara Sabha held on 27th September 2470B.E.
at Vidyodaya Pirivena, Maligakanda. 1926A.D.

Those Present : Rev. Principal of the Pirivena Nayaka Thero, Messrs. D. C. Senanayake, W. H. W. Perera, Proctor, M. Piyadasa and Dr. C. A. Hewavitarne. After the administration of Pansil (Five Precepts) Mr. W. H. W. Perera, Proctor, proposed and Mr. M. Piyadasa seconded the name of Mr. D. C. Senanayake to the chair. 10 The Hony. Secretary then read and submitted the minutes of the last meeting after the adoption of the minutes the Secretary read the prepared statement of Income and Expenditure for the period from 1st January to 30th June, 1926.

During the course of a discussion on it the chairman stated that since the expenditure is in excess of the income steps ought to be taken to increase the income. Speaking on this subject the Hony. Secretary stated how monies were spent for the work of the Sabha. He also stated that the income for a whole year is not sufficient to meet the expenses of even six months and that as a result he had to 20 spend about Rs. 1,000/- from his pocket.

Subsequently Mr. W. H. W. Perera, Proctor, speaking, made suggestions as to how donor-members should be enrolled from all parts of Ceylon.

Having decided to hold the Dharmasala (Preaching Hall) warming ceremony somewhere in November, the gathering happily departed.

Minutes adopted.

(Sgd.) D. C. SENANAYAKE,
Hony. President.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.

24.10.1926. 30

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

1D9

**Extract from the Income and Expenditure
Statement of the New Preaching Hall of the Vidyodaya
Pirivena, 1927**

Pages 2 and 3

1D9
Extract from
the Income
and Expendi-
ture Statement
of the New
Preaching Hall
of the Vidyodaya
Pirivena, 1927

(An extract from the income and expenditure statement of the new Preaching Hall of the Vidyodaya Pirivena printed and circulated in 1927 by the then Hony. Secretary of the Vidyadhara Sabha, Dr. C. A. Hewavitarne.)

10 It is known that the Colombo area during that time was very backward in Buddhism, Sinhalese language and other arts. Therefore a few Buddhist leaders, Muhandiram Dharmagunawardhana, Don Philip de Silva Epa, Mudaliyar Don Carolis Hewavitarne and others, coming to know through wide fame the noble character, ideals, knowledge and learning of this great therā had a very great expectation to propagate the Buddha Dhamma in the Colombo area and generally to illuminate the whole Island of Ceylon with the light of learning through the means of the Ven'ble Nayaka Therā.

As this idea concerned with that of the Ven. Nayaka Therā there
20 arising a mutual connection prompted by generosity between the two parties the said dayakas, in the year 1873 accompanying this great therā to the premises of the Vidyodaya Pirivena requested him to observe the raining season (Vas period). During that rainy season the great therā with the immaculate thought prompted by generous intentions that "at present though there are no Sinhalese Kings as in the days of old to assist the propagation of learning I will with the assistance of these leaders and the entire people of Lanka illuminate the whole of the Island of Ceylon with the light of learning" founded
30 the Vidyodaya Vidyalaya—the mighty lamp of learning—and the great society of assistance known as the Vidyadhara (Sabha). As we think that there are no persons who are not aware that the whole Island is illuminated by the above mentioned lamp of learning from that time up to date in accordance with the respectful idea of that great therā we do not write here a description in connection with it.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D29(vii)
Minutes of the Sabha Meeting

Reference Page 84

Minutes of the Vidyadhara Sabha held on 21st April, 2470 B.E./1927 A.D.

Those Present.—Nayaka Thero Principal of the Pirivena, Mr. J. Moonesinghe, Proctor, Dr. D. B. Perera, Messrs. M. Piyadasa, W. H. W. Perera, Proctor, Neil Hewavitarne, Hony. Secretary, and T. G. M. Perera.

After the administration of Pansil (Five Precepts) the Secretary 10 read and submitted the minutes of the last meeting. Mr. M. Piyadasa proposed and Dr. D. B. Perera seconded the name of Mr. J. Moonesinghe to the post of Chairman of the meeting.

A discussion took place on Pirith Pinkama (Chanting of Pirith Ceremony). Mr. M. Piyadasa questioned whether a committee would be conducting the ceremony as decided by the last meeting and what would the Sabha want in that connection. The Hony. Secretary and Nayaka Thero replying stated it does not look like as if things are being done by a Committee and that Mr. T. G. M. Perera is proceeding with the preparations for breakfast and evening tea. 20

The Secretary said that since the Nayaka Thero and Upasaka had told last Monday when they came to the temple that the work connected with the Pinkama is not done by the Committee, the Sabha had agreed to do it and has already started making preparations for lunch (Dawal Dana) and repairing of the alms-hall.

Mr. T. G. M. Perera stated that since a committee has been appointed that committee should arrange for the Pirith Pinkama of two weeks with the permission of the Nayaka Thero. Therefore, Mr. W. H. W. Perera, Proctor, moved the following :—

“ That this House is of the opinion that a committee consisting 30 of Messrs. T. G. M. Perera and M. Piyadasa should conduct the Pirith Pinkama with the permission of the Nayaka Thera.”

The Hony. Secretary seconding the above motion with great pleasure stated as decided at the last meeting the Sabha would pay a sum of Rs. 150/- for the construction of the dais. He stated that the Sabha cannot meet any other expenses in this connection. The monies collected at Bana Pinkamas cannot be spent for the Pirith Pinkama. As decided at the last meeting these monies should be set aside for work done for the improvement of the temple. He also stated that monies collected during the Pirith Pinkama should be 40 handed over to a person after informing the Nayaka Thero.

Subsequently, Mr. T. G. M. Perera stated that he would supply the lunch (Daval Dana) during the first week. At this stage the proceedings for the day terminated and the gathering happily departed.

2D29(vii)
Minutes of the
Sabha Meeting
21.4.27—
Continued

Minutes adopted.

(Sgd.) W. H. W. PERERA,
Hony. President.

(Sgd.) NEIL HEWAVITARNE,
Hony. Secretary.

23.6.27.

Translated by :

10 (Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
30.6.50.

P32

**Merits bestowed by C. A. Hewavitarne, Hony. Secretary,
Vidyadhara Sabha**

MERITS BESTOWED

The merits accrued by all benign supporters and ourselves in the execution of the noble task of erecting "Sri Sumangala Dharmasala" (Preaching Hall) on the advice of the present Principal of the Pirivena, Rev. Kahawe Sri Sumangala Ratanasarabhidhana, Chief Nayaka Thero, in memory of and in order to bestow merit to the extremely Ven'ble Rev. Hikkaduwe Sri Sumangalabhidahana, Chief High Nayaka Thero who founded the Vidyodaya Pirivena, are immense and unique. Therefore, all those benign gentlemen who supported this meritorious deed should hope for the ending of worldly misery and the attainment of the Blissful State of Nibbana.

P32
Merits
bestowed by
C. A.
Hewavitarne,
Hony.
Secretary,
Vidyadhara
Sabha
5.12.27

By Order,

A. HEWAVITARNE,
Hony. Secretary.

Vidyadhara Sabha.

30
5.12.1927.

Translated by :

(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
6.7.50.

Minutes of the Sabha Meeting

Reference Page 91

Minutes of the Vidyadhara Sabha held on 5th December, 2471 B.E./1927 A.D. at Vidyodaya Pirivena.

Those Present.—Ven'ble Nayaka Thero Principal of the Pirivena, Messrs. J. Moonesinghe, Proctor, N. Hewavitarne, M. Piyadasa, Dr. D. B. Perera, Mr. W. H. W. Perera, and Dr. C. A. Hewavitarne, Hony. Secretary.

With the administration of Pansil (Five Precepts), the work 10 commenced. Proposed by the Hony. Secretary Mr. M. Piyadasa was elected to the chair. The Hony. Secretary then read and submitted the minutes of the last meeting. A letter from Rev. Parava-hera Vajiranana stating that the completion of a list of books for the library should be done along with Rev. Pemananda and another from Rev. Weliwitiye Soratha stating that roof of his room has deteriorated in its condition were read. With reference to the first letter, the house was informed that the Hony. Secretary had sent a letter on the 14th of last month to Rev. Pemananda. It was decided to write asking for a reply in the case of the former letter and to repair 20 the roof of the room referred to in the letter.

The Hony. Secretary was instructed to read letters to those members who are in arrears of membership fees. Mr. J. Moonesinghe, Proctor, asked what amount is spent on an average for a month for the maintenance of the Vihare premises. In reply, the Hony. Secretary stated that it is about Rs. 500/- per mensem. Mr. M. Piyadasa said that steps must be taken to increase the income in order to cut down additional money spent by the Hony. Secretary out of his pocket. Mr. M. Piyadasa was authorised to draw up a

plan with regard to it. Mr. Piyadasa suggesting a plan stated the manner in which the charity boxes are presently placed ought to be changed and a number of iron safes sheltered with cement coverings should be placed near the dagoba and the bo tree. Mr. Moonesinghe was authorised to do that work.

2D29(viii)
Minutes of the
Sabha Meeting
5.12.27—
Continued

Dr. D. B. Perera, Messrs. A. Hewavitarne, M. Piyadasa and W. H. W. Perera were elected to inquire into inconvenience that foreign visitors have to face when they come to the temple and to take steps to eliminate the difficulties.

- 10 The Hon'y. Secretary informed that the statement of Income and Expenditure of Sri Sumangala Dharmasala Fund is complete. The income and expenditure were read and submitted. It was decided by the Sabha to publish the statement. Apart from that it was also decided to print, frame and exhibit a list of names of those who contributed (without collecting) sum of Rs. 100/- to Rs. 10,000/-.

The work terminated at this stage and those present happily departed.

(Sgd.) E. A. ABAYASEKARA,
President.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.

20 26.1.28.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

30.6.50.

2D13A
Statement of Income and Expenditure (Pages 11 and 12 of 2D12)

Pages 11 and 12 of Minute Book

Statement of Income and Expenditure for the period 1st January to 30th June, 2471 B.E./1928 A.D. of the Vidyadhara Sabha

	Rs. c.	Rs. c.	Rs. c.
INCOME			
To Membership fees	257 50		
„ Part of the collection in charity boxes	658 54		882 40
„ Donor-Membership fees	576 50		
„ Alms to Upasakas	82 50	1,575 04	1,105 00
„ Government Grant due for 1927		2,000 00	85 61
„ Special Donations :—			
On behalf of late Mr. Simon Hewavitarne	200 00		
Mr. J. Munasinghe, Proctor	30 00		
Mr. D. D. Pedris, Merchant	30 00		
Mr. Neil Hewavitarne	25 00		
Mr. Raja Hewavitarne	25 00		
Dr. C. A. Hewavitarne	381 50		
„ Collected during this period for celebrations :—			
Sinhalese New Year celebrations	15 00		
Sri Sumangala celebrations	81 61		
(Inclusive of Wesak celebrations)			
Overpaid to Bank	1 69		
„ Part of the money received for the Prize-giving	207 25	305 55	310 75
„ Living Quarters :—			
1. Mr. G. M. Heenmahatmaya	250 00		15 00
2. Mr. P. L. Rattaranhamy	350 00		69 69
3. On behalf of Dingiri Menika Upasikawa	400 00		53 73
		35 88	174 30
			4,210 52
			57 75
			912
			904 00
			334 60
			157 50
			10 00
			70 85
			194 65
			17 60
			27 65
			15 00
			69 69
			53 73
			35 88
			174 30
			4,210 52
			57 75

4. On behalf of late Muhandiram D. S. Jayakody by Mrs. D. S. Jayakody	600 00	Travelling of bhikkus who attended two cremations	12 40
5. By the sons of late Muhandiram D. S. Jayakody in his memory	600 00	Collection and delivery of flowers on Wesak and Poson days	11 00
6. Messrs. H. Ranasinghe and P. Ranasinghe	300 00	One small tin, three Broomsticks and one tin of Brass Polish	2 40
7. Mr. Henry Dias Wijewickrama	300 00	Part of the postage for letters sent for the Prize-giving	22 50
8. Dr. D. W. Perera	500 00	Purchase and binding of 9 books under Siam prizes	356 00
9. Mr. C. A. Hewavitarne	600 00	Books ordered from Calcutta under Siam prizes	51 14
Deficit for current period	<u>1,314 73</u>	Part of expenses incurred in painting the Preaching Hall under 'Siam Prizes'	100 00
		A frank	2 50
		Mending a tin	0 20
		Dhoby charges	30 00
		Postage and printing charges (1,500 letters to Donor members) (Printing of outer covers of the Deed)	241 25
		Mahabodhi Press for printing	110 00
		Part of the expenses incurred in sending statements of accounts of the Preaching Hall	15 00
		Payment of loan	600 00
	<u>Rs. . . 9,786 82</u>		<u>Rs. . . 9,786 82</u>

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.
29.7.1928.

Adopted.
(Sgd.) K. RATANASARA,
Hony. President.

Translated by :
(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
8.6.50.

2D13A
Statement of
Income and
Expenditure
pages 11 and 12
of 2D12
1.1.28 to
30.6.28—
Continued

2D12A**Report of the Vidyadhara Sabha**

2D12A

Report of the
Vidyadhara
Sabha
29.7.28*Reference Page 7**Buddhist Era 2469*

A brief report of the work done by the Vidyadhara Sabha for the betterment of the Vidyodaya Pirivena, for the period 1st January, 1926 to 30th June, 1928/2471.

The last general meeting of this body, formed in 1873 A.D. on the advice and guidance of the late Rt. Ven. Hikkaduwe Sri Sumāngala
10 Maha Nayaka Thero, the then resident Principal of this Pirivena, was held on 19th March, 1926.

We wish to mention at the beginning that during the period of two years and six months from that day to 30th June, 1928, 17 ordinary meetings and one general meeting were held.

Vidyodaya Pirivena which is administered by our Sabha is a place which is held by all those living in Ceylon and at the same time all make justified need of it without any discrimination. It is not necessary to describe the immense service done daily for the welfare of the Buddha's Teaching by this great institution. In view of the
20 fact that detailed statements of accounts of the work done by the Sabha have been submitted regularly once in every six months it is not necessary to deal with this aspect at length.

However, we intend to give a very brief account of the work done by this Sabha from January, 1926, to end of June this year. A total amount of Rs. 7,535·58 cts. was received from members and as special donations for the period 1st January, to 31st December, 1926.

The expenditure for that year was Rs. 7,732·89 cts. It must be noted that a sum of Rs. 197·31 cts. has been over-spent during that year. In the year 1927, the income from the same sources amounted
30 to Rs. 5,675·22 cts. Expenditure was Rs. 7,149·50 cts. Therefore, a sum of Rs. 1,474·28 cts. has been over-spent during that year.

A sum of Rs. 8,472·09 cts. which is inclusive of the money received for the building of the living quarters has been received for the six months from 1st January to 30th June, 1928. Expenditure amounted to Rs. 9,786·82 cts. Therefore, a sum of Rs. 1,314·73 cts. has been over-spent during the past six months. It is evident that the income for these two years and six months totalled to Rs. 21,682·89 cts. while the expenditure amounted to Rs. 24,669·21 cts. The excess of expenditure over income amounted to Rs. 2,986·32 cts.

40 This is not all. Sums of Rs. 731·25 cts. for two iron safes and other goods bought of M/s. H. Don Carolis & Sons, Ltd., and Rs. 52·50 for repairs to the electric engine (by M/s. General Trading

2D12A
Report of the
Vidyadhara
Sabha
29.7.28—
Continued

Co.) have to be paid. Apart from these it has been agreed to pay a sum of Rupees One thousand three Hundred in connection with the living quarters ; the construction of which has already begun.

Monies received for various works during the past six months of this year are referred to in the statement of income and expenditure for that six months. It will be evident when considered that year after year there has been an excess of expenditure over income.

When daily expenses for alms and other requirements, monthly wages, etc. and quarterly Municipal taxes cannot be met the Hony. General Secretary, Dr. C. A. Hewavitarne meets them out of his 10 personal money. On an average, the Sabha has to spend about Rs. 2,000/- a year more than its income. Therefore, in view of the fact that sufficient monies are not received for the work carried out by the Sabha, on the advice and guidance of the present Principal and Maha Nayaka Thero ; in order to increase the number of donors one thousand one hundred odd letters were sent to many people in all provinces of Ceylon inviting them to become donors. The result of that appeal between last March to end of June is as follows :—

114	have	agreed	to	make	a	sum	of	Re.	1/-	monthly	
2	„	„	„	„	„	Rs.	1/50	cts.	monthly	20	
2	„	„	„	„	„	„	2/-	monthly			
2	„	„	„	„	„	„	2/50	cts.	monthly		
1	has	„	„	„	„	„	5/-	monthly			

We wish to mention that these 121 donors have been enlisted to assist us in the great task of spreading the teaching of the Blessed One. It must be noted that for the four months from last March to June a sum of Rs. 576·50 has been received from these donor-members.

We make special mention of the following benign gentlemen who donated monies at a time when it was not possible to proceed with work of the Sabha owing to the lack of funds ; during the past 30 six months :—

In memory of late Mr. Simon Hewavitarne	..	Rs.	200·00
J. Munasinghe Esq., Proctor	..	„	30·00
D. D. Pedris, Esq., Merchant	..	„	30·00
Neil Hewavitarne Esqr.	..	„	25·00
Raja Hewavitarne Esq.	..	„	25·00
Dr. C. A. Hewavitarne	..	„	381·50
			<hr/>
		Rs.	691·50
			<hr/>

We hope to construct 20 rooms for the benefit of the student bhikkhus who are now residents of the Pirivena. Of these, in the case of 10 rooms, the work has progressed a great deal.

2D12A
Report of the
Vidyadhara
Sabha
29.7.28—
Continued

These ten rooms are now been built by the following ladies and gentlemen :—

1. D. G. Seneviratne, Esqr., of Akmeemana in memory of Mrs. John Jayawardane.
2. Mrs. C. A. Hewavitarne.
3. G. M. Heenmahatmaya, Esq. of Pelmadulla.
- 10 4. B. L. Rattaranhamy, Esq. of Pelmadulla.
5. The sons of late Mrs. Polwatte Lekamalage Dingirihamine Upasika of Polwatta, Kuttapitiya, in her memory.
6. The widow of late Muhandiram D. D. S. Jayakody in his memory.
7. The children of the above named in his memory.
8. Messrs. H. Ranasinghe, Coroner, and P. Ranasingha, Vidane Arachchi of Yogyana.
9. Henry Dias Wijewickrema, Esq. of Godagama, Telwatta.
- 20 10. Dr. D. W. Perera on behalf of Mrs. W. A. W. Isabela Jayawardene.

Mrs. S. W. Gomes, a daughter of the late Mudaliyar D. J. Ratnayake, has written to say that she wishes to construct a room in memory of her father. Apart from this we would state that a number of other benign gentlemen have expressed a similar desire. We make special reference of Rs. 1,000/- received from the late Mudaliyar Chandrasekera Memorial Fund for our library. Already work has been started to compile ola books which are now not in the library.

During this period the workers of M/s. Walker & Greig and late Mr. T. G. M. Perera erected places to offer flowers (Malasana) by the 30 Sacred Bo-Tree and Dagaba respectively. Puspadana Society fixed up a telephone on their account. Upasakas and Upasikas laid granite slabs by the dagaba and erected a lamp-post. Mr. T. G. C. Perera, son of late Mr. T. G. M. Perera, saw to the white washing and painting of the dagaba in memory of his father. Number of societies levelled the compound (Maluwa).

Through the merits acquired by the members of our Sabha, and benign gentlemen, may the former Principal of this Pirivena, Rev. Sri Sumangala Nayake Thero, other venerable monks, those benign

2D12A
Report of the
Vidyadhara
Sabha
29.7.28—
Continued

gentlemen who worked in co-operation with us and ourselves attain Nibbana.

Report adopted.

(Sgd.) K. RATANASARA,
Hony. President.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.

29.7.1928.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

8.6.50.

10

2D12B
Minutes of
the Sabha
Meeting
29.7.28

2D12B

Minutes of the Sabha Meeting

Minutes of the general meeting held at the Vidyodaya Pirivena on July 29, 2472/1928.

At this meeting there were present, the Ven'ble Nayaka Thero, Principal of the Pirivena, Rev. Hikkaduwe Pemananda Thero, Rev. Pandit Welivitiye Soratha Thero, Messrs. J. Moonesinghe, Proctor, W. H. W. Perera, Proctor, A. P. Gunaratne, Coroner, M. Piyadasa, Dr. D. B. Perera, Messrs. U. P. Ekanayake, B. L. David Appuhamy, W. J. Gunawardene, K. D. David, G. H. Albert Perera, 20 D. E. Aranster, K. D. Edwin, R. D. Cornelis, W. Haramanis Appuhamy, Upasika M. G. Marthinahamy, Mr. J. Jayasinghe, Dr. D. P. Edussuriya, Messrs. S. D. Neris Appuhamy, U. D. Edwin, K. M. Jayasena, D. M. Manoratne, M. D. M. Kulatunge, James Manamperi, E. P. Tillakeratne, M. W. Edwin Perera, M. M. Silva, and Dr. C. A. Hewavitarne, Hony. Secretary.

After taking pansil and the work of the meeting having commenced, the Hony. Secretary following the agenda, read the minutes of the last general meeting. The confirmation of minutes was proposed by Mr. W. H. W. Perera, Proctor, and seconded by Dr. D. B. 30 Perera.

The report containing a short statement of income and expenditure of the Vidyadhara Sabha from January 1, 1926, to June 30, 1928, and a statement of income and expenditure for the last six months of 1928 were read by the Hony. Secretary. Proposed by Mr. J. Moonesinghe, Proctor, and seconded by Mr. U. P. Ekanayake, the motion to accept the said report and statement of expenditure was carried.

The Ven'ble Nayaka Thero, Principal of the Pirivena, speaking from the chair made a brief reference to the Vidyodaya Pirivena from its establishment to the present time and said that it was the duty not only of the Vidyadhara Sabha but of all the preople of Ceylon to maintain and carry on the work of the Pirivena and the invaluable services it had already rendered to the people and religion and made a speech based on religion highly pleasing to those present.

2D12B
Minutes of
the Sabha
Meeting
29.7.28—
Continued

The Hony. Secretary proposed that Mr. T. G. C. Perera, son of the late Mr. T. G. M. Perera, should be appointed to the post of
10 Sabhapathi now vacant in the Sabha. The same was seconded by Mr. W. H. W. Perera and on being put to the vote unanimously carried. The Honorary Secretary described the work being done by the Vidyadhara Sabha and thanked the assisting members who had travelled long distances to attend the meeting. Further, he said that representatives of other Societies and any others could join this Sabha and render assistance.

Mr. W. H. W. Perera, Proctor, Dr. D. P. Edussuriya, Messrs. K. D. David, G. H. Albert Perera, and A. P. Guneratne, Coroner,
20 made very useful speeches stating that they were very pleased to learn of the many and great services rendered by the Vidyadhara Sabha and that in view of the invaluable benefits the people of Ceylon had derived from the Pirivena the number of Assisting members who had joined so far was inadequate.

Mr. K. D. David paid a year's subscription and enrolled himself as an Assisting member, Mr. A. P. Guneratne stating that he had already joined the Sabha gave a special cash donation. Then several persons gave a list of their names expressing their willingness to join as Assisting Members.

At this stage the day's proceedings having ended the gathering
30 dispersed.

Report was approved.

(Sgd.) D. M. PERERA,
Hony. Chairman.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

4.10.1944.

1D8

Extract from
the Report on
the Vidyodaya
Pirivena by
Venerable K.
Ratanasara
Nayaka Thero
4.8.28

1D8

**Extract from the Report on the Vidyodaya Pirivena by
Venerable K. Ratanasara Nayaka Thero**

Page 4

The Report of the Vidyodaya Pirivena dated the 4th of August, 1928, by Rev. Kahawe Siri Ratanasara Nayaka Thero, the then Principal of the Pirivena.

. . . . I am also happy to announce that the Venerable Jinaratana Nayake Thero, the Chief Pupil of the Founder Nayaka Thero, has presented books to the value of Rs. 175/- in memory of 10 his revered teacher.

(Sgd.) K. RATANASARA,
Principal.

1928-8-4.

Vidyodaya Pirivena.

i D S A

**Extract of Report of Rev. Kahawe Ratanasara Nayaka Thero,
Principal, Vidyodaya Pirivena
Dated 4.8.1928. Years 1919-1927**

Page 1

At a time when Buddhist education inaugurated for the Second ²⁰ time by Sangaraja Saranankara Maha Nayaka Thero was gradually progressing in the year 1833, our Teacher, Rev. Hikkaduwe Sri Suman-galabhidhana Chief Nayaka Thero, founded this Pirivena.

From the inception of the Pirivena up to 1911 the said Maha Nayaka Thero held the posts of Director and Principal of the Pirivena. From 1911-1922 Rev. Heiyantuduwe Sri Devamittha Nayaka Thero and Rev. Mahagoda Sri Gnaneswara Maha Nayaka Thero held the posts of Director and Principal of the Pirivena respectively. From 1922 I was appointed Principal. The post of Director is also included in it.

Extract of
Report of
Rev. Kahawe
Ratanasara
Nayaka Thero,
Principal
Vidyodaya
Pirivena

Thirteen prominent Buddhists headed by Muhandiram Don Andiris Perera Dharmagoonewardena and Mr. Don Philip de Silva Epa Appuhamy formed themselves into a Sabha under the name "Vidyadhara" at the time of the formation of the Pirivena. This Sabha contributed largely for the development of the Pirivena. It should be mentioned that from that time up to now the support and assistance of the Sabha and the Upakaraka Maha Sabha are being received.

1D8
Extract of
Report of
Rev. Kahawe
Ratanasara
Nayaka Thero,
Principal
Vidyodaya
Pirivena—
Continued

There were only 7 students at the beginning but with the
10 development of the educational standard the number of students
increased to 496 as shown in the report written in 1918. The present
number of students on the role is 790. Of this 630 are Bhikku students
while 160 lay students.

Subjects taught at present—Buddhism and Pali, Sanskrit, and
Sinhalese languages, Dhamma, Medical Science, Chanda Sasthaya,
Alankara Sastraya, Mathematics, History, Oriental Civilization and
English. English is taught for monks in two classes only and that
too on a small scale. This is being done in this manner as it is difficult
to pay the salaries of the teachers. Teaching of English was started
20 for the second time in 1919 when the Pirivena was under the Principal-
ship of Rev. Sri Gnaneswara Maha Nayaka Thero. These classes were
started at the request of Mr. E. B. Denham (Director of Education).
Though there is an intention to start classes in Tamil and other
languages they cannot be started as the salaries of the teachers cannot
be met.

The buildings that were built after early in 1923 under my
Principalship. Since there was not sufficient space to conduct classes
and Bana Preachings, the Vidyadhara Sabha with the financial
support of the members of the Public completed the construction of
30 the hall in 1926 at an expense of Rs. 65,000/-. The building was named
"Sri Sumangala Dhammasala" in honour of the Rev. Founder of
the Pirivena. In this connection Don Carolis Hewavitarne family
contributed nearly Rs. 35,000/-. I mention with pleasure that
Dr. C. A. Hewavitarne took great efforts to complete the construction
without delay.

1D8
 Extract of
 Report of
 Rev. Kahawa
 Ratanasara
 Nayaka Thero,
 Principal
 Vidyodaya
 Pirivena—
Continued

There are nearly 100 monk hostellers. In order to provide living facilities the Vidyadhara Sabha constructed 7 rooms with the help obtained from the following :—Late Mr. Weerapperuma Achi Attukoralage Don Mathes Perera Jayawardena, Muhandiram of Colombo Mr. A. D. Jayasundera, Proctor and Mrs. Jayasundera of Galle, Ayur. Dr. Brampy Gunawardena of Hikkaduwa, Mrs. Sadiris Perera Wickremasinghe Karunaratne of Panapitiya, Kalutara in memory of her husband. Mr. John Silva of Buyal, Queensland, Australia and Mr. Piyadasa of Colombo.

Translated by :

(Sgd.) Illegibly.

Swoin Translator, D.C., Colombo.

10

2D12C
 Minutes of the
 Sabha Meeting
 1.11.28

2D12C
Minutes of the Sabha Meeting

Reference Page 17.

Minutes of the meeting of Vidyadhara Sabha held on 1st November, 2472 B.E. 1928, A.D., at Vidyodaya Pirivena, Maligakanda, Colombo.

The following were present :—

Dr. D. B. Perera, Mr. Raja Hewavitarne, Mr. J. Munasinghe, 20 Proctor, Mr. Neil Hewavitarane, Dr. C. A. Hewavitarne, Hony. Secretary, having recited the Five Precepts Mr. J. Munasinghe, Proctor, and the Hony. Secretary proposed and seconded the name of Dr. D. B. Perera to the chair. After the minutes of the last meeting were read and adopted, the Hony. Secretary read out letters from Mr. D. G. Seneviratne of Galle, Mr. H. Ranasinghe, Coroner, of Yogyana and Maitrewardhana Samithiya.

With reference to a letter from Maitrewardhana Samithiya seeking permission to hold its meeting, it was decided to inform them after verifying the times at which other societies hold their meetings on Sundays. A decision was arrived at to request the various societies which distribute flowere viz. Pusphadana, Vandana Sahodara Sugatha Samayanurakshaka, Sri Sasanadhara, Sathorthapayana, Kusumadayaka, and Kathika—societies to help in the electric lighting. It was also decided to inform Mr. P. de S. Kularatne that his letter of resignation from Sabha was accepted and to send out 10 letters to those members who have not paid up the membership fees.

2D12C
Minutes of the
Sabha Meeting
1.11.28—
Continued

It was agreed to appoint Mr. Rajah Hewavitarne, to the post of President which had fallen vacant with the resignation of Mr. Kularatne.

At this stage the proceedings for the day terminated and those present happily departed.

Minutes adopted.

(Sgd.) E. A. ABAYASEKARA,
Hony. President.

(Sgd.) C. A. HEWAVITARNE,
Hony. Secretary.
23.11.28.

20

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

8.6.50.

2D15A
Statement of Income and Expenditure (pages 35-36 of 2D12)
Pages 35 and 36 of Minute Book

Statement of Income and Expenditure for a Period of Six Months from 1st January, 2472 B.E./1929 to 30th June, 2473 B.E./1929
A.D. of Vidyadhara Sabha

	Rs. c.	Rs. c.	Rs. c.	Rs. c.
INCOME				
To Membership fees (6 months)	226 00			638 73
„ Donor Members	268 50			
„ Alms to Upasakas	96 00	590 50		1,186 00
„ Collection in charity boxes	612 92			
„ Change of foreign coins in charity boxes	45 11	658 03		405 40
„ Special Donations :—				22 19
Government grant		2,000 00		5 40
Dr. C. A. Hewavitarne	250 00			10 80
Mr. Neil Hewavitarne	75 00			
Mr. Raja Hewavitarne	75 00	400 00		65 25
„ Ceremonies Festivals :—				3 50
Out of collections for the ceremony in memory of the late Mrs. D. D. Pedris	5 00			79 55
Sinhalese New Year celebrations	15 00			150 00
Sri Sumangala celebrations	72 10			2 50
Wesak festival	30 00	122 10		152 50
„ Living Quarters :—				
Mr. G. M. Heenmahatmaya	72 50			600 00
Mr. P. L. Rataranhamy	72 50			508 63
On behalf of Dingiri Menika Upasikawa	75 50	220 50		1,108 63
				25 00
				535 50
				7 05
				1 75
				1 00
				1 00
				1 00
				3 00
				2 00

Mr. D. G. Seneviratne	73 50	White washing for Wesak Full Moon..	25 00
Loan from Dr. C. A. Hewavitarne	250 00	Collection and delivery of flowers and erecting a fence by the Bo-tree for Wesak	3 00
		Printing charges	30 00
		Sinhalese New Year celebrations	284 25
		Sri Sumangala celebrations.. ..	17 50
		Wesak celebrations	69 89
		Envelopes	41 90
		Stamps, etc.	0 75
		Living quarters	11 00
		Overpaid to Bank	300 50
		Amount paid repaid	0 62
			6 25

Rs. . . 4,314 63

(Sgd.) D. D. PEDRIS,
Hony. Treasurer.

Rs. . . 4,314 63

(Sgd.) J. MUNASINGHE,
Hony. Treasurer.

Translated by :
(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.

2D15A
Statement of
Income and
Expenditure
Pages 35-36 of
2D12
1.1.29 to
30.6.29—
Continued

2D12D
Report of the Sabha

Reference Page 21.

Pages 21 to 23

Namobuddhaya

A brief report of work done by the Vidyadhara Sabha for betterment of the Vidyodaya Pirivena during the period from 1st January, 2469 B.E./1926 A.D. to 31st December, 2472 B.E./1928 A.D.

The last general meeting of this Sabha formed in 1873 A.D. on the advise and guidance of the late Rt. Ven. Hikkaduwe Sri Sumangalabhidana Maha Nayaka Thero, the then resident Principal of this Pirivena, was held on 29th July, 1928, at this Pirivena. 10

We wish to put on record that from that day onwards up to now four ordinary meetings were held. Vidyodaya Pirivena which is administered by our Sabha as a place which is held by all those living in Ceylon and at the same time all make justified use of it, without discrimination. The services done daily for the welfare of the Buddha's teachings are immense. It is unnecessary to deal with it at length. In view of the fact that bi-annual reports inclusive of statements of income and expenditure are released regularly it is not necessary to deal with this aspect in detail. 20

The total income and expenditure for the past three years from January, 1926, to December, 1928, is given below in brief:—

Year	Income		Expenditure		Deficit	
	Rs.	c.	Rs.	c.	Rs.	c.
1926	7,535	58	7,732	89	197	31
1927	5,675	22	7,149	50	1,474	28
1928	13,997	68	15,951	14	1,953	46
Total Rs. ..	27,208	48	30,833	53	3,625	05

In the light of this it is evident that the Sabha has to spend more than what it receives year after year. There was many an occasion on which the Sabha would not meet the daily expenses in connection with alms and other requirements monthly wages, etc. and quarterly municipal taxes. On such occasions, the Hony. Secretary meets these expenses out of his pocket. 30

On an average, the excess of expenditure over income is about Rs. 2,000/-. On the advice and guidances of the Maha Nayaka Thero the present Principal it was intended to increase the number of donor-members. In that connection over a thousand letters were sent to all provinces of Ceylon.

125 members were enrolled from March, 1928, up to now. A sum of Rs. 932/- was received as membership fees for the past ten months from these members. In view of the fact that donor-members could not be enrolled as earlier expected, the possibility of covering up the excess of expenditure over income through such donations did not materialise fully. Thus the salaries of the teachers of English of the students Bhikkhus for the year 1928 amounting to Rs. 600/- were paid from the personal money of the Hony. Secretary.

2D12D
Report of the
Sabha
6.1.29—
Continued

The total income for the year 1928 was Rs. 13,997·68 cts. which is inclusive of Rs. 5,400/- received for the construction of living quarters which has already begun. It should be noted that a sum of only Rs. 8,597·68 cts. has been received for the maintenance of the Pirivena. Therefore, it must be made very clear that the expenses cannot be met with the income.

With a view to increase the number of donor-members letters were written to organisations that distribute flowers on full-moon days asking for donations. We may mention with due thanks that in reply to our letters only Mr. K. D. David, Secretary of the Fort Puspadana Society wrote to the effect that, that Society is contemplating of contribution yearly towards the maintenance of the Pirivena.

We state with great pleasure and thanks that Mr. H. Ranasinghe, Coroner of Yogyana has written to us stating that he would deposit a sum of Rs. 1,000/- yearly as a suitable prize—to be named Ranasinghe Prize—and to be given to the successful student bhikkhus in “Dhamma-Vinaya” (Doctrine Law) at the examination conducted annually by the Pirivena.

The amount of debt that has to be paid off up to now is Rs. 4,253·50 cts. The deficit shown in the statement of income and expenditure for the past six months is Rs. 638·73 cts. In all the total amount of debts to be cleared is Rs. 4,892·23 cts. The details with regard to this are given in the attached list.

In the present circumstances, it must be specially borne in mind that the number of donor members must be increased. The present donor-members of our Sabha while continuing to help us in the future, in the great service to the Teachings of the Buddha, while enrolling new members, while performing meritorious deeds in co-operation with us, should hope for supreme state of Bliss (Nibbana).

We conclude this brief report wishing all venerable monks who have passed away including the former Principal of the Pirivena the late Rt. Rev. Hikkaduwe Sri Sumangalabhidana Maha Nayaka

2D12D
Report of the
Sabha
6.1.29—
Continued

Thero, all those who worked having joined the Vidyadhara Sabha, and ourselves the attainment of the Supreme State of Bliss (Nibbana).

(Sgd.) C. A. HEWAVITARNE,

Report adopted.

Hony. Secretary.

(Sgd.) D. B. PERERA,

6.1.1929.

Hony. President.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D. C., Colombo.

1D17
Minutes of the
Vidyadhara
Sabha
24.1.29

1D17

10

Minutes of the Vidyadhara Sabha

The Minutes of the "Vidyadhara Sabha" held on 24th January, 1929, at the "Mahabodhi Hall" situated opposite the Vidyodaya Pirivena.

Those present at the Meeting : Dr. D. B. Perera, Proctor J. Moonesinghe, Mr. M. Piyadasa, Proctor W. H. W. Perera, Mr. R. Hewavitarne and Dr. C. A. Hewavitarne, Hony. Secretary.

The proposal that Proctor J. Moonesinghe be elected as President for this day's meeting having put forward by Mr. M. Piyadasa and seconded by Dr. D. B. Perera the business for the day was commenced. 20

Then the Hony. Secretary read the minutes of the last meeting. After it was unanimously adopted as mentioned in the agenda it was discussed to a great extent as to what should be done with those members who have not paid the due membership contribution and not attended the meetings of the Sabha.

In this connection the Hony. Secretary informed the Sabha that membership contribution was overdue from three out of the thirteen members of the Vidyadhara Sabha, that 2 years' membership contribution from Mr. J. A. P. Nanayakkara was not received, though a number of letters was sent to him asking him to write to the Sabha 30 informing whether it was difficult for him to pay the contribution or whether he was unable to attend to the work of the Sabha no reply was received and that the overdue membership contribution of the other two members were being received from time to time.

It was decided by the consent of everybody that the suitable time limit to dismiss Mr. J. A. P. Nanayakkara according to the rules of the Sabha has been exceeded and to appoint another in his place

after informing Mr. Nanayakkara once more by letter about it as it is necessary to appoint another without delay to act in his place.

As it is the opinion of that Sabha that the consent and assistance of our Vidyadhara Sabha is necessary for the members of that Sabha who works with the advice of the bhikkus of the three Nikayas to obtain the premises including the house known as the "Victor House" in order to provide the benefit of residing to those pupil bhikku Samaneras who receive their education in the pirivena it was un-
 10 and to permit to enter the names of the members of the Vidyadhara Sabha if required in the letters sent through that Sabha requesting help.

With this the business for the day having been concluded those present gladly dispersed.

(Sgd.) W. A. de SILVA,
Hony. Secretary.
 16.5.29.

To this effect that the minutes were adopted.

20 *Hony. President.*

Translated by :

(Sgd) Illegibly.

Sworn Transtator, D.C., Colombo.

2D12E

Minutes of the Sabha Meeting

Reference Page 24.

Minutes of the general meeting held at Vidyodaya Pirivena, Maligakanda, Colombo, on the 6th January, 2472 B.E./1929 A.D.

The following were Present :—Chairman Rt. Ven. Nayaka Thero,
 30 the Principal of the Pirivena, Mr. A. D. Lawrence, Dr. D. B. Perera, Messrs. B. David Cooray, A. M. Abeygunaratne, A. Vincent Perera, K. D. Munasinghe, J. Jayasinghe, R. H. Simon Perera, M. M. Silva, G. H. Albert Perera, D. A. W. Ponnampereuma, S. Samarasinghe, R. Hewavitarne, J. Munasinghe, Proctor, J. N. Jinendradasa, D. J. Perera, M. D. Piyasena, E. S. Jayasinghe, K. M. Piyasena, D. D. Pedris, General Merchant, M. John Perera and Hony. Secretary Dr. C. A. Hewavitarne.

2D12E
 Minutes of the
 Sabha Meeting
 6.1.29—
Continued

Having received the Five Precepts (Pansil) Dr. D. B. Perera was elected to the chair with the approval of house. According to the agenda the Hony. Secretary next read the minutes of the last general meeting. Mr. J. Munasinghe, Proctor, and Mr. R. Hewavitarne proposed and seconded respectively the adoption of the minutes.

Subsequently, the Hony. Secretary read a brief report including a statement of income and expenditure on the maintenance of the Vidyodaya Pirivena for the past three years. The Hony. Treasurer then read the regular annual statement of income and expenditure for the period 1st July to 31st December, 1928. It was decided to 10 publish it in the papers after the house had adopted it.

The Secretary reported that a sum of Rs. 1,000/- has been received from Mr. H. Ranasingha, Coroner of Yogyiana as a prize to be offered yearly for the successful student-Bhikkhu in Dharma Vinaya (Doctrine, Law) at the 25 examinations. The Secretary also informed the house that letters were received from the Secretary, the Fort Pushpadana Society, stating that he would make a yearly contribution to the Sabha and a number of other societies.

Hony. Secretary proposed the name of Mr. R. Hewavitarne to fill the vacancy in the Vidyadhara Sabha occurred by the resignation 20 of Mr. P. de S. Kularatne. Mr. J. N. Jinendradasa seconded the motion. Dr. D. B. Perera supported the motion and it was adopted unanimously.

Having made a useful speech with regard to carrying out of the work of the Sabha, the Secretary thanked all those who came from long distances to attend the meeting.

Lastly after a few words of religious advice by the Ven'ble Maha Nayaka Thero from the chair, the gathering dispersed happily.

Minutes adopted.

(Sgd.) E. A. ABAYASEKARA,

Hony. President.

8.6.29.

(Sgd.) J. MOONESINGHE,

Hony. Secretary.

30

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

8.6.50

2D12F

Minutes of the Sabha Meeting

2D12F
Minutes of the
Sabha Meeting
3.6.29

Minutes of the General Meeting held at the Vidyodaya
Pirivena on June 3rd, B.E. 2473/1929.

At this meeting there were present Ven'ble Nayaka Thero, Principal of the Pirivena, Rev. Hikkaduwe Pemananda Thero, Ven'ble Acharya Morontuduwe Dhammananda Nayake Thero, Rev. Acharya Kukulnape Devarakshita Thero, Rev. Acharya Kalukondayawe Pannasekera Thero, Rev. The Vice-Principal Baddegama
10 Sri Piyaratana Thero and Rev. Acharya Palannoruwe Wimaladhamma Thero, Messrs. Peter Perera, Noris Appuhamy, Ekanayake, D. M. Samarawickrema, D. J. Munasinghe, R. E. Davith Perera, D. P. Kuruppu, K. D. David, P. D. Jinadasa, H. A. Andisingho, D. M. Manoratne, J. Jayasinghe, Neil Hewavitarne, E. A. Abayasekara, Dr. D. B. Perera, Messrs. W. H. W. Perera, Proctor, E. S. Jayasinghe, Registrar K. W. Gonakumbure, Attapattu Lekam, and Mr. J. Munasinghe, Proctor.

After the preliminaries were gone through, proposed by Mr. J. Munasinghe, Proctor, and seconded by Mr. W. H. W. Perera, Proctor,
20 Mudaliyar E. A. Abayasekara was voted as Chairman of this meeting. Letters were read from the Sugatha Samayanarakshaka Samitiya, Cinnamon Gardens, and Sri Sasanadhara Samitiya, Maradana, and from the Assisting Members: Mr. K. H. C. Wijewardena of Galle, Dr. D. P. Edussuriya, Messrs. A. P. Gunaratna, J. A. Dhanayake and N. K. Hemachandra, and a telegram from Mr. L. B. Hippola were read. Then the minutes of the previous meeting and a short report of the Sabha from January 7th to June 8th, 1929, and a statement of the usual income and expenditure for a year were read. The matters contained in these reports were discussed and approved.
30 The motion of the Hony. Secretary that Registrar K. W. Gonakumbura, Attapattu Lekam, should be appointed to the membership vacated by Mr. J. A. P. Nanayakkara who resigned, was seconded by Dr. D. B. Perera. Mudaliyar E. A. Abayasekara supported the motion and expressed his pleasure with the appointment.

Mr. Neil Hewavitarne's motion that Muhandiram D. P. A. Wijewardena should be appointed to the membership vacated by the death of Dr. C. A. Hewavitarne was seconded by Mr. D. B. Perera.

The motion proposed by Mr. W. H. W. Perera, Proctor, that Mr. A. W. Suraweera and Muhandiram D. P. Kuruppu should be
40 appointed as Assisting members and that Mr. J. Munasinghe, Proctor, should be appointed as Permanent Secretary was seconded by Dr. D. B. Perera.

2D12F
Minutes of the
Sabha Meeting
3.6.29—
Continued

Mudaliyar E. A. Abayasekara announced to the Sabha that the member's subscription was only Rs. 2/- at present and that the time has come to alter it. Mr. E. S. Jayasinghe speaking further on the subject said that the Member's subscription of Rs. 2/- was by no means adequate and that the number of members also should be increased. After the discussion that followed the Hony. Secretary was requested to consider the matter before the next meeting.

It was decided to write to the present lessee of Kottegangoda land that Mr. K. W. Gonakumbure and Muhandiram D. P. Kuruppu have been authorised by the Sabha to inquire about the said property 10 and to take such steps as would increase the income therefrom.

Mr. Neil Hewavitarne announced that a prominent Buddhist gentleman had consented to give a donation of Rupees Ten thousand for an undertaking to produce an income for the maintenance of the Pirivena and that if the Sabha tries to collect another Rupees Fifteen thousand to be added thereto, he himself would give Rupees Five hundred towards such collection.

Mr. K. D. David said that there were several societies carrying on their activities at the Pirivena and that it was right that such Societies should give annually a sum of money towards the maintenance of the 20 Pirivena and that while Dr. C. A. Hewavitarne lived there was some correspondence on the subject and that the Pushpadana Society had decided to give Rupees 100/- annually and that sum would be remitted soon.

Mr. Gonakumbure, Attapattu Lekam, made a very useful speech and thanked the Sabha for appointing him thereto. After the usual religious advice by the Ven'ble Nayake Thero, Principal of the Pirivena, the gathering dispersed.

Minutes were approved.

(Sgd.) In English.
for the Hony. Chairman.

30

Hony. Secretary.

Translated by :
(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
5.10.1944.

2D16A

Statement of Income and Expenditure
(Pages 55 and 56 of 2D12)

Pages 55 and 56 of Minute Book
Statement of Income and Expenditure for the Period 1st July to 31st December, 2473 B.E./1929 A.D. of Vidyadhara Sabha

	INCOME		EXPENDITURE		
	R.s.	c.	R.s.	c.	R.s.
To Balance from last six months			6 25		
" Membership fees	357	77			
" Donor Membership fees	424	00	781	77	
" Alms during Rainy (Was) Season	901	00			
" Charity box collections	255	39	1,156	39	
" Wesak celebrations	10	00			
" Katina ceremony	151	00			
" Alms-giving to Upasakas	46	50	207	50	
" Loan from 'Siam Fund'			250	00	
" Cheque returned	14	67			
" Balance of Sri Sumangala Preaching Hall Fund	15	04	29	71	
" Additional monies for living quarters : Mr. H. Ranasinghe, Coroner	100	00			
" Mrs. C. A. Hewavitarne	100	00	200	00	
" Lights supplied by Sugathasamayanutrakshaka Samitiya			10	00	
" Deficit			439	02	
			<hr/>	<hr/>	
	R.s.	..	3,080	64	
					R.s. ..
					<hr/>
					<hr/>
					3,080 64

(Sgd.) D. D. PEDRIS,
Hon'y. Treasurer.

(Sgd.) J. MUNASINGHE,
Hon'y. Secretary.

Translated by :
(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
8.6.50

Minutes of the Sabha Meeting

Reference Page 37.

Minutes of the meeting held on 9th August, 2473 B.E./1929 A.D. at the Vidyodaya Pirivena, Maligakanda.

Those Present : Dr. D. B. Perera, Mr. J. Munasinghe, Proctor, Hony. Secretary, Messrs. W. H. W. Perera, Proctor, R. Hewavitarne, K. W. Gonakumbura Atapatthu Lekam, Registrar, N. Hewavitarne, M. Piyadasa and D. D. Pedris.

After the preliminaries were over Mr. J. Munasingha, Proctor 10 and Mr. K. W. Gonakumbura Atapattu Lekam, Registrar proposed and seconded respectively the name of Dr. D. B. Perera to the chair.

The Hony. Secretary then proceeded to read the minutes of the last meeting and statement of income and expenditure for the last six months. During the discussion on the supply of electricity, the Hony. Secretary informed the House that repairs of the electric engine are being carried out by Mr. Wimaladharma Hewavitarne with his own money. The Hony. Secretary also informed the House that a number of Societies have written giving estimates of money required to obtain the supply of electricity from the Government. The 20 Secretary was authorised to consider estimates and proceed with the constructions of three more lavatories as the present number of lavatories are inadequate.

The offering of that part of the alms hall (Dana Sala) built by Dr. C. A. Hewavitarne, in the name of the Sabha, took place with the participation of the members of the Sabha and Mr. C. A. Hewavitarne, Mr. S. A. Hewavitarne and Mr. Wimaladharma Hewavitharana who arrived for the ceremony.

The proceedings for the day terminated at this stage.

Minutes adopted.

30

(Sgd.) D. B. PERERA,
Hony. President.

(Sgd.) Illegibly.
Hony. Secretary.
6.9.29.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

8.6.50.

2D1

Letter from the 1st Defendant-Appellant

Maligakande, 4.11.29.

2D1

Letter from the
1st Defendant-
Appellant
4.11.29

I write thankfully.

Respected Sir,

The bearer of this letter is the Secretary of the Fort Wandana Sahodara Samitiya (Association). This association is willing by way of performing this year's Duruthu celebrations, to supply the Pirivena Viharasthana with electric light. As the consent of Vidyadhara
10 Sabha is necessary for the purpose, please consider the matter and do the needful.

May you be happy,

Yours intimately,

(Sgd.) M. DHAMMANANDA.

(Morontuduwe Nayaka Thero)

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

12.9.44.

20

P39

Minutes of the Sabha*Reference Page 39.*

Minutes of the Vidyadhara Sabha held on 9th December, 2473 B.E./1929 A.D. at Vidyodaya Pirivena.

Those Present : Dr. D. B. Perera, Mudaliyar E. A. Abayasekara, Mr. W. H. W. Perera, Proctor, Mr. M. Piyadasa and Mr. J. Moonesinghe, Hony. Secretary.

Proposed and seconded by Dr. D. B. Perera and Mr. M. Piyadasa respectively, Mudaliyar E. A. Abayasekara was elected to the chair.
30 The Hony. Secretary then read the minutes of the last meeting. Dr. D. B. Perera proposed and Mr. M. Piyadasa seconded the adoption of the minutes.

Discussing the proposed construction of a school building by the Punnya Sri Wardana Samithiya it was decided :—

1. To accept the permit written by the Rev. Principal of the Pirivena and the Hony. Secretary.

2. To consider the matter in detail when the plan is submitted.

P39

Minutes of the
Sabha
9.12.29

P39
Minutes of the
Sabha
9.12.29—
Continued

Mr. J. Moonesinghe, Proctor and Mr. M. Piyadasa proposed and seconded respectively that Mr. Raja Hewavitarne be given a free hand with regard to the supply of electricity.

With regard to the building of the broken wall near the Bo-tree it was decided to hand over the work to Idrus Baas at Rs. 45/- deducting Rs. 5/- from his quotation of Rs. 50/-.

Messrs. M. Piyadasa, J. Moonesinghe, Proctor, and W. H. W. Perera, Proctor, were authorised to inquire the supply of alms and maintenance of the Pirivena and draw up a new constitution.

With reference to the complaint made by Rev. Kukulnape 10 Devarakkhitha against Rev. Morontuduwe Dhammananda, Chief Priest of the Sabaragamuwa Province, it was decided that according to article 10 of the deed of the Pirivena and in the opinion of the Principal of the Pirivena it is suitable to hold an inquiry at a meeting to be held on 10th January, 1930, at 5 p.m. It was also decided to inform Rev. Morontuduwe in writing.

At this stage the meeting terminated and those present happily departed.

(Sgd.) J. MOONESINGHE,

Hony. Secretary. 20

Minutes adopted.

(Sgd.) K. W. GONAKUMBURE,

Hony. President.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D. C., Colombo.

2D2

Letter from
the 1st
Defendant-
Appellant to
the Secretary.
Vidyadhara
Sabha
9.12.29

2D2

**Letter from the 1st Defendant-Appellant to the Secretary,
Vidyadhara Sabha**

Vidyodaya Pirivena,

Maligakanda,

30

Colombo, 9.12.1929.

Rev. Sri Dhammananda, Chief High Priest,
Sabaragamuwa Province.

Kindly written to the Hon'y. Secretary. Vidyadhara Sabha.

Respected Sir,

I received the letter of the 7th instant and the copy of the complaining petition sent to me. As I do not at present use my

name in the way it is written in that petition I suspect whether it is written against me. As it is an accusation made outside the ecclesiastical judicial practice, whether true or false it does not apply to me. Should I be prepared to answer a charge which the petitioner going entirely outside the laws of Bhikkus (Bhikshu Dharma) makes on a non-ecclesiastical footing ?

Dear Sir, you might know that we who live in this Pirivena do reside having a master. How good it would have been had the petitioner thought that the master ought to have proved able enough to decide a judicial complaint of ours and either to exonerate or condemn the defendant ? If that master was entirely incompetent or neglected his duties, if the petitioner himself was willing to act like a religious person he should have understood the fact that there was a section of masters who were quite qualified to express judgment on matters of complaint belonging to all of us. Therefore please understand that I shall not be prepared to answer before our dayaka Sabha (body of lay supporters) to such an accusation as would not by any means be compatible either with the canons of discipline (Vinaya neethi) or with the practices of Bhikkus.

20

Yours faithfully,
(Sgd.) M. DHAMMANANDA.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

20.9.44.

2D3

**Letter from the 1st Defendant-Appellant to the Secretary,
Vidyadhara Sabha**

Vidyodaya Pirivena,
Maligakande,
Colombo, 20.12.1929.

30

Rev. M. Sri Dhammananda,
Chief High Priest,
Sabaragamuwa Province.

With affection and thanks I hereby inform the Hony. Secretary,
Vidyadhara Sabha.

2D2

Letter from
the 1st
Defendant-
Appellant to
the Secretary,
Vidyadhara
Sabha
9.12.29—
Continued

2D3

Letter from
the 1st
Defendant-
Appellant to
the Secretary,
Vidyadhara
Sabha
20.12.29

2D3

Letter from
the 1st
Defendant-
Appellant to
the Secretary,
Vidyadhara
Sabha
20.12.29--
Continued

Dear Sir,

I received the letter forwarded to me on the 10th of this month. I said I shall not be prepared to appear as a defendant to give answers before our dayaka sabha (body of lay supporters), not because I did not see clause 10 of the first deed concerning the Vidyadhara Sabha nor because I do not like the management of this place being done by the Vidyadhara Sabha. I am afraid that if I come forward and try to give reasons in my defence I know there will arise such confusions and complications as shall not be settled at any time. If there is no master to inquire into any matter of complaint made by the residents 10 here, and, the Bhikkhus' rule of judicial practice notwithstanding, if a complainant makes a complaint to the Sabha can the Sabha help moving in the matter ?

The complaint that has been brought before the Sabha against me is an occurrence like the saying " the bunch of plainties leaps over the fence before the thief ". My observance of patient silence, as most kindly advised by the Srimat Anagarika Dharmapala, now an invalid, proved to be the complainant's advantage. This is not the first occasion to make complaints against me by this complainant and some other teachers here. Gentlemen, do you not 20 remember that on a previous occasion a petition signed by four teachers of this institution was presented to the Sabha against me ?

I shall not be prepared to describe the various troubles and confusions created by particularly the present complainant ever since he came to this Pirivena. May the complainant be happy is my solemn wish. That the Ven. Nayaka Thero, Principal of this Pirivena, declares most pressingly to the Vidyadhara Sabha and to my preceptor, the Ven. Hunupitiye Nayaka Thero, that unless I was removed from here he would go to his own arama (temple), has been conveyed to me in a credible manner. 30

If it is so, there is no use of my saying anything about the complaint that has already been made. What all of us should do is to fulfil his wishes without hurting his feelings. If I come forward to give reasons in my defence and if by any chance his wish fails of fulfilment it will be a great wrong. Besides, when things I have to say in my defence are put forward it will inevitably be like the raking up of " barber's refuse heap "; troubles and confusion will increase and inevitably reach a point defying all settlement.

I, therefore, wishing the welfare of this Pirivena and out of love for the religion make it known to you even for the third time that you should not question me anything about the complaint that has been put forward against me. Do not misunderstand that it is made known in this manner in fear of something.

If the complainant makes a solemn affirmation by the Triple Gem in the presence of the Buddha Statue in the Vihare (shrine room) that what he says is true or that he was silent until I said and did what is mentioned in the petition, that with the vicious intention of making me angry he did not first offer me insult and abuse in a manner unbecoming my status and that the statement made therein that I struck on account of a wrong done or not done two blows at the said Samanera (novice) Bhikkhu is the real truth, you, gentlemen, may act in connection with those accusations in any manner you can or think, also in keeping with the religious practice. True that if our Ven'ble Nayaka Thero made the aforesaid declaration it is the duty of both you and me to fulfil his wishes should be firmly borne in mind. May there be no mental vexation to the Ven'ble Thero, to the complainant, or to any one else on account of me. May you, gentlemen, and all those persons be happy.

I have been teaching in this Pirivena for about eleven years now. On account of that religious service rendered by me the only help I request is to inform me within this month itself, before the commencement of January, your decision about this matter. Also you need not send after this any summonses to me about this matter. I most earnestly request you to comply so with this request of mine.

May you be happy.

Yours faithfully,
(Sgd.) M. DHAMMANANDA.

30 Translated by :

(Sgd.) Illegibly.

Sworn Translator, D C., Colombo.

26 10.1944.

2D3

Letter from
the 1st
Defendant-
Appellant
to the
Secretary
Vidyadhara,
Sabha
20.12.29—
Continued

2D17A

Statement of Income and Expenditure
Pages 57 and 58 of 2D12

Pages 57 and 58 of Minute Book

Statement of Income and Expenditure of the Vidyadhara Sabha from 1st January to 30th June, 1930

	Rs.	c.	Rs.	c.	EXPENDITURE	Rs.	c.	Rs.	c.
INCOME									
To Grant	2,000	00	By Deficit balance from last six months	..	..	439	02
" Membership fees	439	15	..	" Alms and other requirements of the	..	..	1,093	50
" Donor—Membership fees	229	50	668	65	..	..	250	00
" Charity box collections	498	05	..	..	469	00
" Alms to Upasakas	8	00	..	..	..	428	85
" Wesak celebrations	17	00	..	..	..	..	345	00
" Sri Sumangala celebrations..	60	00	85	00	..	..	773	85
" Sales of old tiles (two instalments)	70	00	..	..	..	..	41	49
" Sale of two trees from the land of Kotte Gangoda (in two instalments)	..	17	00	87	00	..	..	89	45
" Loan	250	00	..	..	70	82
" Deficit	452	93	..	..	193	50
					Settlement of loans	..	..	600	00
									940

Rs. . . 4,041 63

(Sgd.) J. MUNASINGHE,
Hony. Secretary.

(Sgd.) D. D. PEDRIS,
Hony. Treasurer.

Rs. . . 4,041 63

Translated by :
(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
8.6.50.

2D12H

Minutes of the Sabha Meeting

2D12H
 Minutes of the
 Sabha Meeting
 10.1.30

*Minutes of the Meeting of the Vidyadhara Sabha held at the
 Vidyodaya Pirivena on January 10, 2473/1930*

At this meeting there were present Messrs. W. H. W. Perera, Proctor, and T. G. C. Perera, Dr. D. B. Perera, Messrs. M. Piyadasa, K. W. Gonakumbure, Atapattu Lekam, N. Hewavitarne, Raja Hewavitarne, Wimaladharma Hewavitarne and J. Moonesinghe, Proctor.

- 10 After the preliminaries the two resolutions, that Registrar K. W. Gonakumbure shall be voted to the Chair and that Mr. Wimaladharma Hewavitarne shall be appointed to act in place of the Hon'ble Mr. W. A. de Silva now gone out of Ceylon, were proposed by the Honorary Secretary and seconded by Dr. D. B. Perera.

Thereafter minutes of the previous meeting were read by the Honorary Secretary. Mr. M. Piyadasa proposed the adoption of the minutes and Mr. Neil Hewavitarne seconded. Then the letters received were read.

- Resolved that the inquiry about the petition fixed for today
 20 should be postponed till the 24th as requested in his letter by the Ven'ble Nayake Thero, Principal of the Pirivena ; that Mr. W. H. W. Perera, Proctor, should be requested to write a letter regarding the increase of the Municipal rates by Rs. 25/- ; that Mr. Raja Hewavitarne should be requested to get the supply of electric from Government and complete the work; and that the Honorary Secretary should be entrusted with the work of supplying electricity to all the rooms and preparing lists, etc., for collecting at the rate of Rs. 3/- for each light.

- Mr. Raja Hewavitarne informed the Sabha of a proposal to illuminate the dagoba but, as the Sabha thought that an arrangement
 30 should be made to have fifty lights for the present providing at the same time for 100 lights, it was decided to do accordingly.

The question of obtaining assistance for the dana in the Pirivena and of conceiving a method for the purpose was entrusted to the three gentlemen, Mr. M. Piyadasa, Mr. W. H. W. Perera and the Hony. Secretary.

2D12H
Minutes of the
Sabha Meeting
10.1.30—
Continued

The said gentlemen were entrusted with the work of preparing a set of rules for the management of the Pirivena. Here the work of the meeting ended and the gathering dispersed.

(Sgd.) J. MOONESINGHE,
Honorary Secretary.

Minutes were approved.

Hony. Chairman.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

8.10.44.

10

P38
Minutes of the
Sabha Meeting
24.1.30

P38

Minutes of the Sabha Meeting

Minutes of Vidyadhara Sabha held on January 24th
2473 B.E./1930 A.D. at Vidyodaya Pirivena

Those Present : The Rev. Maha Nayaka Thero, Principal of the Pirivena; Rev. Baddegama Piyaratana Thero, Vice-Principal, Rev. Morontuduwe Dhammananda Nayaka Thero, Teacher; Revd. Kukulnape Devarakkhita Thero, Teacher; Rev. Kalukondayawe Pannasekera, Teacher; Rev. Weliwitiya Soratha Thero, Teacher; Rev. 20 Palannoruwe Wimaladharma Thero, Teacher; Rev. Devundera Vachiswera Thero, Teacher; Rev. Weragoda Amaramoli Thero, Teacher; Rev. Hikkaduwe Pemananda Thero; Mr. W. A. Samarasekera, Inspector of Pirivenas and the following of the Vidyadhara Sabha :—

Messrs. W. H. W. Perera, Proctor, J. Moonesinghe, Proctor (Hony. Secretary), K. W. Gonakumbura Attapattu Lekam, Registrar, Dr. D. B. Perera, Muhandiram D. P. A. Wijewardene, Messrs. Raja Hewavitarne, Neil Hewavitarne, M. Piyadasa and T. G. C. Perera.

After the preliminaries were over Muhandiram D. P. A. Wije- 30 wardane was elected to the Chair on a resolution moved and seconded by the Hony. Secretary and Dr. D. B. Perera respectively.

The Hony. Secretary then read the minutes which were adopted. Mr. W. H. W. Perera, Proctor, speaking with regard to the complaint made by Rev. Kukulnape Devarakkitha, teacher; for inquiry on that date said that since two responsible teacher monks are involved in the incident, this inquiry must be expedited in the interest of the Pirivena, the Sabha and the monks.

1D33

**Letter from the Maha Nayaka Theras of Malwatta and
Asgiriya to the 1st Defendant-Appellant**

Translation

Dalada Maligawa,
Kandy, 3rd August, 1933/2477.

To Morontuduwe Sri Dhammananda,
Chief High Priest of Sabaragamuwa Province.

In pursuance of the promises made after discussion with the
10 Nayaka Thera when we arrived at the Vidyodaya Pirivena at Night
on the 26th ultimo, as it is our intention to settle disputes which has
now arisen regarding the Vidyodaya Pirivena and to protect it, you
the Nayaka Thera are hereby invited to attend the Dalada Maligawa
for that purpose on the 8th instant at 2 p.m.

To this effect,

The affectionate Maha Nayaka Theras
and Viharadhipathis of the two Malwatta and
Asgiri Viharas, Kandy.

(Sgd.) PAHAMUNE SRI SUMANGALA.

20

„ MULLEGAMA SRI GUNARATNA.

1D34

**Letter from the Maha Nayaka Theras of Malwatta and
Asgiriya to the Principal of the Vidyodaya Pirivena**

Translation

To Kahawe Sri Sumangala Ratanasarabhidhana Nayake Thera,
The Principal of the Vidyodaya Pirivena.

You will remember that we came to Vidyodaya Pirivena on the
26th instant at about 8 p.m. and the order of the Sangha for Moron-
tuduwe Sri Dhammananda Nayaka Thera to cease the fast, having
30 made a promise that a settlement will be made after appeasing the
disputes that have arisen in regard to our Pirivena, was only made
after investigating the matters, till 10.30 p.m. with the teaching staff
including the Nayaka Thera. We do not consider that our taking
action to cease the fast, after giving an undertaking to appease the
quarrel was wrong in view of the fact that it was said to be an im-
possibility to assemble the Vidyadhara Sabha at that time of the night,
and as the general public was moved to such an extent that would
give rise to painful grave disturbances should the issue be delayed
till the following morning.

1D33

Letter from
the Maha
Nayaka Theras
of Malwatta
and Asgiriya
to the 1st
Defendant-
Appellant
3.8.33

1D34

Letter from
the Maha
Nayaka Theras
of Malwatta
and Asgiriya
to the Principal
of the
Vidyodaya
Pirivena
9.8.33

1D34
 Letter from
 the Maha
 Nayaka Theras
 of Malwatta
 and Asgiriya
 to the
 Principal of the
 Vidyodaya
 Pirivena
 9.8.33—
Continued

In accordance with that undertaking letters were sent in our names on the 3rd of this month to our Nayaka Theras and the Vidyadhara Sabha calling them to assemble at the Dalada Maligawa on the 8th instant in order to settle all disputes and maintain peace. Though we did this with the intention of bringing to a settlement the cases that are before the Courts of law and to preserve the dignity of the Pirivena, it should be considered the non-receipt of a reply from the Vidyadhara Sabha and failure of the Nayaka Thera to attend as directed and intimating to us that a settlement is being considered in another avenue contributed to the failure of our attempts. 10

Even so, as the causes of the disputes in connection with the Vidyodaya Pirivena are well known our decision in regard to it is that "as the institution started by the Venerable Hikkaduwe Sri Sumangala Nayaka Thera with the noblest of intentions and which existed through a period of 56 years rendering immense service to both world and religion should be continued in accordance with his pure intentions, the Nayaka Thera in devotion to religion should advise the Vidyadhara Sabha to repeal the law enforced by it to levy a fee from the resident bhikkus of the Pirivena for their *senasana i.e.* electricity, Municipal tax and telephone services." 20

We remind, with devotion to religion and affection, having done so, and settling the disputes, complaints, etc. that are now pending before the Courts of law, considering the welfare of the world and religion, freed from all disunity, and in the future affecting the welfare of the world and religion, should acquire merit for this world and the world to come.

To this effect,

The affectionate Maha Nayaka Theras and
 Viharadhipathis of the two Malwatta and
 Asgiri Viharas, Kandy. 30

(Sgd.) PAHAMUNE SRI SUMANGALA.
 ,, MULLEGAMA SRI GUNARATANA.

2477/1933 9th August.

Dalada Maligawa, Kandy.

Signed to the effect that this is a true copy—the Maha Nayaka Thera, Viharadhipati of Uposhata and Pushparama Viharas, Kandy.

(Sgd.) PAHAMUNE SRI SUMANGALA.

Extract from the "Dinamina"

Translation

Extract from "Dinamina"—10th August, 1933.

"REGULATION TO LEVY FEES SHOULD BE REMOVED"

The Decision of the Mahanayaka Theras.

The Pirivena should be maintained, settling disputes and cases in righteous and peaceful ways.

It is known that the conference which was intended to be held on the 8th of this month at Dalada Maligawa, regarding the problem of charging a fee from the resident-students of Vidyodaya Pirivena for their lodging, was not held and that it is due to the absence of the Parivenadhipati and the members of the Vidyadhara Sabha at the conference. Although the conference was not held, the following letter will show that a decision has been made, concerning the problem of charging fees.

Disputes in Vidyodaya Pirivena

On the 26th of last month, we came to Vidyodaya Pirivena at about 8 o'clock in the night. Having promised that we will settle disputes that have arisen at present in connection with the Pirivena and restore peace, we issued an order of Sangha to Morontuduwe Sri Dhammananda Nayaka Thera to stop the fast. This was done after inquiring into matters till 10.30 in the night from that Parivenadhipati Nayaka Thera and the staff.

We don't think it a fault to order the fast to stop having made a promise that we will settle the disputes, as they said that the Vidyadhara Sabha could not be convened on that night and it appeared to us that the general public was agitated that sorrowful and serious troubles might arise if the matter was delayed till the night was over.

30 *The Discussion*

In order to settle all disputes and restore peace and order, in accordance with that promise we sent letters in our names on the 3rd of this month to our Nayaka Theras and the Vidyadhara Sabha, informing them to come to the Dalada Maligawa, Kandy, on the 8th of this month. Although we did that with the intention to secure the respect and honour of the Pirivena after having paved the way to settle disputes and cases which are before the Courts now, the Vidyadhara Sabha did not send even a reply and the Parivenadhipati Nayaka Thera also without coming as we ordered has informed us that another way of settlement would be arranged. Consider that these are the reasons owing to which our effort became useless.

1D48

Extract from
the
"Dinamina"
10.8.33--
Continued

The Decision

Whatever it may be, as the reasons are known for the present disputes of Vidyodaya Pirivena our decision about that is as follows :— Vidyodaya Pirivena, founded by Hikkaduwe Sri Sumangala Nayaka Thera with a noble idea flourished 56 years rendering a great service both to the world and the Buddhist religion. As this noble institution must be maintained in accordance with the pure intentions of the said Nayaka Thera and the rules of our religion we decide that the Vidya-dhara Sabha should remove, with a great regard to Sasana, the rule that has been passed to charge the boarding fees, namely, for electricity, Municipal Council tax and the telephone, from the resident monk students of the Pirivena. 10

With a great compassion towards the Sasana, we further remind that after doing this and settling all disputes and cases in the Courts at present you must maintain the Pirivena with the noble idea of the upliftment of the world and the Sasana and work for the welfare of both worlds.

To this effect,

2477,
1933, August 9,

Dalada Maligawa, Kandy.

(Sgd.) PAHAMUNE SRI SUMANGALA,
" MULLEGAMA SRI GUNARATANA. 20

Mahanayaka Theras, respective Viharadhipatis of Malwatta and Asgiriya at Kandy.

1D35

1D35
Letter from
the Venerable
Pahamune
Dharmakirithi
Sri Saranankara
Sumangala-
bhidhana Maha-
nayaka Thera
of Syamo-
plai Maha
Nikaya,
Viharadhipati
of Uposatha
and Pusparama
Viharas, Kandy
to the Principal
of Vidyodaya
Pirivena
5.9.33

Letter from the Venerable Pahamune Dharmakirithi Sri Saranankara Sumangalabhidhana Mahanayaka Thera of Syamopali Maha Nikaya, Viharadhipati of Uposatha and Pusparama Viharas, Kandy to the Principal of Vidyodaya Pirivena

Translation

To Kahawe Sri Sumangala Ratanasarabhidhana Nayaka Thero, 30
Principal of Vidyodaya Pirivena.

The letter of 25th August last sent by you has been received and read by us. Though you have much blamed us by that letter, it is a fact that we have not so far done anything that would lead to the destruction of the Pirivena, but everything was done for its benefit and upliftment. Perhaps, it so happens that good deeds and words appear and are considered bad. Therefore, I wish to inform you the following facts, in this connection.

It was merely on account of the deep regard and devotion towards the Pirivena that we came to Vidyodaya Pirivena on the 26th of last July.

We came to know that Rev. Morontuduwe Sri Dhammananda Nayake Thera, a teacher of the Pirivena, was about to observe a fast, protesting against the charging of fees for electricity, etc. from resident-students of the Pirivena. If it were to happen, the general Buddhist public that would assemble there would have caused a riot that may result even in death, thus destroying the reputation of the
10 Pirivena. You must further consider that it was then, that we, considering that it was improper on our part to be indifferent, and recalling how in the past in such adverse incidents the Maha Nayakas of the two Chapters got together and settled disputes, came down with the Maha Nayaka Thera of Asgiri Vihara and a few others with the sole intention of settling the dispute and to save thus the prestige and honour of the Pirivena.

On our arrival coming to know that on that day (26 July) the mammoth crowd assembled there from morning till evening was dispersed with the assistance of the Police, we realized the gravity of
20 the matter. That night, after consulting the staff and you for details of the dispute, we discussed the affair with Morontuduwe Nayaka Thero and advised him to refrain from the intended fast. As he said he would refrain from it if the levying of fees from the pupils of the Pirivena is stopped and that the dispute that has arisen is settled in accordance with religion, we with the idea of reaping the best results of our coming signed a document embodying the above mentioned ideas and ordering him to refrain from the fast and returned. That matter ended thus and the expected crisis never came.

Later, in order to assemble the members of the Vidyadhara Sabha
30 and you including other teachers for a friendly discussion, to remove the misunderstanding among the staff—if there were—and to settle disputes, cases, etc. that have sprung up lately, and also to maintain peace and order so as to uphold the reputation of the Pirivena stainless in future, all were informed to come to the Dalada Maligawa on 8th August. But we are sorry that dayakayas as well as you did not attend and we could not fulfil what we expected. We are confident that these disputes would have already been settled by now if you all came here on that day.

1D35

Letter from
the Venerable
Pahamune
Dharmakirithi
Sri Saranankara
Sumangala-
bhidhana Maha-
nayaka Thera
of Syamo-
plai Maha
Nikaya,
Viharadhipati
of Uposatha
and Pusparama
Viharas, Kandy
to the Principal
of Vidyodaya
Pirivena
5.9.33—
Continued

1D35
 Letter from
 the Venerable
 Pahamune
 Dharmakirithi
 Sri Saranankara
 Sumangala-
 bhidhana Maha-
 nayaka Thera
 of Syamo-
 plai Maha
 Nikaya,
 Viharadhipati
 of Uposatha
 and Pusparama
 Viharas, Kandy
 to the Principal
 of Vidyodaya
 Pirivena
 5.9.33-
Continued

Then as there spread a rumour that a fee now is being charged from the pupils of Vidyodaya Pirivena even for lodging and as such an action would be a disrepute to the Pirivena, and thinking that it would be better to stop the said fees being levied, a Declaration mentioning that matter was published in the Dinamina of 10th August. Things only happened in the said manner and nothing was done with disrespect to either you or the Pirivena. Although we are insulted by the Secretary of the Vidyadhara Sabha in any manner, it should be considered that we have done nothing to change whatever powers it possesses on the Pirivena. 10

Furthermore, in the letter sent here by you it is seen that the charging of fees from the resident-students has been stopped and regulations have now been formed to enrol their respective lay-followers as subscribing members of the Vidyadhara Sabha, from whom an yearly subscription of Rs. 20/- may be acquired. If it is so, we also consider it proper. It is a fact that everyone should agree to that there should be an organised device whereby the affairs of the Pirivena can be managed. We, therefore, further declare, that it is only unreasonable if someone oppose the method already arranged and that no objection has been raised against it in our former declaration. 20

Will you, therefore, ponder over this and strive to settle immediately the present disputes by acting with patience and intelligence and save the honour of the Pirivena, without creating false impressions on us. At the same time, if you like I have no objections to publishing this letter in full, in the newspapers.

To this effect,

Pahamune Dharmakirithi Sri Saranankara Sumangala-
 bhidhana Mahanayaka Thera of Syamopali Maha
 Nikaya—Viharadhipati of Upositha and Pusparama
 Viharas, Kandy. 30

(Sgd.) PAHAMUNE SRI SUMANGALA.

2477/1933, 5th September.

Malwatte Vihara, Kandy.

Certified as the true copy by the Mahanayake Thera, Viharadhipati of Upositha, Pusparama Viharas.

(Sgd.) PAHAMUNE SRI SUMANGALA.

1D36

**Letter from Venerable Pahamune Dharmakirithi Sri
Saranankarabhidhana Mahanayaka Thera of Syamopali Maha Nikaya,
Viharadhipati of Upositha and Pusparama Viharas, Kandy to the
Principal of Vidyodaya Pirivena.**

Translation

Malwatte Vihara,
September 12th, 1933.

10 To Kahawe Sri Sumangala Ratnasarabhidana Nayaka Thera,
Principal of Vidyodaya Pirivena.

In reply to the letter sent by the Nayaka Thera on the 25th August we have sent a letter on the 5th instant. As it does not behove administrators like us to get annoyed or retaliate against the actions of a Bhikku who is under our administration, and as our only principle is to maintain peace at any cost we sent that letter to suit the occasion. Nevertheless we will send a suitable reply to the letter sent by the Nayaka Thera.

20 After further consideration in connection with the part dealing with the rules regarding levies in the letter sent by us on the 5th instant to the Nayaka Thera this had to be written again. Recently in a letter published in the Dinamina by the Secretary, Vidyadhara Sabha, the rules regarding levies were mentioned as follows :—“The guardian (dayakaya) of each resident student bhikku be enrolled in the list of contributors of the Vidyadhara Sabha and to charge Rs. 20/- annually and student bhikkus who do not have dayakas or relatives bound to pay that sum be not given the residential privilege in the Pirivena.”

30 If there is a possibility we have no objection for levying a charge by enrolling in the list of subscribers to the Sabha, dayakas paying Rs. 20/- each on behalf of any student bhikku. But we do not think that setting it up as a rule and allowing it to be enforced will contribute to the honour and development of the Pirivena.

40 However that may be the Nayaka Thera should also understand that the decision to deny the residential privilege to a student bhikku who does not possess a dayaka or a relative bound to subscribe Rs. 20/- annually is contrary to the rule of the religion. If such a rule is enforced in connection with the Vidyodaya Pirivena Vihara belonging to the Sangha then the sanghika privilege will only be confined to those student priests who possess dayakas that can afford to pay the money. Therefore you should consider that the Vidyadhara Sabha should be advised that, that rule should be completely altered and that it should be removed and that it is not befitting to dismiss student bhikkus on account of not possessing dayakas or relatives bound to pay the money or refusing such student bhikkus

1D36

Letter from
Venerable
Pahamune
Dharmakirithi
Sri Saranankara-
bhidhana
Mahanayaka
Thera of
Syamopali
Maha Nikaya,
Viharadhipati
of Upositha
and Pusparama
Viharas, Kandy
to the
Principal of
Vidyodaya
Pirivena
12.9.33

1D36
 Letter from
 Venerable
 Pahamune
 Dharmakirithi
 SriSaranankara-
 bhidhana
 Mahanayaka
 Thera of
 Syamopali
 Maha Nikaya.
 Viharadhipati
 of Upositha
 and Pusparama
 Viharas, Kandy
 to the
 Principal of
 Vidyodaya
 Pirivena
 12.9.33—
Continued

admission to the Pirivena. In case the letter sent by us dated the 5th instant be published in the papers this letter which is also written in that connection should also be published simultaneously.

To this effect,

The Faithful Maha Nayaka Thera and Viharadhipathi
 of the two Upositha Pushparama Viharas, Kandy.

(Sgd.) PAHAMUNE SRI SUMANGALA.

3D33A
 Notice of the
 Sabha in the
 " Sinhala
 Bauddhaya "
 5.5.34

2D33A

Notice of the Sabha in the " Sinhala Bauddhaya "

The Sinhala Bauddhaya
Colombo, 5th May, 1934

10

Translation of Notice with heading Vidyadhara Sabha appearing
 in Page 1.

VIDYADHARA SABHA

A meeting of the Dayakayas of the Vidyodaya Pirivena will be held on Monday the 14th instant at 5 p.m. at the said Pirivena for the election of a new member in place of the vacancy to be created in the Vidyadhara Sabha.

(Sgd.) J. MOONESINGHE,

Hony. Secretary. 20

2D12M
 Minutes of the
 Sabha
 Meeting
 14.5.34

2D12M

Minutes of the Sabha Meeting

Translation

The Minutes of the General Meeting of the Vidyadhara
 Sabha held on the 14th May, 1934/2478.

At this meeting there were present the Principal, Nayaka Thero of the Pirivena, Hikkaduwe Pemananda Thero, Messrs. K. W. Gonakumbura, Registrar and Atapattu Lekam, N. Hewavitarne, R. Hewavitarne, Dr. D. B. Perera, Proctor J. Moonesinghe, Hony. Secretary, who are members, and Messrs. B. R. Dias, V. P. Ekanayake, S. D. Samadoris, S. Ranasinghe, R. M. Arthanayake, I. M. R. A. Iriyagolle and E. S. Jayasinghe, who are assisting members.

First, after the observation of Pansil, and the preliminaries having been gone through, the Hon'y. Secretary, Proctor J. Moonesinghe, read a letter sent by Mr. D. D. Pedris requesting that his name be taken off the list of members and also be relieved from the office of the Treasurer owing to illness and said that he had been of service for a period of nearly thirty years and had always been generous in all matters concerning the Pirivena and that until recently a monthly contribution was made by him to defray the expenses of supplying alms to a Principal of the Pirivena. A mortgage bond was tendered **10** in respect of the money entrusted to him. It was proposed that the request be accepted. The resolution was seconded by Dr. D. B. Perera.

2D12M
Minutes of
the Sabha
Meeting
14.5.34—
Continued

Thereafter, the Secretary informed the meeting that at the instance of the Nayaka Thero Mr. B. R. Dias was written to asking him whether he would agree to take up the post of Sabhapathi rendered vacant by the resignation of Mr. D. D. Pedris and that in reply a letter has been received expressing willingness. After the Nayaka Thero had made some remarks as to the fitness of Mr. Dias for being elected, Mr. Neil Hewavitarne proposed that Mr. B. R. Dias be elected to the post of Sabhapathi rendered vacant by the withdrawal of Mr. D. D. **20** Pedris. This motion was seconded by Mr. K. W. Gonakumbure, Registrar and Atapattu Lekam.

The letter sent by the Secretary requesting that he be relieved from the office was taken up for discussion. Proctor J. Moonesinghe proposed that Mr. Rajah Hewavitarne be elected to that office. Mr. E. S. Jayasinghe seconded this resolution. Mr. Neil Hewavitarne and the Nayaka Thero, Principal of the Pirivena, expressing their unwillingness to the resignation of the past Secretary, requested him to hold the office of Secretary as long as possible. But on the Secretary stating further that he needs rest, Dr. D. B. Perera proposed **30** that Mr. Rajah Hewavitarne should act for the Secretary on all such occasions as the Secretary wishes to go on leave and if the Secretary wants to leave entirely that Mr. Rajah Hewavitarne should be appointed permanently. This was seconded by Proctor W. H. W. Perera.

Hereafter there took place the election of a Treasurer hitherto held by Mr. D. D. Pedris. Proctor J. Moonesinghe proposed that Mr. B. R. Dias be elected to that office and Dr. D. B. Perera seconded it. Proceedings then terminated and those present left joyously.

(Sgd.) J. MOONESINGHE,
Hony. Secretary.

40

(Sgd.) W. A. de SILVA,
Chairman.

2D23A
Statement of Income and Expenditure
Page 100/2D12

Translation

Statement of Income and Expenditure for the Six Months from 1st January, 1935 to 30th June, 1935 of the Vidyadhara Sabha of the Vidyodaya Pirivena, Maligakande, Colombo.

	Rs.	c.		Rs.	c.
INCOME					
To Bank Balance as on 31st Dec. 1934	..	48 15	By Alms and other requirements of the teacher	..	862 75
" Government grant	..	3,000 00	" bhikkus and monk-administrator	..	550 00
" Charity box collections	..	238 73	" Salaries of teachers of English	..	506 00
" Loan from two members	..	200 00	" Anuradhapura mortgaged land case	..	473 40
" Loan from Sri Sumangala Memorial Sabha	..	100 00	" Settlement of loans from three members	..	100 00
" Municipal taxes on behalf of student bhikkus	..	152 00	" Settlement of loan to Sri Sumangala Memorial Sabha	..	250 00
" Membership fees	..	151 00	" Settlement of loan to M/s. H. Don Carolis & Sons, Ltd.	..	300 00
" Donor membership fees	..	95 00	" Municipal taxes	..	120 00
" Lease from Kotte Gangoda land	..	150 00	" Telephone	..	255 75
" Contributions towards electricity from organisations engaged in religious ceremonies	..	99 50	" Electricity	..	451 00
" Contributions towards electricity from benign gentlemen, who conducted Bana preachings	..	50 61	" Wages of Employees	..	134 60
" Contributions towards Alms	..	18 00	" Repairs to buildings	..	24 76
			" Attendance Registers, printing, stamps, etc.	..	9 74
			" Sundries	..	264 99
			" Bank Balance	..	..
	Rs. ..	<u>4,302 99</u>		Rs. ..	<u>4,302 99</u>

(Sgd.) J. MOONESINGHE,
Hony. Secretary.

Accounts found to be correct.

(Sgd.) A. WIJESINGHE,
Hony. Auditor.

Government Audit Office.
29.3.36.

Loans to be settled Rs. 1,798.43 cts.

(Sgd.) B. R. DIAS,
Hony. Treasurer.
15.7.35.

2D12N

Minutes of the Sabha Meeting*Translation*

2D12N
Minutes of the
Sabha
Meeting
20.5.35

The Minutes of the Vidyadhara Sabha Meeting held on
20th May, C.E. 1935/B.E. 2478

Those present were Muhandiram D. P. Wijewardene, Proctor W. H. W. Perera, Mr. K. W. Gonakumbura, Atapattu Lekam, Dr. D. B. Perera, Messrs. R. Hewavitarne, B. R. Dias and J. Moonesinghe, Secretary. Muhandiram D. P. Wijewardene was elected to the Chair.

10 Dr. D. B. Perera proposed that although an outsider offered Rs. 7,000/- for the premises known as " Pedris Villa " in Anuradhapura, purchased on behalf of the Society at an auction held under a writ issued in respect of money due to the Sabha, the said premises should not be sold out but be retained. Mr. J. Moonesinghe seconded the resolution which was carried. Mr. B. R. Dias was the only dissentient.

Mr. W. H. W. Perera proposed that as the funds allotted for the alms of the Bhikkhus of the tutorial staff have dwindled very greatly a special appeal be made to the Buddhists. Mr. Gonakumbura
20 seconded this and was carried. Mr. Rajah Hewavitarne promised to give a loan of Rupees Two hundred (Rs. 200/-) in respect of the same. Muhandiram Wijewardene, Mr. Raja Hewavitarne and Mr. W. H. W. Perera having formed into a committee promised to approach the Buddhists and collect a sum of money.

Mr. Dias proposed that the resident Bhikkhu pupils of the Pirivena should either pay at once a sum of Rs. 8/- or at the rate of Rs. 4/- in two instalments for the payment of Municipal taxes as from the 1st of June, 1935. This resolution was seconded by Mr. R. Hewavitarne and carried. It was also agreed to remind Rev. Pemananda
30 that his assistance was necessary to collect the said money.

The proposal of the Secretary that Dr. G. P. Malalasekera be appointed in place of Mr. M. Piyadasa who had not attended the meetings of the Sabha for several years was seconded by Mr. W. H. W. Perera and carried.

The Secretary informed that Proctor Chas. Dias had undertaken to recover the sum of Rs. 500/- donated to this Society by a Last Will by one Mr. Meegama of Panadura and that Proctor N. J. S. Cooray was now taking action in the matter. Proceedings then terminated.

(Sgd.) W. A. de SILVA,

(Sgd.) J. MOONESINGHE.

2D24A
Statement of Income and Expenditure, page 100 of 2D12
Page 100 of the Minute Book

Statement of Income and Expenditure by the Vidyadhara Sabha of Vidyodaya Pirivena Maligakande, Colombo, from 1st July to 31st December, 1935

	Rs.	c.	Rs.	c.	
INCOME					
To Bank balance as on 30th June, 1935	264	99	By Alms and other requirements of the teacher	998	35
Municipal taxes on behalf of student Bhikkus	328	50	Bhikkus and monk administrator	326	77
Alms for three (Vas) Rainy months	611	50	Electricity	251	50
Refund from Municipal taxes	262	50	Wages of employees	112	00
Memberships fees	100	00	Deed of Anuradhapura land	100	00
Donor membership fees	109	00	Municipal taxes	34	60
Contributions towards electricity by organisa-	89	85	Katina ceremony	54	03
tions conducting religious ceremonies	32	40	Repairs to buildings	7	58
Contributions towards electricity by benign	76	53	Examination	7	50
gentlemen who arrange for Bana preaching	82	00	Printing charges for 1,000 letters	7	79
Charity box collections	34	60	Stamps envelopes, etc.	2	00
House rent from Anuradhapura property	50	00	Repairs to furniture and fixture	1	52
Katina ceremony	18	00	Cheque book charges	2	00
Lease of Kotte Gangoda land	112	00	Sundries	390	23
Contributions towards alms	126	00	Bank balance	..	..
Loan from Sri Sumangala memorial Sabha	..	..	..	..	..
Loans from 3 members	..	..	..	..	..
	Rs. ..	2,297 87		Rs. ..	2,297 87

(Sgd.) J. MOONESINGHE,
Hony. Secretary.

Accounts found to be correct.
A. WIJESINGHA,
Hony. Auditor, Government Audit Office.
29.3.36.

Loans to be settled Rs. 1,798.43.
(Sgd.) B. R. DIAS,
Hony. Treasurer.

2D12X

Minutes of the Sabha Meeting

Minutes of the Vidyadhara Sabha held on 25th July,
2477 B.E./1933 A.D. at Vidyodaya Pirivena,
Maligakanda.

Translation

Those present :—The Rev. Principal of the Pirivena, Hon'ble Mr. D. S. Senanayake, Messrs. Neil Hewavitarne, Raja Hewavitarne, W. H. W. Perera, Proctor, Dr. D. B. Perera, Messrs. M. Piyadasa, J. Moonesinghe, Proctor (Hony. Secretary).

With the election of Hon'ble Mr. D. S. Senanayake to the Chair the work commenced with the administration of Pansil (Five Precepts). The Hony. Secretary read a letter sent by the Rev. Principal of the Pirivena stating that Rev. Morontuduwe Dhammananda Thero is planning to fast from the 27th of this month. Mr. W. H. W. Perera speaking in this connection said that if it is so that Nayaka Thero should be invited to this meeting, since, the Chairman disapproved this suggestion, it was unanimously agreed that the entire House led by Hon'ble Mr. D. S. Senanayake to meet Rev. Morontuduwe Nayaka Thero to be enlightened with facts.

Hon'ble Mr. D. S. Senanayake speaking to Rev. Morontuduwe Nayaka Thero said that his (Rev. Morontuduwe's) intended fast if started would bring lot of difficulties in the way of the Vidyadhara Sabha, all Buddhists and the Pirivena. The Hon'ble Mr. Senanayake appealed to Rev. Morontuduwe to give up his intended fast even till the inquiry into the matter is held. However, the said monk rejected this request. After this discussion the members of this Sabha left Rev. Morontuduwe and reported to the Nayaka Thero matters pertaining to Rev. Morontuduwe's fast and his statement in that connection.

2D12X

Minutes of the
Sabha
Meeting
25.7.33

2D12X
Minutes of the
Meeting
25.7.33—
Continued

The outcome of this was the rejection of the request to give up the fast and to start the intended fast on the 27th. Thereafter Mr. Piyadasa volunteered to be a guarantor for the moneys required for the supply of electricity. Though the house agreed in principle it did not endorse the manner suggested since the administration should be in the hands of the Sabha. Subsequently it was decided to send a signed letter asking once more not to start the proposed fast. Mr. Piyadasa did not accept this decision and staged a walk-out.

A Copy of the letter.

25th July, 1933.

Rev. Morontuduwe Dhammananda Nayake Thero. 10

Rev. Sir,

We request you to be good enough not to start your intended fast at the premises of Vidyodaya Pirivena. Further, we would like to inform you that this is a decision taken at today's meeting.

Those in favour :

(Sgd.) D. S. SENANAYAKE (President).

„ J. MOONESINGHE.

„ W. H. W. PERERA.

„ D. B. PERERA.

„ N. HEWAVITARNE. 20

„ R. HEWAVITARNE.

Morontuduwe Dhammananda,

High Priest,

Sabaragamuwa,

Maligakanda, Colombo.

2D25A
Statement of Income and Expenditure, page 107 of 2D12

Translation

Statement of Accounts of Vidyadhara Sabha of Vidyodaya Pirivena, Malgakanda, Colombo, for the Period of Six Months from 1st January to 30th June, 1936

	Rs. c.	Rs. c.
INCOME		
To Bank balance on 31st December, 1935 ..	390 23	
" Government grant ..	3,000 00	
" Charity box collections ..	286 98	
" House rent and lease of Anuradhapura property ..	239 96	
" Membership fees ..	157 00	
" Donor membership fees ..	92 00	
" Contributions towards electricity from societies holding religious ceremonies and benign gentlemen who arrange for Bana preachings ..	136 50	
" Telephone on behalf of student-bhikkus ..	72 50	
" Alms on ordinary days ..	18 00	
	Rs. .. 4,393 17	
EXPENDITURE		
By Alms and other requirements of teacher bhikkus and the monk-administrator ..		1,071 56
" Electricity ..		332 35
" Repairs to buildings ..		112 52
" Part of the medical expenses for the former Principal of the Pirivena late Maha Nayaka Thero ..		83 50
" Wages of employees ..		357 70
" Telephone ..		120 00
" Municipal taxes ..		22 50
" Urban Council taxes on Anuradhapura property ..		117 47
" Anuradhapura property case and deeds ..		68 45
" Salaries of the teachers of English ..		550 00
" Settlement of loans obtained from two members ..		276 00
" Settlement of loan to M/s. H. Don Carolis & Sons, Ltd. ..		250 00
" Settlement of loan to Sri Sumangala Memorial Society ..		112 00
" Settlement of loan to Sri Mahabodhi Society ..		50 00
" Printing (1,000 receipts, 1,000 invitations and statement of accounts) ..		16 50
" Attendance Registers ..		8 64
" Books, stamps and post cards ..		7 92
" Cheque book charges ..		5 40
" Cutting 3 coconut trees ..		4 00
" Miscellaneous expenses ..		0 20
" Bank balance ..		826 46
	Rs. .. 4,393 17	

593

(Sgd.) J. MOONESINGHE,
Hony. Secretary.

Accounts found to be correct.

(Sgd.) A. WIJESINHA,
Hony. Auditor,

Government Audit Office.
12.12.36.

Loans to be settled as on 30th June, Rs. 1,548.43 cts.

2D25A
Statement of
Income and
Expenditure
page 107 of
2D12
1.1.36 to
30.6.36

(Sgd.) B. R. DIAS,
Hony. Treasurer
7.7.36.

P18
Declaration of
the Plaintiff-
Respondent
under the
Buddhist
Temporalities
Ordinance
6.1.1936

P18

**Declaration of the Plaintiff-Respondent under the
Buddhist Temporalities Ordinance**

REGISTERED.

Translation

(Sgd.) CHAS. M. AGALAWATTE,
for Registrar.

Application No. 57.

Registrar-General's Office,
Colombo, 9 January, 1936.

No. 7697.

Declaration Regarding Upasampada Bhikshu Under
Section 41 of the Buddhist Temporalities Ordinance,
No. 19 of 1931.

1. Place of birth : Province, District, & etc.	Godagama in the Wellaboda Pattu, Galle District, Southern Province.
2. Lay name in full	Richard Suri Arachi Amarasekera.
3. Date of birth*	Wednesday, 17 October, 1883.
4. Name of father in full	Don Cornelis Suri Aratchi Amarasekera.
5. Date of Robing*	14th May, 1899.
6. Samanera name	Baddegama Piyaratana.
7. Name of Robing Tutor or names of Robing tutors and residence	Keembiye Sumanatissa Maha Thero of Purana Sudharmarama Vihara in Bope.
8. Temple where Robing took place	Sudharmarama Vihare in Bope, Galle.
9. Place of Ordination	Malwatte Viharaya, Kandy.
10. Date of Ordination	(Wesak Full Moon day) 28th May, 1904.
11. Name of Karmacharya	Telwatte Mahanaga Silananda Maha Thero.
12. Name of Upaddhyaya at Ordination	Tibbotuwawe Sri Siddhartha Sumangala Mahanayaka Thero.
13. Name of Nikaya	Siamese Sect Maha Nikaya.
14. Name of Maha Nayaka Thero or Nayaka Thera of the Nikaya and his full Postal Address	Pahamune Dharmakirti Sri Saranankara Sumangala Mahanayaka Thero, Malwatta Viharaya, Kandy.
15. Name assumed at Ordination	Baddegama Piyaratana.
16. Residence at time of Ordination	Sudharmaramaya, Bope, Galle.

17. Permanent residence*	Awasaya of Sri Sudharmaramaya, Bope, Galle and Vidyodaya Pirivena, Colombo.
18. Residence at time of declaration and full postal address	Vidyodaya Pirivena, Colombo, Maligakanda, Maradana, Colombo.
19. Name of tutor or names of tutors presenting for Ordination	Keembiye Sumanatissa Maha Thero of Sudharmaramaya, Bope.
20. Name of Bhikshu presiding at Ordination	Tibbotuwawe Sri Siddhartha Sumangala Mahanayaka Thero.
21. Serial Number in Samanera, Register, if any	None.
22. Date of making the declaration	6 January, 2479/1936.
23. Remarks	Holds the Vice-Principalship of Vidyodaya Pirivena.

P18
Declaration of
the Plaintiff-
Respondent
under the
Buddhist
Temporalities
Ordinance
6.1.36—
Continued

Signatures to correctness of above particulars :—

1. Signature of Upasampada Bhikshu :	(Sgd.) B. PIYARATANA.
2. Signature of Tutor presenting for Ordination :	
3. Signature of Mahanayake Thera or Nayaka Thera or of District Nayaka of the Nikaya :	(Sgd.) (In Sinhalese characters). PAHAMUNE SRI SUMANGALA.

Date of Registration : 9th January, 1936.

True copy.

(Sgd.) Illegibly.

Asst. Registrar-General.

13.6.50.

P11

Minutes of the Special Meeting of Vidyadhara Sabha *Translation* page 103 of Minute Book

Minutes of the Special Meeting held on Saturday,
7th March, 1936.

There were present the Hon'ble Mr. D. S. Senanayake, Messrs. T. G. C. Perera, Neil Hewavitarne, R. Hewavitarne, Mudaliyar A. E. Abayasekara, W. H. W. Perera, Proctor, Dr. D. B. Perera, Muhandiram D. P. A. Wijewardene, Messrs. K. W. Gonakumbura, Atapattu Lekam, B. R. Dias and J. Moonesinghe, Secretary.

Minutes of the
Special
Meeting of
Vidyadhara
Sabha
page 103 of
Minute Book
7.3.36

P11
Minutes of the
Special
Meeting of
Vidyadhara
Sabha
page 103 of
Minute Book
7.3.36—
Continued

After the discussion on the appointment of a suitable Thera to succeed the late Ven'ble Sri Ratanasara Thero, Principal of the Pirivena, the Chairman proposed as follows :—

“ Rev. Baddegama Piyaratana Nayaka Thero who is holding the post of Vice-Principal of the Pirivena while performing his own duties shall also act as the Principal of the Pirivena.” This resolution was seconded by Muhandiram D. P. A. Wijewardene and accepted by the Sabha. It was also agreed that Rev. Baddegama Piyaratana Nayaka Thera be informed of this resolution and that the opinion of the Bhikkhus of the tutorial staff be sought as to a person suitable to ¹⁰ be appointed as Principal of the Pirivena. Business was then closed. Both these letters were despatched before the meeting dispersed.

(Sgd.) J. MOONESINGHE.

(Sgd.) W. A. de SILVA.
6th April, 1936.

P19

Letter from the Sabha to the Plaintiff-Respondent

Translation

Vidyodaya Pirivena,
Maligakanda, ²⁰
Colombo, March 7, 1936.

Vidyadhara Sabha,
Maligakanda.

The Ven'ble Baddegama Piyaratana Nayaka Thero is respectfully notified as follows :—

While notifying you hereby that at the meeting of our Vidyadhara Sabha held this day you were appointed to act, in addition to the duties of the Vice-Principal, in the post of Principal, fell vacant by the demise of the Ven'ble Kahave Nayaka Thero, Principal of Vidyodaya Pirivena, we respectfully invite you to accept same. ³⁰

By Order,
(Sgd.) D. S. SENANAYAKE,
President.
„ J. MOONESINGHE,
Secretary.

P19
Letter from
the Sabha to
the Plaintiff-
Respondent
7.3.36

**Letter from the Sabha to the Tutorial Staff of Vidyodaya
Pirivena**

Translation

Vidyodaya Pirivena,
March 7, 1936.

Letter from
the Sabha to
the Tutorial
Staff of
Vidyodaya
Pirivena
7.3.36

To the Venerable Tutors of the Vidyodaya Pirivena.

It is hereby informed as follows :—

We hereby notify that at the meeting of the Vidyadhara Sabha held today the Venerable Baddegama Piyaratana Nayaka Thero was appointed to act, in addition to the duties of the post of Vice-Principal, as Principal in the vacancy created by the demise of the Venerable Kahawe Ratanasara Nayaka Thero, Principal of the Vidyodaya Pirivena.

As our Sabha wishes to know who would be suitable for the post of Principal of the Vidyodaya Pirivena now vacant, we request you to be good enough to let us know before the 15th instant your own opinion on the matter.

By Order,

(Sgd.) D. S. SENANAYAKE,

President.

„ J. MOONESINGHE,

Secretary.

20

1D61

**Copy of the Minutes of the Committee Meeting of the
Malwatte Karaka Maha Sanga Sabha**

Translation

The Minutes of the Committee meeting of the Malwatte Karaka Maha Sangha Sabha assembled on the 15th March, 1936

Copy of the
Minutes of the
Committee
Meeting of the
Malwatte
Karaka Maha
Sanga Sabha
15.3.36

30

1. Pahamune Sri Saranankara Sumangala Maha Nayaka Thero.
2. Rambukwelle Anu Nayaka Thero.

1D61
Copy of the
Minutes of the
Committee
Meeting of the
Malwatte
Karaka Maha
Sangha Sabha
15.3.36—
Continued

3. Madugalle Anu Nayaka Thero.
4. Kandulawa Maha Thero.
5. Welivita Maha Thero.
6. Bentara Maha Thero.
7. Ambogama Nayaka Thero.
8. Alutgama Thero.
9. Etulgama Thero.
10. Heremitigale Nayaka Thero.
11. Ambanwelle Nayaka Thero.
12. Watারেකe Thero.
13. Rambukwelle Dhammaratana Thero.
14. Purijjala Nayaka Thero.
15. Pandita Mabopitiye Thero.

10

After the chair was taken by the Maha Nayaka Thero of the Malwatte Chapter of the Siamese Sect as usual, Secretary, Nayaka Thero of the Sangha Sabha read the applications that had been received in connection with the Nayakaships.

The following Nayakaships were appointed by the Maha Sangha Sabha, proposed by Revd. Ambagama Sri Dharmarakshita Piyaratana, the Chief High Priest of Ihala Dolos Pattu, and seconded by Welivita 20 Saranankara Maha Thero :—

Revd. Devinuwara Kirti Sri Sumangala Jinaratana, Nayaka Thero, the Viharadhipati of the two Viharas, Gangarama Vihara of Hunupitiya, Colombo and Vidyodaya Pirivena-Vihare of Maligakanda, Colombo, was appointed for the Chief Nayakaship of Colombo and Nine Korales, vacated by the death of Revd. Kahawe Sri Sumangala Ratanasara Nayaka Thero, the Principal of Vidyodaya Pirivena, Maligakanda, Colombo.

For the Deputy Chief Nayakaship of Colombo and Nine Korales thus vacated, Revd. Borukgamuwe Rewata Thero, the Viharadhipathi 30 of Subhadraramaya, Gangodawila, was appointed.

For the Chief Nayakaship of Galle Korale which was vacated by the death of Rev. Weragoda Siri Sumangala Buddharakshita, the Viharadhipathi of Ganegodelle Sudharmarama of Tiranagama of

Galle District, the Revd. Sri Bharatisvarachariya Pandita Yagirala Pannananda Nayaka Thero, Principal, Sudharmakara Pirivena, Gonagala, was appointed as an honour for the service done in producing the third part of the Mahavamsa.

For the second Nayakaship of Galle which was vacated by the death of Revd. Kaikawala Sri Sunanda Rewata, Viharadhipathi of Sunandaramaya, Kaikawala, Revd. Haburugala Piyaratana Thero, Viharadhipathi of Dewapriyaramaya of Randagoda, Bentota, was appointed.

- 10 For the Nayaka Chief of Pasdun Korale which was vacated by Revd. Pandita Yagirala Pannananda Nayaka Thero, Revd. Karannagoda Gunaratana, the Principal of Punyarama Pirivena, was appointed.

Confirmed by :—

Venerable Pahamune Dharmakirti Sri Saranankara Sumangala,
The Maha Nayake Thero.

(Sgd.) PAHAMUNE SRI SUMANGALA.

Record by :—

(Sgd.) H. SRI S. R. DHEERANANDA.

15.3.36.

20

True copy.

(Sgd.) PAHAMUNE SRI SUMANGALA.

1D58

Extract from the “ Sinhala Bauddhaya ”

(Extract from Sinhala Bauddhaya of 21st March, 1936)

Translation

Chief Nayakaship of Colombo and Nine Korales.

Obtained by the Chief Pupil of Rt. Venerable
Hikkaduwe Nayake Thera

- 30 The Chief Nayakaship of Colombo and Nine Korales vacated by Ven. Kahawe Sri Sumangala Ratanasara Nayaka Thera who was the Principal of Vidyodaya Pirivena was conferred on Ven. Mahopaddhyaya Kirthi Sri Sumangala Gnanarathnabhidhana Nayaka Therapada, Viharadhipathi of Gangarama, Hunupitiya, Colombo, by

1D61

Copy of the
Minutes of the
Committee
Meeting of the
Malwatte
Karaka Maha
Sangha Sabha
15.3.36—
Continued

1D58

Extract from
the “ Sinhala
Bauddhaya ”
21.3.36

1D58
Extract from
the "Sinhala
Buddhaya"
21.3.36--
Continued

the Anunayaka Karaka Maha Sangha Sabha assembled at Mangaloposhitagara on the 15th Sunday of this month. This Venerable Thera who is the Chief pupil of late Right Venerable Tripitaka Vagishvarachariya Hikkaduwe Sri Sumangalabhidahana Nayaka Thera by robing and ordination till his appointment to this post held the posts of Deputy Chief Nayakaship of Colombo and Nine Korales and Upaddhyayaship of Malwatu Vihara.

P13
Letter from
the 1st
Defendant-
Appellant to
the Sabha
28.3.36

P13

Letter from the 1st Defendant-Appellant to the Sabha

Translation

10

Out of love for the religion I write and place the following before members of the Vidyadhara Sabha.

Devoted Gentlemen,

Since the death of Nayaka Thero who was Principal of this Piri-vena and as a result of various happenings here I wish to state the following facts about me for your consideration.

I began my education in this institution in 1911 and completed it in 1918. Except during the 1st and 3rd occasions succeeded in passing out as the first in my class.

On the last occasion I won the following six special prizes:—The 20 Siamese King's Prize ; Manning Prize ; Sri Sumangala Prize ; Hewavitarne Abhidharma Scholarship ; Piyaratana Abhidharma Prize; and Senanayake History Prize and the Class Prize, making in all 7 prizes.

I finished my education here in 1918 and in July, 1919, I was appointed a member of the tutorial staff here. While teaching I specially studied Abhidharma in connection with my Abhidharma Scholarship.

In 1928 I was appointed the Chief High Priest of Sabaragamuwa District (disawa) and in 1934 the Chief Priest of Sripadasthana. 30

After I was appointed to the tutorial staff here I was engaged in editing ancient literary works and writing books and thereby I have rendered much religious service.

As a teacher in this Pirivena I have completed 17 years. Now I am 46 years old. At present there is none in this Pirivena senior to me as a teacher. Here what I have described briefly may be enough for you to understand my position.

The seat which fell vacant for the first time by the demise of the Ven'ble Hikkaduwe Nayaka Thero was transferred by the Vidyadhara Sabha to the Ven'ble Sri Naneswara Nayaka Thero. The seat vacated by the Ven'ble Sri Naneswara Nayaka Thero on his becoming Principal of the Pirivena was transferred by him to the Ven'ble Kahawe Nayaka Thero, who was then a teacher. The seat vacated by the demise of the Ven'ble Sri Naneswara Nayaka Thero was transferred by the Vidyadhara Sabha to the Ven'ble Kahawe Nayaka Thero. The seat vacated by him on his becoming Principal of the Pirivena was transferred by him to me. By the demise of the Ven'ble Kahawe Nayaka Thero the seat occupied by him or the office he held, has now fallen vacant.

I do not think it necessary that I should set forth my suitability and right to the seat vacated by the Ven'ble Kahawe Nayaka Thero before members of the Vidyadhara Sabha who respect custom and justice and who are desirous of bringing up through this educational institution Bhikkhus grounded in religious principles and learned in the doctrine and discipline.

My claim and suitability to the post now vacant accrued to me from my learning acquired through being educated in this very Pirivena, experience gained by teaching for full 7 years, attainment to a position of honour through high ecclesiastical posts, discharging for 13 years the duties of the seat which became mine by right when vacated by the Ven'ble Kahawe Nayaka Thero on his attainment of Principalship and winning of popular favour, should occur to you.

At the end of February, 1934, owing to an illness I had to enter the General Hospital and undergo an operation, and in consequence thereof I had to face a severe physical weakness. From that time, therefore, I had to take rest without being engaged in teaching. Now I have fully recuperated my health. Now there is no difficulty for me to engage in any such work as teaching, etc.

P13

Letter from
the 1st
Defendant-
Appellant to
the Sabha
28.3.36—
Continued

P13
Letter from
the 1st
Defendant-
Appellant to
the Sabha
28.3.36—
Continued

I wish kindly to bring to your notice that you as gentlemen who recognize gratitude and love religion may take into your consideration my suitability and claim to the seat vacated by the Ven'ble Kahawe Nayaka Thero and act justly and that it is an honour to this Pirivena to raise me to the appropriate position for which I am qualified by my being brought up in this very institution and having worked here myself and that not to do so is not only a great dishonour but might prove to be a cause of decline of this Pirivena.

In love for the Religion,

(Sgd.) M. DHAMMANANDA, 10

Nayaka Thero of Sripadasthana including the
Sabaragamuwa Province.

Vidyodaya Pirivena,
March 28, 2479/1936.

P12

P12
Minutes of the
Meeting of
Vidyadhara
Sabha
Page 104 of
Minute Book
6.4.36

**Minutes of the Meeting of Vidyadhara Sabha
Page 104 of Minute Book**

Translation

Minutes of the Meeting held on April 6, 1936

Those present were :—The Hon'ble Mr. W. A. de Silva, Mudaliyar 20
E. A. Abayasekara, Muhandiram D. P. A. Wijewardena, Dr. D. B.
Perera, Dr. G. P. Malalasekera, Messrs. Neil Hewavitarne, R. Hewa-
vitarne, W. H. W. Perera, Proctor, and J. Moonesinghe (Hony.
Secretary).

The Hon'ble Mr. W. Arthur de Silva having been voted to the Chair,
all recited the five precepts and commenced work.

Minutes of three previous meetings were read and confirmed. Reply received to the letter dated 7th of previous month and sent to the Ven'ble Baddegama Piyaratana Nayake Thero informing him of his appointment as acting Principal of the Vidyodaya Pirivena and reply received to the letter sent to the tutorial staff of the Pirivena were read and the vacant post of the Principalship of Pirivena was discussed about. A letter sent by the Ven'ble Morontuduwe Dhammananda Nayaka Thero on the subject was also read. After the discussion Dr. D. B. Perera proposed that the Ven'ble Baddegama
 10 Piyaratana Nayaka Thero be appointed as permanent Principal of the Pirivena. The resolution was seconded by Muhandiram D. P. A. Wijewardena and unanimously carried. It was also proposed and seconded by the said two members and accepted by the Sabha that it would be good if the Ven'ble Morontuduwe Dhammananda Nayaka Thero who had been a teacher for some time could be included among the tutorial staff and it was announced at the Sabha that the same should be communicated to the Ven'ble Principal of the Pirivena.

It was resolved that the advice of Mr. E. B. Weerakoon, Proctor, should be obtained regarding the removal of some books and articles
 20 from the Avasa (house) in which the late Ven'ble Ratanasara Nayaka Thero resided by two pupil Bhikkhus of his and to send a letter requesting them to return such books and articles. This brought the proceedings of the meeting to a close.

(Sgd.) D. P. A. WIJewardena,

Chairman.

(Sgd.) J. MOONESINGHE,

Hony. Secretary.

P12
 Minutes of the
 Meeting of
 Vidyadhara
 Sabha
 Page 104 of
 Minute Book
 6.4.36—
Continued

P26
Letter from
the Secretary
of the
Vidyadhara
Sabha to the
Plaintiff-
Respondent
7.4.36

P26

**Letter from the Secretary of the Vidyadhara Sabha to the
Plaintiff-Respondent**

Translation

Vidyodaya Pirivena,
April 7, 1936.

Ven'ble Nayaka Thero,

I do hereby respectfully inform as follows :—

(1) That at the meeting of the Vidyadhara Sabha held on the 6th instant you were unanimously appointed the permanent Principal of this Pirivena. 10

(2) That the appointment of a Vice-Principal is not done by the Vidyadhara Sabha, and

(3) That the Sabha thinks it would be good if the Ven'ble Morontuduwe Dhammananda Nayaka Thero who was a tutor in the Vidyodaya Pirivena could again be appointed as a tutor.

Yours obediently,

(Sgd.) J. MOONESINGHE,

Hony. Secretary,
Vidyadhara Sabha.

To the Ven'ble B. Sri Piyaratana Nayake Thero. 20

P14
Letter from
the 1st
Defendant-
Appellant to
the Sabha
22.5.36

P14

Letter from the 1st Defendant-Appellant to the Sabha

Translation

Out of love for the religion I send this reminder to the
Vidyadhara Sabha.

Devoted Gentlemen,

I believe you might have understood well from the letter I sent on March 28th last to the Sabha the position with regard to my teachership in this Pirivena.

Although I brought several times to the notice of the Nayaka 30 Thero, the present Principal of this institution, the fact that I have now completely recovered from illness and am fit to do the work of teachership, but up till now no notice of it has been taken. I do not think it fair.

As the Sabha is supplying me with all my needs due to me as a teacher here, in order to work for the good of others, a work most congenial to me in this life, and in order to carry on in the name of my teachers and grand teachers the good work that they were doing through this Pirivena both for the benefit of the world and the religion, if I were not given the opportunity of helping in the more permanent establishment of religion by imparting the knowledge of Dhamma to the students of this Pirivena in the same manner as I had been doing till I fell ill, please understand that it would be an unbearable ruin.

10 In these circumstances I most earnestly request you to be good enough to make, out of love for the religion, a satisfactory decision in this matter before the end of this month. I wish kindly to inform you that I am willing, if I am also informed of the day and time of the meeting of the Sabha, to come to such meeting, and explain matters.

Further, I also wish earnestly to bring to your notice the fact that a wall in the house occupied by me has cracked and threatens to collapse, and at present lies in a most uncertain state, that if the house were to come down it might endanger several persons including me and that in this connection suitable action should be taken as soon as possible.

Yours in desire for religious permanence,

(Sgd.) M. DHAMMANANDA.

(Morontuduwe Nayaka Thero)

Vidyodaya Pirivena,
22.5.36.

2D7

**Letter from the 1st Defendant-Appellant to the Secretary,
Vidyadhara Sabha**

Translation

30 To the Honorary Secretary of the Vidyadhara Sabha.

Dear Sir,

Far from getting a reply to the letters sent by me to the Sabha on 4.4.36, 25.4.36, 5.5.36, 22.5.36, 4.6.36, I have not yet received even acknowledgement of receipt of the same. I do not think that

P14
Letter from
the 1st
Defendant-
Appellant to
the Sabha
22.5.36 --
Continued

2D7
Letter from
the 1st
Defendant-
Appellant to
the Secretary,
Vidyadhara
Sabha
8.6.36

2D7
Letter from
the 1st
Defendant-
Appellant to
the Secretary
Vidyadhara
Sabha
8.6.36—
Continued

such behaviour is at all in keeping with the status of a Sabha like the Vidyadhara Sabha. Other considerations apart, is not the fact that I was a teacher on the Staff of the Pirivena teaching the Dhamma and imparting knowledge to the pupils on behalf of the Sabha for a full term of fifteen years until I fell ill, a sufficient reason for paying attention to my letter? Is it not the duty of the Vidyadhara Sabha as a Buddhist Sabha even just to reply to a letter from a person of my status? Therefore I would like to impress upon you with all earnestness that I expect a reply from the Sabha to the matters mentioned by me in my letters before the 15th instant. 10

I am,

Yours sincerely and loyally,

(Sgd.) M. DHAMMANANDA.

(Morontuduwe Nayaka Thero)

8.6.36.

Vidyodaya Pirivena.

1D38

Letter from
the Secretary,
Vidyadhara
Sabha to the
1st Defendant-
Appellant
16.6.36

1D38

**Letter from the Secretary, Vidyadhara Sabha to the 1st
Defendant-Appellant**

Translation

20

Colombo, 16.6.36.

Writing with honour

To Venerable Morontuduwe Nayaka Thera.

The money in the hands of the Treasurer is insufficient to effect repairs to the wall of your awasa which has a crack. If you could get the necessary repairs attended to through somebody, we will be able to pay the expenses incurred when we receive money.

(Sgd.) J. MOONESINGHE,

Hony. Secretary,

Vidyadhara Sabha. 30

2D27A
Statement of Income and Expenditure, page 124 of 2D12

Translation

Attached to page 124 of Minute Book

Statement of Accounts of Vidyadhara Sabha of Vidyodaya Pirivena for the Six Months 1st January to 30th June, 1937

	INCOME		EXPENDITURE		Rs.	c.			
	Rs.	c.	Rs.	c.	Rs.	c.			
To Bank balance on 1st January, 1937	300	13	By Alms and other requirements of the teacher, bhikkus and monk administrator	..	..	1,334	71
Government grant	4,500	00	Salaries of the teachers of English	..	..	550	00
Last Will of Mr. M. D. N. Abeysinha	252	78	Wiring shrine room, dagaba, compound preaching hall and library	..	..	427	90
Charity box collections	232	76	Electricity	..	..	301	50
Membership fees	189	00	Repairs to living quarters of teacher bhikkus	..	..	339	02
Donor membership fees	72	00	Repairs to shrine room, preaching hall and library	..	..	99	75
House rent from Anuradhapura property	175	00	Repairs to Dagaba and Mal Asanas	..	..	53	46
Telephone on behalf of student bhikkus	124	50	Construction and repairs to wall	..	..	29	76
Collection from the sale of bricks	75	89	1,500 bricks	..	..	21	00
Contributions to electricity by societies which conducted religious ceremonies	57	50	Moneys received from Mr. Abeysingha deposited at savings bank	..	..	252	78
Contributions to electricity from benign gentlemen who arranged Bana preaching	8	73	Wages of employees	..	..	351	50
Lease of Kottegangoda land	50	00	Settlement of loan to H. Don Carolis & Sons Ltd.	..	..	254	93
Sri Devamitta Dharmapala Fund	40	00	Loan to Sri Sumangala Memorial Sabha	..	..	50	00
Contributions for alms	23	00	Repairs to 2 houses in Anuradhapura	..	..	238	17
Special facilities and provisions for the Pirivena Principal arranged by Mr. Neil Hewavitarne, M.S.C.	10	00	Anuradhapura land (legal expenses)	..	..	75	35
Bank interest	5	26	Land tax to Urban Council	..	..	65	60
Deposit in saving bank	252	78	Lease money of land returned	..	..	90	00
					Surveyor's charges for Godiyagamuwa land	..	..	38	00
					Telephone	..	..	120	00
					Municipal taxes	..	..	30	00
					Ten benches and one black board made of jak wood	..	..	78	00
					Repairs to benches blackboards chairs, etc.	..	..	12	43

..	Examinations of 1935 and 1936	..	56 30
..	Travelling expenses of the Principal	..	39 80
..	Repairs to Cyclostyling machine	..	11 25
..	Special facilities for the Principal	..	10 00
..	Three large flags and six lines of flags	..	37 90
..	Late Rev. Sri Ratanasara Maha Thero Memorial function and other religious functions	..	22 58
..	Printing charges and postage	..	13 22
..	17 attendance registers and two books	..	8 79
..	Telegram connected with Pirivena work	..	1 00
..	Miscellaneous	..	1 60
..	Balance in Banks	..	1,362 03
..	Ceylon Savings Bank (160573)	..	252 78
..	National Bank	..	1,109 25
		Rs.	<u>1,362 03</u>

Rs. . 6,369 33

Rs. . . 6,369 33

(Sgd.) J MOONESINGHE,
Hony. Secretary.

B. R. DIAS,
Hony. Treasurer.

Accounts found to be correct.

(Sgd.) A. WLJESINGHE,
Hony. Auditor, 23.9.37.

Adapted at the meeting held on 14.10.37.

(Sgd.) D. B. PERERA,
President.

Loans to be settled :

Messrs H. Don Carolis & Sons Ltd. Rs. 1293 50

Loans given :

Sri Sumangala Memorial Sabha 50 00

2D8
Letter from
the 1st
Defendant-
Appellant
19.1.37

1010

2D8

Letter from the 1st Defendant-Appellant

Translation

To bring to the notice of the Members of the Vidyadhara Sabha.

With love for the Sasana.

Gentlemen,

Consider whether it is proper for a Buddhist Sabha like the Vidyadhara Sabha not to have replied or paid any attention up to date to letters sent by me to the Sabha on 28.3.36, 4.4.36, 25.4.36, 5.5.36, 22.5.36, 4.6.36, 17.8.36. 10

Although I informed several times that I have sufficiently recovered to engage in service to this Pirivena in a capacity in keeping with my abilities and status there has been no response to my appeal or appointment to enable me to perform such duties.

When the time arrived for appointing a successor to the late Kahawe Nayaka Thero as Principal of the Pirivena it was the duty of the Sabha to have consulted me the oldest teacher on the Staff of the Pirivena, in that connection. But the Sabha in violation of its duty secretly held a meeting at the Mahabodhi Office and appointed a Principal and instructed him not to appoint me to the post on the **20** staff which was my due in consideration of the fact that I had rendered selfless service to the students of the Pirivena by teaching the Dhamma and imparting knowledge for a period of about seventeen years. I earnestly ask you to consider whether this conduct on the

part of the Sabha is in keeping with the spirit of Buddhism that should prevail in the Sabha and to inform me as to the cause of the failure of the Sabha to send replies to my letters.

I am,

In the welfare of the Sasana,
Morontuduwe Nayaka Thero.

(Sgd.) M. D. DHAMMANANDA.

2D8
Letter from
the 1st
Defendant-
Appellant
19.1.37—
Continued

19.1.37.

Vidyodaya Pirivena Viharaya.

10

1D39

**Letter from the Secretary, Vidyadhara Sabha to the 1st
Defendant-Appellant**

Translation

Vidyodaya Pirivena,
Maligakanda,
Colombo, 17.3.37.

1D39
Letter from
the Secretary,
Vidyadhara
Sabha to the
1st Defendant-
Appellant
17.3.37

Vidyadhara Sabha,
Maligakanda.

To Morontuduwe Nayaka Thera.

20 Venerable Sir,

Herewith a cheque for Rs. 50/- to enable you to repair the crack in the Awasa in which you are residing. It is good to send a receipt for same to Mr. Dias.

(Sgd.) J. MUNASINGHE.

2D28A
Statement of Income and Expenditure, Page 124 of 2D12

Translation

Statement of Income and Expenditure of Vidyadhara Sabha of Vidyodaya Pirivena, Malgakanda, Colombo, for Six Months from July to 31st December, 1937

	Rs.	c.	EXPENDITURE	Rs.	c.
INCOME					
To Balance in Bank on 1st July	1,362	03	By Alms and other requirements of the teacher bhikkus and monk-administrator	1,438	75
„ Last Will of late Mrs. Mallika Hewavitarne	1,000	00	„ Electricity	310	90
„ Alms during three rainy (vas) months	740	72	„ Wages of employees	249	60
„ House rent from Anuradhapura land	285	00	„ Repairs to buildings :—		
„ Membership fees	151	00	1. Living quarters	104	97
„ Donor-membership fees	78	50	2. Preaching hall	42	83
„ Sri Devamitta Dhammapala Fund	120	00	3. Places of offering flowers (Mal Asana)	20	00
„ Charity box collections	123	90	4. Shrine room (Vihara)	15	04
„ Received loan given by Sri Sumangala Memorial Sabha	50	00	5. Dagoba	12	50
„ Contributions to electricity by societies which conducted religious ceremonies	32	50	6. Library	2	40
„ Contribution to electricity by benign gentlemen who arranged Bana preachings	12	66	Two large tables	26	52
„ Contributions to Katina ceremony	35	94	„ Repairs to furniture	10	68
„ Alms	26	00	„ Construction of drains	22	70
„ Special facilities for Principal provided by Mr. Neil Hewavitarne, M.S.C.	10	00	„ Mats for preaching hall	11	00
„ Miscellaneous	2	40	„ Travelling expenses incurred by the Principal for work of the Pirivena	47	20
„ Deposit in Savings Bank	1,000	00	„ Telegrams connected with work of Pirivena	1	55
			„ Facilities and provisions for Principal	10	00
			„ Katina ceremony	41	45
			„ Other religious ceremonies	10	56
			„ Hire of 6 flags	2	50
			„ Examinations of the Pirivena	34	83
			„ 30 Attendance Registers	10	80
			„ Printing and postage	6	27
			„ Anuradhapura property case	15	00

..	Cheque book charges and commission for out- station cheques	8 65
..	Dustbin	3 50
..	Municipal taxes	2 70
..	Miscellaneous	1 05
..	Money received from late Mrs. Mallika Hewa- vitarne's Last Will deposited in Savings Bank	1,000 00
..	Balance in Banks :	1,566 70
..	Deposits in Banks : —	
..	1. Savings Bank	1,252.78
..	2. National Bank	313.92
	Rs. ..	1,566.70

Rs. .. 5,030 65

5,030 65

(Sgd.) J. MOONESINGHE,
Hony. Secretary.

Accounts found to be correct.

(Sgd.) A. WIJESINGHE,
Hony. Auditor. 6.3.38.

Loans to be settled with M/s. H. Don Carolis & Sons, Ltd.
Rs. 1,293.50.

Adapted at the meeting on 21.6.38.

(Sgd.) D. P. A. WIJEWARDANA,
President.

(Sgd.) B. R. DIAS,
Hony. Treasurer, 8.2.38.

INCOME	Rs.	c.	EXPENDITURE	Rs.	c.
Brought forward	7,021	94	By Transport expenses for conveying chairs and tables for the exam	112	00
			" Attendance Registers, etc.	112	70
			" Post cards and stamps	126	50
			" Ledger and cash book	126	50
			" Printing of two statements of accounts of 1937	126	00
			" Dustbins (2)	163	00
			" Registration of letters	161	47
			" Repairs to Cyclostyling machine	161	25
			" Religious ceremonies	141	25
			" Telegrams	136	10
			" Broomstick, etc.	136	10
			" Sundry expenses	136	50
			Bank Balance :—		
			Ceylon Savings Bank No. 160573	1,252	78
			National Bank	1,805	97
				3,058	75

Rs. . . 7,021 94

Rs. . . 7,021 94

Accounts found to be correct.
 (Sgd.) A. WIJESINGHE,
Hony. Auditor.
 10.10.38.

Loan obtained from M/s. H. Don Carolis & Sons unsettled :—
 Rs. 1,030/-.

(Sgd.) B. R. DIAS,
Hony. Treasurer.
 25.8.38.

P15
Letter from
the 1st
Defendant to
the Sabha
29.4.38

P15**Letter from the 1st Defendant to the Sabha***Translation*

Out of love for the religion I send this reminder to
the Vidyadhara Sabha.

Devoted Gentlemen,

A period of more than two years has now passed since the demise of the Ven'ble Kahawe Nayaka Thero, the principal of this Pirivena. At that time itself I informed many a time of the fact that I had regained my health to enable me to discharge the duties of my 10 position to which I was entitled as the teacher with the longest service here. But as no notice of it was taken, I feel that my life during that time proved greatly unprofitable.

Please understand that in this life there is nothing else more congenial to me than working for the good of others by way of imparting the knowledge of the Dhamma to students and educating them so that they may be of service both to the world and religion. If for some reason I were obliged to spend a further period without being engaged in the work most congenial to me, it might cause in my mind worry almost unbearable. I therefore urged by love of the religion 20 and kindness most earnestly request you to pay your attention to this matter as quickly as possible.

Yours in love of religious progress,

At Vidyodaya Pirivena,
29th April, 2481/1938.

(Sgd.) M. DHAMMANANDA.
(Morontuduwe Nayaka Thero)

2D12-O**Minutes of the Sabha Meeting***Translation*

Reference Page 121.

Minutes of the meeting of Vidyadhara Sabha held on 21st June, 30 2482 B.E./1938 A.D., at the Vidyodaya Pirivena premises.

Those Present : Rev. Principal of the Pirivena, Muhandiram D. P. Wijewardene, Dr. D. B. Perera, Dr. G. P. Malalasekera, Messrs. W. H. W. Perera, Proctor, B. R. Dias, Neil Hewavitarne, Raja Hewavitarne, and J. Moonesinghe, Secretary.

The work commenced with Muhandiram Wijewardene in the chair. The Treasurer read the statement of income and expenditure for the latter six months of the year, 1937, as the minutes of the last meeting were not ready. The Treasurer's statement was accepted. Mr. W. H. W. Perera stated that it should be properly and clearly 40 certified by the auditor. The Treasurer agreed to get it certified for the next meeting. It was decided to draw up a list giving the arrears of fees due from members, for the next meeting. When compiling such a list it was agreed to deduct amounts due for services rendered by the members.

2D12-O
Minutes of the
Sabha Meeting
21.6.38

It was decided to invite the Governor of Ceylon to distribute prizes at the prize giving to be held somewhere in September. In view of the fact that Mr. Samaraweera who is the caretaker of the two houses in Anuradhapura submits house rents only once in three months, it was decided to write asking him to make monthly remittances. Further Dr. Malalasekera was asked to meet and discuss the matter with Mr. Samaraweera when he (Dr. Malalasekera) gets to Anuradhapura.

2D12-O
Minutes of the
Sabha Meeting
21.6.38—
Continued

The house agreed to a resolution moved by Dr. Malalasekera to
10 deposit in the Savings Bank the moneys collected as rent in Anuradhapura.

As sufficient interest has not been realised to give a prize in the name of Mrs. Mallika Hewavitarne her sons and daughters agreed to meet the expenses needed for the prize. It was decided to write to Elapatha Ratamahatmaya, Mr. Gonakumbura and Rev. Narada asking for a date when they would be in Colombo in order to discuss the cultivation of the land in Ratnapura.

The house accepted a letter from the Principal of the Pirivena stating that Rev. Pannasara has left for England and Rev. Hegoda
20 Dhamminda who studied in the Pirivena and who was successful in final examination has been appointed as an additional tutor.

Mr. H. Ranasingha, Coroner, had sent a promissory note and Rs. 150/- which was realised as interest on Rs. 1,000/- which Mr. Ranasingha had given to late Rev. Ratanasara Nayaka Thero for the betterment of the Pirivena and which was given as a loan to Mr. S. K. Munasingha by Mr. Ranasingha. It was decided to accept the promissory note and interest and write asking Mr. Moonesinghe to settle the loan early.

The Secretary proposed and Dr. D. B. Perera seconded that in
30 view of the fact Rev. Morontuduwe Nayaka Thero has expressed his desire to work unitedly, the Principal of the Pirivena is requested to re-attach him (Rev. Morontuduwe) in the teaching of Dhamma Sastraya (Science of the Doctrine) in the Pirivena. The Principal of the Pirivena stated that he would re-consider the matter. Dr. Malalasekera, Mr. W. H. W. Perera, Proctor, and Muhandiram Wijewardene were asked to discuss the matter with monks of the tutorial staff.

The gathering dispersed having decided to meet again on the 5th of the following month.

Adopted.

40 (Sgd.) E. A. ABAYASEKARA,

President.

5.7.38.

(Sgd.) J. MUNASINGHE,

Hon'y. Secretary.

2D37A
Translation of 2D37

**Statement of Income and Expenditure of the Vidyadara Sabha of Vidyodaya Pirivena, Maligakande, Colombo, for the Six Months
Period from 1st July, 1938 to 31st December, 1938**

	Rs.	c.	EXPENDITURE	Rs.	c.
INCOME					
To Bank balance as on 30.6.1938 :—					
Ceylon Savings Bank	1,252	78	By Alms and other requirements of Bhikku teachers and Director	1,450	45
National Bank	1,805	97	Facilities for the Principal of the Pirivena and teachers who went on pilgrimage to India	59	68
Alms during rainy season	681	00	Travelling expenses incurred by the Principal in connection with the work of the Pirivena	10	75
Memberships fees	125	00	Electricity	403	60
Donors' membership fees	74	00	Salaries of English teachers	260	00
Sri Devamittha Dharmapala Fund	140	00	Wages of employees	255	50
House rent from Anuradhapura property	365	00	Repairs to buildings :—		
Charity box collections	83	83	1. Living quarters	140	74
Contributions towards electricity made by organisations and individuals engaged in religious ceremonies	40	00	2. Preaching hall	89	58
Contributions towards Katina ceremony	16	38	3. Library	95	83
Alms	18	00	4. Shrine room	22	23
Loan	200	00	5. Kitchen	15	00
	<u>4,801</u>	<u>96</u>	6. Water pipes, etc.	31	50
	Rs.	..	7. Flight of steps	11	25
			8. Drains	52	50
(Sgd.) B. R. DIAS, <i>Hony. Treasurer.</i>			9. Repairs to furniture	31	32
Accounts found correct.			Katina ceremony	33	09
(Sgd.) A. WLJESINHA, <i>Hony. Auditor.</i>			Attendance registers	13	96
14.5.39.			Pirivena examination	43	15
			Municipal taxes	2	70
			Stamps and envelopes	1	50
			Repairs to house in Anuradhapura property	34	06
			Sundry expenses	3	50
			Bank balance :—		
(Sgd.) R. HEWAVITARNE,			Ceylon Savings Bank	1,252	78
Loan obtained from Messrs. H. Don Carolis & Sons...	1,030	00	National Bank	487	29
Loan obtained to pay teachers' salaries	200	00			
	<u>1,230</u>	<u>00</u>			
	Rs.	..			
			<u>Rs. ..</u>	<u>4,801</u>	<u>96</u>

Adopted.
(Sgd.) G. MALALASEKERA,
President.
29.1.40.

1019

2D9

**Letter from the 1st Defendant to the Secretary, Vidyadhara
Sabha**

2D9

Letter from
the 1st
Defendant to
the Secretary
Vidyadhara
Sabha
29.7.38

Translation

I send this reminder with affection and thanks to
the Hony. Secretary of the Vidyadhara Sabha.

Dear Sir,

Did you submit to the Sabha the letter dated 29th April, 1938,
and sent by me to the Sabha ? Did the Sabha pay its attention to
10 my request ? If so, what was the Sabha's decision about it ? I beg
most earnestly of you kindly to let me know these matters as early as
possible.

As it is known that the Sabha is preparing for a prize-giving
function of the Pirivena, I also most kindly request you to place
before the Sabha the necessity to make a decision concerning my
matter before such event.

Wishing the permanence of religion,

(Sgd.) M. DHAMMANANDA.

(Morontuduwe Nayaka Thero)

20 At Vidyodaya Pirivena,
July 29, 1938.

2D38A
Translation of 2D38

Statement of Income and Expenditure of the Vidyadhara Sabha of Vidyodaya Pirivena, Maligakanda, Colombo, for the Six Months
from 1st January, 1939 to 30th June, 1939

INCOME		Rs.	c.	EXPENDITURE		Rs.	c.
To Bank balance as on 1st January, 1939 :—				By Alms and other requirements of Bhikku- teacher and Director	126 ..	1,466	58
Ceylon Savings Bank	1,252-78			Electricity	113 ..	491	39
National Bank	487-29	1,740	07	Salaries of English teachers	142 ..	290	00
Government grant	46 ..	4,500	00	Loan obtained to pay salaries of English teachers	29 ..	200	00
House rent of Anuradhapura property .. 54-5 ..	389 ..			Wages of employees	133-5 ..	258	70
Charity box collection	114 00			Loan obtained from M/s. H. Don Carolis & Sons	137 ..	250	00
Membership fees	58 00			Repairs to buildings :—			
Contributions made by organisations towards electricity	48 ..	148	69	1. Living quarters	138 ..	201	28
Collections from the sale of stone slabs .. 46 ..	46 ..	35	00	2. Library	138 ..	110	35
Sri Dewamitta Dharmapala Fund	44 ..	20	00	3. Dharmasala (Preaching hall) .. 139-40 ..	139	52	85
Alms	46 ..	18	00	4. Shrine room	140 ..	12	55
Sale of old zinc sheets	46 ..	6	00	5. Water pipes	140 ..	10	50
Katina ceremony	40 ..	5	00	6. Water closets	140 ..	17	50
				7. Wall	140 ..	6	97
				Repairs to furniture	140 ..	18	65
				Transport of bricks	140 ..	14	50
				Telephone	137 ..	34	42
				Legal expenses of Godiyagamuwa pro- perty	137 ..	10	00
				Travelling expenses incurred by the Principal	143-4 ..	41	33
				Medical expenses of Bhikku-teachers .. 137 ..	137 ..	22	85
				Repairs to small house on Anuradhapura property	145 ..	205	80
				U.D.C tax on Anuradhapura property .. 145 ..	145 ..	65	60

Money Order commission (Anuradhapura rent)	145 ..	4 80
Municipal taxes	148 ..	30 00
Stamps, ledgers, postal orders, etc.	143 ..	5 72
Sundry expenses	137 ..	2 50
Bank balance :—		
Ceylon Savings Bank	1,252.78*	
National Bank	2,102.88	3,355 66
	Rs. ..	7,180 51

Rs. .. 7,180 51

*Interest for 1937 and 1938 not added.
(Sgd.) R. HEWAVITARNE,
29.1.40.

Loan obtained from M/s. H. Don Carolis & Sons, Rs. 780/-.
(Sgd.) B. R. DIAS,
Hony. Treasurer.
26.7.39.

Hony. Secretary.
Accounts found correct.
(Sgd.) A. WIJESINGHE,
Hony. Auditor.
9.9.39.

Adopted.
(Sgd.) GUNAPALA MALALASEKERA,
29.1.40.

(Sgd.) A. WIJESINGHE,
Hony. Auditor.

2D12P
Minutes of the Sabha Meeting

Translation

Minutes of the Vidyadhara Sabha held at the Vidyodaya
Pirivena on 14th March, 1939, C.E. and
2482 B.E.

There were present Dr. D. B. Perera, Messrs. Neil Hewavitarne, M.S.C., Dr. G. P. Malalasekera, Mudaliyar E. A. Abayasekara, Messrs. J. Munasinghe, B. R. Dias, W. H. W. Perera, Proctor, and R. Hewavitarne, Secretary.

10

Dr. D. B. Perera was elected Chairman and after Pansil had been taken the minutes of the last meeting were read and confirmed. Mudaliyar Abayasekara proposed that Mr. R. Hewavitarne be elected to the office of Secretary as Mr. J. Moonesinghe had resigned from that post. This resolution was seconded by Mr. B. R. Dias and agreed to by the meeting. Mr. N. Hewavitarne proposed a vote of thanks to Mr. J. Moonesinghe in appreciation of his services as Secretary for a considerable length of time. This was seconded by Dr. G. P. Malalasekera and carried. A committee consisting of the three persons, Dr. G. P. Malalasekera, Mudaliyar E. A. Abayasekara and R. Hewavitarne (Hony. Secretary), was elected for the purpose of making arrangements for the distribution of prizes. It was agreed that Mr. Dissanayake be appointed the Head Teacher of the English classes of the Pirivena and that the same salary be paid for the said post as had been done previously. The business of the day terminated.

(Sgd.) GUNAPALA MALALASEKERA.

Hony. Chairman.

29.1.1940.

(Sgd.) R. HEWAVITARNE,

Hony. Secretary. 30

2D39A

Translation of 2D39

Statement of Income and Expenditure of Vidyadhara Sabha of Vidyodaya Pirivena, Maligakanda, Colombo, for the Six Months
Period from 1st July to 31st December, 1939

INCOME		Rs.	c.	EXPENDITURE		Rs.	c.
To Balance as on 30.6.1939 :—				By Alms other requirements of Bhikku teachers and			
Ceylon Savings Bank	..	1,252	78	Director ..	..	1,525	76
National Bank	..	2,102	88	Electricity ..	..	369	61
..	..			Salaries of English teachers ..	..	282	50
..	..			Wages of employes..	..	257	00
..	..			Pirivena examinations ..	..	51	08
..	..			Attendance registers ..	..	2	40
..	..			Repairs to buildings	..		
..	..			1. Living Quarters ..	..	237	93
..	..			2. Boiler ..	..	33	24
..	..			3. Water closets ..	..	27	85
..	..			4. Construction of the road ..	..	27	00
..	..			5. Wall ..	..	5	00
..	..			6. Preaching hall ..	..	2	70
..	..			7. Repairs to large house on Anuradhapura land ..	..	95	10
..	..			Money Order Commission (Anuradhapura rent) ..	..	4	40
..	..			Telephone ..	..	68	15
..	..			Telegrams ..	..	2	93
..	..			Religious ceremonies ..	..	53	22
..	..			China matting ..	..	13	49
..	..			Travelling by the Principal on account of Pirivena	..		
..	..			work ..	..	40	00
..	..			Repairs to cushions ..	..	39	10
..	..			Cheque books ..	..	3	08
..	..			Printing charges ..	..	4	87
..	..			Repairs to furniture ..	..	1	00
..	..			Bank balance :—	..		
..	..			Ceylon Savings Bank ..	..	1,294	18
..	..			National Bank ..	..	610	83
..	..			..	..	1,905	01
..	..			Rs. ..	..	5,052	42
..		

(Sgd.) R. HEWAVITARNE.

Hon'y. Secretary.

Accounts correct.

(Sgd.) A. WIJESINHA,

Hon'y. Auditor.

Messrs. H. Don Carolis & Sons, Ltd. loan unsettled ..

Loan obtained to teachers' salaries ..

(Sgd.) B. R. DIAS,

Hon'y. Treasurer.

11.3.40.

2D39A
Translation
of 2D39
1.7.39 to
31.12.39

2D40A

Translation of 2D40

Statement of Income and Expenditure of the Vidyadhara Sabha of Vidyodaya Pirivena, Maligakanda, Colombo, for the Six Months
Period From 1st January, 1940 to 30th June, 1940

INCOME		Rs.	c.	EXPENDITURE		Rs.	c.
To Bank balance as on 31st December, 1939 :—				By Alms and other requirements of the			
Ceylon Savings Bank	..	1,294	18	Bhikku teachers and Director	..	129	..
National Bank	..	610	83	Electricity	..	114	..
				Salaries of English teachers	..	142	..
Government grant	..	60	..	Wages of employees..	133, 134, 135 & 153	..	269 80
House rent from Anuradhapura property	..	55	..	Telephone ..	..	154	..
Charity box collections	..	38	9	Pirivena examination	..	146	..
Contributions towards electricity made	..	56	..	Attendance registers	..	146/152	..
by organisations	..	..	..	Travelling expenses and telegraphic	..	..	11 85
Memberships fees	..	..	..	charges incurred by the Principal on	..	..	60 85
Donor membership fees	..	84	00	account of Pirivena work	..	157	..
Extension of living quarters	..	46	..	Repairs to Buildings :—			
Sri Dewamittia Dharmapala Fund	..	44	..	1. Living quarters	..	150	..
Sale of slabs of stone	..	60	..	2. Vihara (Shrine room)	..	150	..
Lease of Nindagam land at Kottegoda..	..	45	..	3. Wall..	..	156	..
Alms	..	60	..	4. Library	..	151, 153	..
Religious ceremonies	..	47	..	5. Alms hall	..	156	..
Telephone	..	47	..	6. Water closet	..	156, 151	..
Sundry income	..	60	..	7. Repairs and extension of water	..	..	..
Bank interest	..	..	..	pipe	..	156, 153	..
				Accommodation of Buddha relics	..	153	..
				Erection of a platform	..	156	..
				Other furniture	..	141 147	..
				Repairs to 41 mattresses	..	153	..
				Repairs to furniture..	..	147, 156	..
				1,000 slabs of stone ..	..	156	..
				Municipal taxes	..	148	..
				U.D.C. tax on Anuradhapura property	..	155	..
				Money Order commission re-above	..	155	..
				Religious ceremonies	..	153	..
				Cremation of Rev. Siriniwasa..	..	153	..
				Stamps, ledgers, envelopes, etc.	..	152	..
				Carried forward	..	Rs. ..	3,348 51
				Carried forward	..	Rs. ..	7,576 21

Income and Expenditure Account—(Contd.)

INCOME	Rs. c.
Brought forward ..	Rs. .. 7,576 21

EXPENDITURE

	Rs. ..	Rs. c.
Brought forward ..	Rs. ..	3,348 51
By Payment of loan to M/s. H. Don Carolis & Sons ..	153 ..	300 00
Salaries of English teachers ..	29 ..	150 00
Books for Siamese King's Prize ..	153 ..	224 70
Bank Balance :—		
Ceylon Savings Bank ..	1,332.88	
National Bank ..	2,316.12	
Cheques not cashed ..	96.00	3,553 00

	Rs. ..
	7,576 21

(Sgd.) R. HEWAVITARNE,

Hony. Secretary.

Accounts found to be correct.

(Sgd.) A. WIJESINGHE,

Hony. Auditor.

10.10.40.

Loan obtained from M/s H. Don Carolis & Sons unsettled,
Rs. 480/-.

Adopted.

(Sgd.) GUNAPALA MALALASEKERA.

31.10.40.

(Sgd.) B. R. DIAS,
Hony. Treasurer.

1D12

Extract from
Deed No. 1299
attested by
K. D. P. Abey-
siriwardene,
Notary Public
16.1.40

1D12**Extract from Deed No. 1299***Translation*

Lands 8.
Rs. 2,000/-.

No. 1299

Know all men by these presents that I, Hikkaduwe Sri Sumangala Pemananda Istavira, the Incumbent of Nagalagasdeniya Sri Nagarama Temple in Hikkaduwa, Wellaboda Pattu, Galle District, the Second Nayaka Thero of the Colombo Nine Korales and the Incumbent of the 10 Vidyodaya Pirivena Vihara in Maligakanda, Colombo, do hereby declare as follows :—

That I the said Sri Sumangala Pemananda Nayake Thero in consideration of the natural affection, kindness and mercy I bear in mind towards Pandita Welivitiye Sorata Isthavira the Incumbent of the Tilakarama Vihara in Hettigoda in Hikkaduwa aforesaid the Head-Assistant Teacher of Vidyodaya Pirivena in Maligakanda, Colombo, who is my affectionate, good humoured and obedient Chief Pupil and of other different good reasons hereby declare to have gifted, assigned and delivered the property described in the Schedule herein- 20 after mentioned worth Rs. 2,000/- at present as an absolute gift which cannot be cancelled for any reason at any time reserving my life interest being property held and possessed by me without dispute by right of pupillary succession from my teachers.

Therefore I, the said Hikkaduwe Pemananda Nayaka Isthavira, hereby declare to have assigned the full power unto the said Pandita Welivitiye Sorata Isthavira and to the pupils of his pupillary succession to possess the said property from the date hereof subject to my life interest and to do whatever at pleasure with the same.

(Sgd.) K. D. P. ABEYSIRIWARDENE, 30
N.P.

2D12Q

Minutes of the
Sabha Meeting
29.1.40

2D12Q**Minutes of the Sabha Meeting***Translation*

Minutes of the Vidyadhara Sabha held at the Vidyodaya Pirivena on 29th January, 1940 C.E., and 2482 B.E.

There were present Dr. D. B. Perera, Dr. G. P. Malalasekera, Proctor J. Moonesinghe, Mudaliyar E. A. Abayasekara, Messrs. B. R. Dias, W. H. W. Perera, Proctor, Gonakumbura and Raja Hewavitarne (Secretary).

Ven'ble Baddegama Piyaratana Nayaka Thero occupied the chair. Proctor J. Moonesinghe proposed Dr. G. P. Malalasekera to the chair. This was seconded by Mudaliyar E. A. Abayasekara and carried. On Dr. G. P. Malalasekera taking the chair, all those present observed Pansil. Thereafter the minutes of the last meeting were read and confirmed. A vote of condolence on the deaths of Mr. Neil Hewavitarne, M.S.C., and Muhandiram D. P. A. Wijewardene, proposed by the Nayaka Thera, having been unanimously passed, it was decided that a record of these proceedings be sent to the families
10 of the two respective gentlemen.

The matter of distributing an adequate number of notices among members and the dayakas giving them sufficient notice of meetings was discussed. Mudaliyar Abayasekara submitted a copy of the Society's deed and referred to the procedure of electing two new Sabhapathis and the matter was taken up for discussion. Proctor W. H. W. Perera proposed the name of Hon. Mr. C. W. W. Kannan-gara as a member and Dr. D. B. Perera seconded. Mr. B. R. Dias proposed the name of Mr. Wimaladharma Hewavitarne and Mudaliyar Abayasekara seconded. The motions to elect both these gentlemen
20 were carried by the Sabha. Although a discussion ensued upon this subject Dr. Perera informed the meeting that the Nayaka Thera is empowered to make those appointments to the Sabha. The two half yearly balance sheets for the periods ending 31.12.38 and 31.9.39 respectively were submitted and were scrutinised and adopted. This was proposed by Mudaliyar Abayasekara and seconded by Dr. D. B. Perera. The Treasurer, Mr. Dias, was specially thanked in this connection. Dr. Malalasekera spoke regarding the preparation of a balance sheet on the financial position.

Proctor Perera informed that although a list of expenses regarding
30 a case was sent to Mr. Raja Hewavitarne no reply had been received. He also stated that the deed of the Anuradhapura buildings belonging to the Society had been forwarded.

It was agreed that the fees due to Proctor W. H. W. Perera for the cases of the Society be written off in settlement of membership fees due by him and that the subscription due from him be charged from the month of . . . 1940.

It was decided that meetings of the Society should be held on the first Monday of the month.

A Committee consisting of Messrs. Malalasekera, Abayasekara and
40 Proctor Perera was appointed to devise a system for conducting the affairs of the Pirivena satisfactorily. Rev. Sorata was appointed for any necessary consultation.

(This portion has been written on 4.3.40 and initialled.)

2D12Q
Minutes of the
Sabha Meeting
29.1.40—
Continued

It was decided to invite H. E. the Governor of Ceylon for the Prize Distribution at the end of March (1940) and that only special Prizes be awarded by him. Messrs. Raja Hewavitarne, Malalasekera and Abayasekera were appointed to collect money for the Prize Distribution. Mr. Kalyanaratne was also officially appointed for this purpose. Mr. Raja Hewavitarne was appointed Secretary and Treasurer of the Prize Distribution. It was agreed that the Secretary should write to Mr. Gonakumbura and that the possession and enjoyment of the produce of the land should be done for the improvement of and on behalf of the Society. It was stated that Elapata Rate Mahatmaya did not perform any duties at the request of the Sabha. 10

It was decided to pay the moneys due for all such duties as had been performed on behalf of the society.

Hony. President.

4.3.40.

(Sgd.) R. HEWAVITARNE,

Hony. Secretary.

P16
Letter from
the 1st
Defendant-
Appellant to
the Sabha
7.5.40

P16

Letter from the 1st Defendant-Appellant to the Sabha

Translation

20

Out of love for the religion I send this reminder to
members of the Vidyadhara Sabha.

Devoted Gentlemen,

It is a matter for regret that you have not yet shown any interest in the matter about which I wrote letters to the Sabha several times since the year 1936.

Although I brought to the notice of the Principal of this Pirivena several times the fact that I was well enough to discharge my duties as the most senior teacher of this Pirivena at the time, no notice was taken of it. Nevertheless, after my informing so, it appears that 30 three monks have been appointed for the purpose, it is said, of teaching here.

Appointed in the year 1919 as a teacher in this Pirivena I functioned as a teacher uninterruptedly for a period of 15 years until I fell ill in February, 1934. And even now I am maintained as a teacher of this Pirivena by the Vidyadhara Sabha which supplies all my needs. In these circumstances I most kindly request you to consider whether it is fair or just not to get a Bhikku of my standing to render the service

that should be given through this Pirivena to the religion, and pave the way for me to render through this Pirivena the service due by me to the religion.

Wishing the permanence of religion,

(Sgd.) M. DHAMMANANDA.

Vidyodaya Pirivena.
7.5.40.

(Morontuduwe Nayaka Thero)

P16
Letter from
the 1st
Defendant-
Appellant to
the Sabha
7.5.40—
Continued

P27

**Letter from the 1st Defendant-Appellant to the Principal
of the Vidyodaya Pirivena**

Translation

Siri Dhammananda Thero,
Chief High Priest,
Sabaragamuwa Province.

Vidyodaya Pirivena,
Maligakanda,
Colombo, 28.6.1940.

With due respect I write and inform the Ven'ble Principal of the Vidyodaya Pirivena.

Ven'ble Sir,

You may be aware that from 1934 until you became the Principal here I was unable to teach owing to severe illness.

I believe you remember the conversations we had between you and me, from the demise of the Ven'ble Kahawe Nayaka Thero until you became Principal here, about our work in this Pirivena.

After you became the Principal of this Pirivena for a number of months I requested you to give the pupil classes in charge to me as I had recovered my health to discharge the duties of the Tutorship belonging to me in this Pirivena. And as you did not comply with my request I sent you the letters dated 9.5.36 and 19.5.36. No reply was received to any of these letters.

Although I was healthy enough from 1919 to discharge the duties of the teachership that belongs to me in this Pirivena my time has been now spent in vain for over four years. Such occurrence, I think you will realize, is a great loss to this Pirivena, to the people and religion and to myself.

I therefore request again that arrangements should be made to enable me to discharge the duties of the teachership that belongs to me in this Pirivena. And if for some reason no such arrangement can be made at all I beg kindly that it should be made known to me before the 3rd proximo.

Thus writes,

(Sgd.) M. DHAMMANANDA.

(Morontuduwe Nayake Thero)

P27
Letter from
the 1st
Defendant-
Appellant to
the Principal
of the Vidyodaya Pirivena
28.6.40

2D41A

Translation of 2D41

Translation

Statement of Income and Expenditure of the Vidyadhara Sabha of Vidyodaya Pirivena, Maligakanda, Colombo, for the Six Months
Period from 1st July to 31st December, 1940

INCOME		Rs.	c.	EXPENDITURE		Rs.	c.
To Bank balance as on 30th June, 1940 :—				By Alms and other requirements of Bhikku teachers and Director			
Ceylon Savings Bank	..	1,332	88	Prize giving	..	1,777	62
National Bank	..	2,220	12	Electricity	..	1,069	49
Prize giving	..			Wages of employees..	..	330	07
Alms during rainy season	..	1,836	50	Repairs to buildings :—	..	270	97
House rent from Anuradhapura property	..	743	35	Alms hall	..	35	43
Sri Devamitta Dharmapala Fund	..	308	80	Living quarters	..	26	27
Membership fees	..	240	00	Water closets	..	29	65
Donor membership fees	..	134	00	Water pipes	..	31	40
Charity box collections	..	47	00	Library	..	8	00
Contributions made by organisations performing functions towards electricity	..	89	07	Shrine room	..	4	65
Contributions towards Katina ceremony	..	69	09	Wall	..	6	65
In memory of late Mr. T. G. C. Perera	..	60	07	20 long jak tables	..	170	00
Alms	..	19	50	12 mats	..	63	75
Telephone	..	18	00	Repairs to furniture..	..	14	84
Bank interest	..	12	00	Katina ceremony	..	60	58
	..	6	14	In memory of late T. G. C. Perera	..	20	61
	..			Salaries of English teachers	..	50	00
	..			Repairs to large house on Anuradhapura property	..	223	71
	..			Money order commission (Anuradhapura property)	..	0	60
	..			Pirivena examination	..	91	90
	..			Expenditure on travelling and telegrams incurred by the Principal on account of Pirivena work	..	42	05
	..			Telephone	..	22	55
	..			Repairs to hot water bath	..	6	23
	..			2 black boards	..	6	25

Postage and ledger ..	..	..	3 03
Cheque book ..	..	..	3 58
Sundry expenses ..	..	..	3 00
Contributions towards prize books made by Mrs. Mallika Hewavitarne ..	..	..	50 00
Bank balance :—			
Ceylon Savings Bank ..	..	1,282.88	
National Bank ..	..	1,430.76	2,713 64
		Rs. ..	<u>7,136 52</u>

Rs. .. 7,136 52

Loan obtained from H. Don Carolis & Sons, Ltd. unsettled Rs. 480/-

Accounts found to be correct.

(Sgd.) A. WIJESINGHE,
Govt. Auditor.

(Sgd.) R. HEWAVITARNE,
Hony. Secretary.

(Sgd.) B. R. DIAS,
Hony. Treasurer.

Adopted.

(Sgd.) H. W. Amarasuriya,
30.5.41

2D41A
Translation of
2D41
1.7.1940 to
31.12.1940—
Continued

P28

P28
 Letter from
 the 1st
 Defendant-
 Appellant to
 the Principal,
 Vidyodaya
 Pirivena
 7.7.40

**Letter from the 1st Defendant-Appellant to the Principal,
 Vidyodaya Pirivena**

Translation

Siri Dhammananda Thero,
 Chief High Priest,
 Sabaragamuwa Province. *

Vidyodaya Pirivena,
 Maligakande,
 Colombo, 7.7.1940. 10

Respectfully submitted to the Ven'ble Principal of
 Vidyodaya Pirivena

Ven'ble Sir,

The letter dated 3.7.40 and forwarded to me reached me. I was appointed a teacher in this Pirivena on the 14th of July, 1919.

After your assumption of duties here as Principal the pupil classes were not given to me to enable me to do the teaching I am entitled to, and the consequent loss to me is very great.

If you had, as you had promised me several times after the demise of the Ven'be Kahave Thero until you became the Principal 20 here, by way of doing your duty out of love for the religion, entrusted to me the pupil classes, the above mentioned loss, I am positive, would not have occurred.

I, therefore, kindly request you, without any further preventing me, the most senior member of the staff of this Pirivena now said to be complete, from performing the service that should be rendered by me through this Pirivena, and without depriving me of the gain that should by such means come to me positively and as a matter of course, to entrust me out of love for the religion with the pupil classes to enable me to teach as from Wednesday the 10th instant. 30

Thus states,

(Sgd.) M. DHAMMANANDA.
 (Morontuduwe Nayake Thero)

1033

2D10

**Letter from the 1st Defendant-Appellant to the Vidyadhara
Sabha**

Translation

Kindly and thankfully I bring this to the notice of members
of the Vidyadhara Sabha.

Devoted Gentlemen,

A copy of the letter dated 7.3.40 sent to me by the Ven'ble Principal
of Vidyodaya Pirivena in reply to my letter dated 28.6.40 sent to
10 him, and a copy of the letter sent by me in reply to his letter are
forwarded herewith for the information of members of the Sabha.

I trust that the Sabha out of love for the religion will try to cause
the arriving at a satisfactory decision on this matter.

In love of the permanent establishment of religion,

(Sgd.) M. DHAMMANANDA.

(Morontuduwe Nayaka Thero)

At Vidyodaya Pirivena.

7.7.40.

P29

**20 Letter from the 1st Defendant-Appellant to the Principal,
Vidyodaya Pirivena**

Translation

Siri Dhammananda Thero,
Chief High Priest,
Sabaragamuwa Province.

Vidyodaya Pirivena,
Maligakanda,
Colombo, 20.7.1940.

Respectfully written for the information of the Venerable
Principal of the Vidyodaya Pirivena.

Venerable Sir,

It is very well known to you that the teachers of this Pirivena
30 get not only the very noble merits derived from imparting the Dharma
and knowledge but also teacher's perquisites from pupils.

It is very regrettable that I am compelled to inform you that you
Ven'ble Sir, by your failure to give me pupil classes to enable me to
discharge the duties of the teachership which belongs to me in this

2D10

Letter from
the 1st
Defendant-
Appellant to
the Vidyadhara
Sabha
7.7.40

P29

Letter from
the 1st
Defendant-
Appellant to
the Principal,
Vidyodaya
Pirivena
20.7.40

P29
Letter from
the 1st
Defendant-
Appellant to
the Principal,
Vidyodaya
Pirivena
20.7.40—
Continued

Pirivena, have deliberately deprived me of the said meritorious gain and teacher's perquisites. By your refusal to make arrangements as requested by letter dated 7.7.40 it seems that you intend continuing further to cause the said loss to me.

Such action on your part, in view of your very great knowledge concerning the nature and discipline of a Bhikkhu, is to my mind a positively very regrettable happening.

I, therefore, very kindly and out of love for the religion request you to understand that it is not a righteous deed corresponding to your position and dignity to refuse to entrust me, by way of dis- 10 charging your duty, with pupil classes to enable me to carry on the work of a teachership which belongs to me in this Pirivena and thereby engage in the altruistic service for the good of the people and religion, and that by doing so you are deliberately depriving me of my perquisites, a gain just and proper and to which I am entitled by religious sanction and which should naturally come to me as a teacher.

And if there is any reason for not understanding it in that sense I hope you will kindly let me know it and, if you do not do so by the 22nd instant, I shall conclude that by being silent you have agreed 20 it to be so.

Thus informs,

(Sgd.) M. DHAMMANANDA.

(Morontuduwe Nayaka Thero)

P30
Letter from
the 1st
Defendant-
Appellant to
the Principal,
Vidyodaya
Pirivena
24.7.40

P30

**Letter from the 1st Defendant-Appellant to the Principal,
Vidyodaya Pirivena**

Respectfully written for the information of the
Ven'ble Principal of Vidyodaya Pirivena.

Ven'ble Sir,

The letter forwarded on the 22nd instant reached me. About 30 the facts which I asked you to accept, it may be possible to state so either by notifying that I resigned from the teachership which belongs to me in this Pirivena or, if there are complaints against me, such complaints should be duly made and, after proper inquiry, if such complaints are substantiated, by announcing that I am removed, and as until such action is taken I am a teacher of this Pirivena, I request you to understand that the recognition of such facts as they are is a high moral quality in keeping with the dignity of your position.

And in the event of your non-recognition, the fact should be announced to me on or before the 25th instant and, if it was not done so, I inform you, I conclude that you have recognised the fact by being silent.

Thus informs,

(Sgd.) M. DHAMMANANDA.
(Morontuduwe Nayaka Thero)

Vidyodaya Pirivena.
24.7.40.

10

Translated by :

(Sgd.) Illegibly.
S.T., D.C., Colombo.
2.10.44.

2D12R

Minutes of the Sabha Meeting

Translation

Minutes of the Meeting of the Vidyadhara Sabha
held on October 30, B.E. 2485/1940

Present : The Ven'ble Principal of the Vidyodaya Pirivena,
20 Rev. Pandit Sorata Thero, Dr. G. P. Malalasekera, Mudaliyar E. A. Abayasekara, Atapattu Lekam Gonakumbure, Messrs. W. D. Hewavitarne, B. R. Dias (Treasurer), W. H. W. Perera and Raja Hewavitarne, Secretary.

Minutes of the last meeting were read and confirmed. The statement of income and expenditure for the period of six months last was read by the Treasurer.

The Hony. Secretary referred to the valuable assistance given by Rev. Sorata Thero in connection with the Prize giving function of the Pirivena and having paid an eulogy, proposed a vote of thanks to
30 him. The Thero was given two years' leave to proceed to India and pursue his studies. The Thero requested the Sabha to look after the welfare of his Bhikkhu pupils during his absence in a foreign land.

P30

Letter from
the 1st
Defendant-
Appellant to
the Principal,
Vidyodaya
Pirivena
24.7.40—
Continued

2D12R

Minutes of the
Sabha Meeting
30.10.40

2D12R
Minutes of the
Sabha Meeting
30.10.40—
Continued

A vote of condolence was passed on the death of Mr. T. G. C. Perera. Proposed by Mr. Raja Hewavitarne and seconded by Mr. B. R. Dias, Mr. H. W. Amarasuriya, M.S.C., was elected to fill the vacancy created by Mr. Perera's death.

(Sgd.) H. W. AMARASURIYA,
Chairman.

30.5.41. (Sgd.) R. HEWAVITARNE,
Secretary.

2D11
Letter from
the Vidyadhara
Sabha to the
Principal,
Vidyodaya
Pirivena
16.12.40

2D11
Letter from the Vidyadhara Sabha to the Principal, 10
Vidyodaya Pirivena
Translation

Colombo, 16.12.40.

Written and submitted with due respect and worship to the
Principal Nayaka Thera of Vidyodaya Pirivena.

Venerable Nayaka Thera,

We, the presidents of the Vidyadhara Sabha, earnestly request Your Honour to entrust pupils to Morontuduwe Nayaka Thera who is a tutor of the Vidyodaya Pirivena, when assuming again the tuition of the Pirivena in the month of January next ensuing. 20

To this,

Supporters :—

(Sgd.) RAJAH HEWAVITARNE.
 „ J. MOONESINGHE.
 „ D. B. PERERA.
 „ W. H. W. PERERA.
 „ W. A. de SILVA.
 „ GUNAPALA MALALASEKERA.
 „ K. R. DIAS.
 „ E. A. ABAYASEKARA. 30
 „ W. D. HEWAVITARNE.
 „ K. W. GONAKUMBURE.

1037

1D11

Letter from Venerable W. Sorata with Envelope

Translation

1D11
Letter from
Venerable W.
Sorata with
Envelope
21.12.40

4 A, College Square,
Calcutta,
21st December, 1940.

Informing by worshipping—
The Right Venerable Nayaka Thero.

Regret not having sent a letter before. Now I am in the
10 University. I am in sound health. Here, I can improve my studies
even without any work.

You being the Chief pupil of Right Ven'ble Hikkaduwe Nayaka
Thero, we regret to note and say that it is wrong to neglect the
improvement and the future uninterrupted connections of our two
temples at Hikkaduwa and the Bhikkhus connected with them.
Therefore, please see to their improvement. If you are ready to take
steps to improve the temple at Hettigoda which is at present under
my control, I will be ready to write not one but even two Deeds. I
inform with respect that I have not much use of those temples, and
20 further, I can spend my days here with honour.

Obedient,
(Sgd.) WALIVITIYE SORATA.

1D11A

Envelope

1D11A
Envelope

Not opened by Censor

A | | 14

Ven'ble D. Sri Jinaratana Nayaka Thero,
Gangaramaya,
Hunupitiya,
30 Slave Island,
Colombo,
Ceylon.

From : W. Sorata Thero,
4A, College Square,
Calcutta.

2D42A
Translation of 2D42

**Statement of Income and Expenditure of the Vidyadhara Sabha of Vidyodaya Pirivena, Maligakanda, Colombo, for the Six Months
Period from 1st January, to 30th June, 1941**

INCOME	Rs.	c.	EXPENDITURE	Rs.	c.
To Bank balance as on 31st December, 1940 :—					
Ceylon Savings Bank	1,282	88	By Alms and other requirements of Bhikku teacher and Director	131	..
National Bank	1,430	76	Electricity	115	..
	2,713	64	Salaries of English teachers	162	..
Government grant	60	..	Wages of employees.. ..	166	167
House rent from Anuradhapura pro- perty	66	67	House rent Anuradhapura property deposited in the Ceylon Savings Bank	57	..
Membership fees	171	00	Expenses incurred by the Principal and the staff of the Pirivena on travelling and telegrams in connection with the work of the Pirivena	157	..
Donor membership fees	95	00	U.D.C. tax on Anuradhapura property	155	..
Contribution towards electricity made by organisations conducting pinkamas (ceremonies) on the premises	57	..	Repairs to houses on Anuradhapura property and construction of lavatory on modern lines	155	..
Charity box collections	38	39	Telephone	96	40
Lease of Nindagam land at Kottegoda..	45	..	Repairs to Buildings :—	164	..
Collections from the sale of slabs of stones	47	..	1. Living quarters	114	37
Religious ceremonies	68	..	2. Shrine room and room at the Bo- tree	165	50
Contributions towards alms	47	..	3. Construction of water-storing tank	49	48
Telephone	62	..	4. Preaching hall	165	..
Alms to prisoners	47	..	5. Water closets	165	..
Deposited in Savings Bank	59	..	6. Alms hall	164	..
			7. Kitchen	164	..
			8. Teaching hall.. ..	165	..
			9. Walls	165	..
			10. Repairs to water pipes and new connections	161	..
	8,472	77		161	..

Brought forward	Rs. . .	8,472 77	EXPENDITURE		Rs.	c.
By Religious ceremonies	..		161/167..		29	87
" Monks' medical expenses	..		132 ..		70	60
" Repairs to old gates and making of new gates	..		167 ..		67	94
" 3 long jak tables	..		160 ..		40	00
" 2 almiraah made of jak wood	..		160 ..		24	00
" 2 long jak benches	..		160 ..		14	65
" 3 dustbins	..		160 ..		10	85
" 3 blackboards	..		163 ..		7	50
" A ladder	..		160 ..		5	84
" Repairs to 15 benches	..		160 ..		8	75
" 2 chairs	..		160 ..		5	40
" Other furniture	..		160 ..		10	44
" Paid by additional collection for electricity	..		161 ..		20	00
" Attendance registers	..		141/167 ..		13	08
" Alms to prisoners	..		161 ..		10	00
" Ledgers postage, etc.	..		148 ..		5	00
" Municipal taxes	..		152 ..		9	61
" Cheque book, etc.	..		167 ..		2	83
" Bank Balance :—						
Savings Bank	..		1,482 88		3,698	48
National Bank	..		2,215 60			

Rs. . . 8,472 77

Rs.

8,472 77

(Sgd.) R. HEWAVITARNE,
Hony. Secretary.
6.10.41.

Unsettled loan from M/s. H. Don Carolis & Sons Rs. 480/-.
Audited and found correct subject to my report.

(Sgd.) A. WIJESINGHE,
Auditor.

(Sgd.) B. R. DIAS,
Hony. Treasurer.
21.7.41.

Read at the Sabha.
(Sgd.) GUNAPALA MALALASEKERA,
President.
6.10.41.

2D42A
Translation
of 2D42
H. 1941 to
30.6.1941—
Continued

1D53

Letter from the 1st Defendant-Appellant to the Sabha*Translation*

To the Vidyadhara Sabha.

Pious Gentlemen,

Although I requested the Principal of this Pirivena on many occasions to assign me the classes in order to carry out my duties as teacher at this Pirivena, he has so far failed to do so. When I enquired about this matter on the 30th December last, he said "It cannot be
 10 done without the consent of Soratha." The Sabha is aware of the fact for how long he had neglected his duty telling many things which have no bearing on one another. I have been a teacher at this Pirivena long before he became a teacher at this Pirivena and his failure to do his duty by assigning me classes is undoubtedly a malicious and unholy act. Thereby I sustained a great and unbearable loss.

Therefore, I request you to acquiesce that the present Principal of Vidyodaya Pirivena is one who does not lead a life according to Dhamma. I shall come to the conclusion that the Sabha has acquiesced
 20 in my request after the 10th of next month.

I am, wishing the Stability of Sasana.

(Sgd.) M. DHAMMANANDA.

(Morontuduwe Nayaka Thero)

Vidyodaya Pirivena.

21.3.41.

P17**Letter from the 1st Defendant-Appellant to the Sabha***Translation*

30 Out of love for the religion, I write this to the Vidyadhara Sabha.

Gentlemen,

As it appears to me that the mere acceptance alone, by being silent of the request made by my letter of 21.3.41 forwarded to the Sabha is not the remedy for the unfortunate state of affairs that has arisen in connection with this noble seat of learning. I propose to place before the Sabha also the following request:—

I know that your Sabha from the middle of 1936 pointed out several times to the present Principal of the Pirivena that some pupil classes should be entrusted to me, and that as he neglected on

1D53

Letter from
the 1st
Defendant-
Appellant
to the Sabha
21.3.41

P17

Letter from
the 1st
Defendant-
Appellant to
the Sabha
13.5.41

P17
Letter from
the 1st
Defendant-
Appellant to
the Sabha
13.5.41—
Continued

every such occasion to do his duty by making all sorts of statements irreconcilable with one another, you sent him the letter dated 16.12.40. But subsequent to all such letters what he said was “ nothing can be done without the consent of Sorata ”.

Further what he has written in the report of the 27th July, 1940, is that he had appointed several Ven'ble Tutors in the Pirivena.

Please consider on what grounds that he, while knowing that under clause 10 of the deed constituting the Sabha the right of both appointing and removing of tutors in the Pirivena was vested in the Sabha and without taking the least notice of the Sabha's order wish 10 or request stated that “ nothing can be done without the consent of Sorata ” and reported that he had exercised an authority which by no means belong to him.

What appears to me as the reason is that he does not admit that the existing Vidyadhara Sabha has the right of doing any other thing than supplying the four needs, etc.

I do not know the reason why he does not admit so. Whatever it might be it seems to me that owing to such reason the gradual degeneration of this noble seat of learning might come nearer.

Therefore in order to enable me further to explain the mis- 20 fortunate position that has now arisen in connection with this noble seat of learning as a result of the activities of the present Principal of the Pirivena and as a result of many other reasons I earnestly beg of you to invite me before the very next meeting of your Sabha.

If the Sabha ignores my request before the end of the current month I shall conclude that the Sabha also agrees with his non-admission.

Wishing permanence of the religion,

(Sgd.) M. DHAMMANANDA.

(Morontuduwe Nayaka Thero.) 30

At the Vidyodaya Pirivena.

13.5.41.

2D12S
Minutes of the
Sabha Meeting
30.5.41

2D12S

Minutes of the Sabha Meeting

Translation

Minutes of the Meeting of Vidyadhara Sabha held on
the 30th May, B.E. 2485/1941

At this meeting there were present Rev. Baddegama Piyaratana Thero, Dr. G. P. Malalasekera, Dr. D. B. Perera, Messrs. H. W. Amarasuriya, B. R. Dias, Mudaliyar E. A. Abayasekara, Mr. J. Moone- 40 singhe and Mr. Raja Hewavitarne, Secretary. Mr. Amarasuriya took

the Chair. The statement of income and expenditure ending December 31, 1940, placed before the meeting by Mr. B. R. Dias was approved. It was decided to hold the meetings on the first Monday of every month.

2D128
Minutes of the
Sabha Meeting
30.5.41
Continued

A vote of condolence was passed on the death of Lekam Gonakumbura and it was decided to communicate the same by letter to his bereaved relatives. Proposed by Mr. Raja Hewavitarne and seconded by Dr. Malalasekera, Mr. D. L. F. Pedris was elected to fill the post vacated by the said death.

- 10 Although an amount of Rupees Twenty should be paid monthly from the Anagarika Dharmapala Estate to the Vidyadhara Sabha, the amount had not been received from January, 1940, to June, 1941, and therefore it was proposed and decided to send a letter requesting the payment of the amount to the Chairman of the Board of Trustees of the Dharmapala Estate, and to send copies of the letter to the other trustees and to get the letter sent under the signature of Mr. Amarasuriya who occupied the Chair that day.

- A sub-committee consisting of Mr. H. W. Amarasuriya, Mudaliyar E. A. Abayasekara, Messrs. B. R. Dias and Raja Hewavitarne and
20 Dr. G. P. Malalasekera was appointed to go into various questions concerning the internal reform of the Vidyadhara Sabha and establishing a fund and ways and means of deriving income for the maintenance of the Pirivena and submit a report at the next meeting.

The Secretary placed before the meeting the letter forwarded by the Ven'ble Morontuduwe Nayaka Thero of Vidyodaya Pirivena. The Ven'ble Principal of the Pirivena undertook to send a detailed reply to matters of censure contained therein.

It was also decided to send a letter to Rev. Morontuduwe informing him that a reply would be sent in a few days' time to his letter.

- 30 The Treasurer undertook to present at the next meeting a report on the Kotte Gangoda land. Dr. Malalasekera requested the Treasurer to collect the arrears of members' subscription and to present a report on the subject at the next meeting. Here the proceedings terminated.

(Sgd.) R. HEWAVITARNE,
Hony. Secretary.

(Sgd.) C. W. W. KANNANGARA,
Chairman.

1.9.41.

P7
Deed No. 2622
attested by
D. de S.
Gunasekera,
Notary Public
22.6.41

P7

Deed No. 2622

Application No. L1473.

No. 2622

To All To Whom These Presents Shall Come I, Mahopadhyaya Kirti Sri Sumangala Dewundara Jinaratanabhidhana, Chief Nayaka Thero of Colombo and the Nine Korales residing at Gangarama Vihara at Hunupitiya in Colombo—

SEND GREETING :

Whereas I am the Viharadhipati *inter alia* of Maligakanda Vihara 10 also called the Vidyodaya Pirivena Vihara at Maligakanda in Colombo.

And Whereas I am now of very advanced years and am therefore desirous of appointing from among my pupils another Bhikku as Viharadhipati of the said Vihara for the more active administration thereof and of the temporalities belonging thereto.

And Whereas I have great confidence in my pupil Wagiswaracharya Morontuduwe Sri Gnaneswara Dharmananda Nayaka Thero of Sabaragamuwa Province and of Sri Padasthana at present residing at the said Maligakanda Vihara and assisting me in the management thereof. And Whereas I consider that by character, ability and learn- 20 ing he is well qualified to be appointed Viharadhipati of the said Vihara and to manage the same with the temporalities appertaining thereto.

Now Know Ye and These Presents Witness that in pursuance of the premises I do hereby absolutely and irrevocably appoint the said Wagiswaracharya Morontuduwe Sri Gnaneswara Dharmananda Nayaka Thero as Viharadhipati of the said Maligakande Vihare in whom shall vest all the rights, privileges and obligations of Viharadhipati from the date hereof subject to the condition however, that he shall have no right to appoint or nominate a successor but that on his 30 demise or on his voluntary renunciation of the said position, my pupil Dewundara Wachissara Thero shall succeed to the said position of Viharadhipati.

And We, the said Wagiswaracharya Morontuduwe Sri Gnaneswara Dharmananda Nayaka Thero and Dewundara Wachissara Thero do with great respect accept the appointments hereby made.

In witness whereof I, the said Mahopadhyaya Kirti Sri Sumangala Dewundara Jinaratanabhidana Nayaka Thero, and we, the said Wagiswaracharya Morontuduwe Sri Gnaneswara Dharmananda Nayaka Thero and Dewundara Wachissara Thero, do hereunto and to 40 two others of the same tenor and date set our respective hands at Mirihana on the 22nd day of June One thousand Nine hundred and Forty-one.

Witnesses :—

(Sgd.) D. E. WIJESSEKERA,
 „ T. A. D. PIYADASA.

Signature of Mahopadhyaya Kirti Sri Sumangala
 Dewundara Jinaratanabhidana, Chief Nayaka
 Thero.

(Sgd.) In Sinhalese (D. JINARATANA)
 „ M. DHAMMANANDA.
 „ D. WACHISSARA.

10 (Sgd.) DAVID de SILVA,

Notary Public.

I, David de Silva Gunasekera of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read and explained by me, the said Notary, to the executants therein named, the 1st of whom has signed in Sinhalese characters and the second and third as “ M. Dhammananda ” and “ D. Wachissara ” respectively and all of whom are known to me in the presence of Petikiri Aratchige Don Edmund Wijesekera of Kindelpitiya and Thewarapperuma Appuhamilage Don Piyadasa of
 20 Mirihana, the subscribing witnesses thereto who have signed as “ D. E. Wijesekera ” and “ T. A. D. Piyadasa ” respectively and both of whom are also known to me the same was signed by the said Executants and the said witnesses and also by me, the said Notary, in my presence and in the presence of one another all being present at the same time at Mirihana aforesaid in the Palle Pattu of Salpiti Korale on this 22nd day of June One thousand Nine hundred and Forty-one.

And I further certify and attest that the foregoing instrument was read over, explained and signed as aforesaid the letters “ we ” in
 30 “ Morontuduwe ” in line 6 of page 2 of the original were typed over erasure, that the duplicate of this instrument bears a stamp of the value of Rs. 10/- and the original one of Rupee One supplied by me. All which I attest.

(Sgd.) DAVID de SILVA,
Notary Public.

Date of attestation :—
 22nd June, 1941.

P7

Deed No. 2622
 attested by
 D. de S.
 Gunasekera,
 Notary Public
 22.6.41—
Continued

1046

1D56
Deed No. 2622
attested by
David de Silva,
Notary Public
22.6.41

1D56

Deed No. 2622

No. 2622

To All To Whom These Presents shall come I, Mahopadhyaya Kirti Sri Sumangala Dewundara Jinaratanabhidhana, Chief Nayaka Thero of Colombo and the Nine Korales residing at Gangarama Vihara at Hunupitiya in Colombo.

SEND GREETING :

Whereas I am the Viharadhipati *inter alia* of Maligakande Vihara also called The Vidyodaya Pirivena Vihara at Maligakanda in Colombo. 10

And Whereas I am now of very advanced years and am therefore desirous of appointing from among my pupils another Bhikkhu as Viharadhipati of the said Vihara for the more active administration thereof and of the temporalities belonging thereto.

And Whereas I have great confidence in my pupil Wagiswaracharya Morontuduwe Sri Gnaneswara Dharmananda Nayaka Thero of Sabaragamuwa Province and of Sri Padassthana at present residing at the said Maligakande Vihare and assisting me in the management thereof. And whereas I consider that by character, ability and learning he is well qualified to be appointed Viharadhipati of the said 20 Vihara and to manage the same with the temporalities appertaining thereto.

Now Know Ye and These Presents Witness that in pursuance of the premises I do hereby absolutely and irrevocably appoint the said Wagiswaracharya Morontuduwe Sri Gnaneswara Dharmananda Nayaka Thero as Viharadhipati of the said Maligakanda Vihara in whom shall vest all the rights, privileges and obligations of Viharadhipati from the date hereof subject to the condition however that he shall have no right to appoint or nominate a successor but that on his demise or on his voluntary renunciation of the said position my 30 pupil Dewundara Wachissara Thero shall succeed to the said position of Viharadhipati.

And we, the said Wagiswaracharya Morontuduwe Sri Gnaneswara Dharmananda Nayaka Thero and Dewundara Wachissara Thero, do with great respect accept the appointments hereby made.

In witness whereof I the said Mahopadhyaya Kirti Sri Sumangala Dewundara Jinaratanabhidhana Nayaka Thero and we the said Wagiswaracharya Morontuduwe Sri Gnaneswara Dharmananda Nayaka Thero and Dewundara Wachissara Thero do hereunto and to

two others of the same tenor and date set our respective hands at Mirihana on this Twenty-second day of June One thousand Nine hundred and Forty-one.

Signature of Mahopadhyaya Kirti Sri Sumangala Dewundara Jinaratanabhidana.

1D56
Deed No. 2622
attested by
David de Silva,
Notary Public
22.6.41—
Continued

(Sgd.) In Sinhalese.
Chief Nayaka Thero.

(Sgd.) M. DHAMMANANDA.
,, D. WACHISSARA.

10 Witnesses :—

(Sgd.) D. E. WIJESEKERA.
,, T. A. D. PIYADASA.

(Sgd.) DAVID de SILVA.
Notary Public.

I, David de Silva Gunasekera of Colombo in the Island of Ceylon Notary Public, do hereby certify and attest that the foregoing Instrument having been duly read and explained by me, the said Notary to the executants therein named, the first of whom has signed in Sinhalese characters and the second and third as 'M. Dhammananda' and
20 'D. Wachissara' respectively and all of whom are known to me in the presence of Petikiri Aratchie Don Edmund Wijesekera of Kindelpitiya and Thewarapperuma Appuhamilage Don Piyadasa of Mirihana, the subscribing witnesses thereto, who have signed as 'D. E. Wijesekera' and 'T. A. D. Piyadasa' respectively and both of whom are also known to me the same was signed by the said executants and the said witnesses and also by me, the said Notary, in my presence and in the presence of one another all being present at the same time at Mirihana aforesaid in the Palle Pattu of Salpiti Korale on this Twenty-second day of June, One thousand Nine hundred and Forty-one.

30 And I further certify and attest that before the foregoing instrument was read over, explained and signed as aforesaid the letters 'we' in 'Morontuduwe' in line 6 of page 2 of the original were typed over erasure, that the duplicate of this instrument bears a stamp of the value of Rs. 10/- and the original one of Rupee One supplied by me.

All which I attest.

(Sgd.) DAVID de SILVA.
Notary Public.

Date of attestation :

40 22nd June, 1941.

2D43A
Translation of 2D43

Statement of Income and Expenditure for the Six Months from 1st July, 1941 to 31st December, 1941, of the Vidyadhara Sabha
of Vidyodaya Pirivena, Maligakanda, Colmobo

INCOME		EXPENDITURE	
	Rs.		Rs.
To On June, 30, 1941, balance at Bank :—		By Dana for Bhikku teachers and the Ven'ble	
Ceylon Savings Bank	.. 1,482 48	Director ..	.. 1,543 65
National Bank	.. 2,215 60	Electric lighting	.. 372 60
On account of Vas dana	.. ..	Medicine ..	.. 309 41
House rent for property at Anuradhapura	.. ..	Workers' salaries and wages ..	.. 285 85
From Sri Dewamitta Dharmapala Fund	.. ..	Repaid to H. Don Carolis & Sons	.. 280 00
Members subscription	.. ..	Salaries to English teachers ..	.. 50 00
Assisting Members' subscription	.. ..	Cash expenses on account Katina Pinkama	.. 55 74
On account of electric lights from the societies	.. ..	Examination at the Pirivena	.. 86 35
which conducted pinkamas at the Sthana	.. ..	Repairs to buildings, etc. :—	
Collections in Pinketas (tills)	.. ..	Water closets ..	.. 77 27
Cash donations on account of Katina Pinkama	.. ..	Avasas ..	.. 61 88
being expenses for the Principal of the Pirivena	.. ..	Water pipes ..	.. 20 00
Mr. Raja Hewavitarne	.. ..	Making drains ..	.. 18 65
Mrs. Neil Hewavitarne	.. ..	Library ..	.. 7 87
On account of the pinkama	.. ..	Wall ..	.. 6 50
Towards the telephone	.. ..	Kitchen ..	.. 4 05
Donations for the Dana	.. ..	Dharmasala (preaching house)	.. 3 85
Refund of Municipal rates paid	.. ..	Travelling expenses for the Principal of Pirivena	
Miscellaneous receipts	.. ..	for visits made on account of work of the	
Bank interest	.. ..	Pirivena ..	.. 28 15
		Telephone ..	.. 23 25
		Repairs to furniture ..	.. 15 33
		Printing ..	.. 7 46
		Attendance registers, etc.	.. 7 70
		News papers ..	.. 7 00
		Cheque books ..	.. 3 08
		Balance at Banks :—	
		Ceylon Savings Bank	.. 1,564 75
		National Bank	.. 1,318 01
			2,882 76
			<hr/>
			Rs. .. 6,158 35
			<hr/>
			Rs. .. 6,158 35

(Sgd.) W. D. HEWAVITARNE,
Hony. Secretary.

Accounts examined and found correct.

(Sgd.) A. WIJESINGHE,
Hony. Auditor. 1.2.43.

(Sgd.) B. R. DIAS,
Hony. Treasurer. 1.7.42.

Approved by the Sabha.
(Sgd.) C. W. W. KANNANGARA,
Chairman. 10.8.43.

1D19

**Document between Venerable H. Pemananda and Wimala
Dhamma Hewavitarne**

Translation

The goods belonging to the Vidyodaya Pirivena Viharasthana, Maligakanda, Colombo, mentioned below, were entrusted to Mr. Wimaladhamma Hewavitarne, the Hony. Secretary, Vidyadhara Sabha to protect until the uncertain conditions that have been confronted owing to the war are ceased—and for their safe replacement
10 thereafter in this Vihara if no unavoidable disaster befell them.

(Sgd.) H. PEMANANDA
HIKKADUWE SRI SUMANGALA
PEMANANDABHIDHANA NAYAKA
THERO, Krutyadhikari (Manager)
Vidyodaya Pirivena Viharasthana.

1. 4 pairs of Elephant Tusks.
2. 1 pair of Elephant Tusks (carved).
3. 1 Sutra Nipatha with Ivory covers.
4. 1 Ivory Case (flat) carved.
- 20 5. 1 Ivory Casket with an image within.
6. 1 large size Silver Casket.
7. 194 Ola Leaf Books.
8. A portion of the Sacred Bowl.
9. Framed documents brought along with the Sacred Bowl.
10. A crystal Image with a Silver basement.
11. Two small size silver Images.
12. Two Silver Jugs.
13. One small size Gold Image with umbrella.
14. A carved Silver Plate.
- 30 15. A small golden Image with Silver Bo-Tree.
16. Two Silver Dishes.
17. Two Silver Spitoons.
18. One round case of silver.
19. Two silver Jugs.
20. One small silver bowl with the lid.

Received the goods belonging to the Vidyodaya Pirivena Viharasthana included in the above list for safe custody and to return same if no mishap out of the present war takes place to them.

1D19

Document
between
Venerable H.
Pemananda
and Wimala
Dhamma
Hewavitarne
20.12.41

1D19
Document
between
Venerable H.
Pemananda
and Wimala
Dhamma
Hewavitarne
20.12.41—
Continued

Witnesses :

1. D. WACHISSARA.
2. E. WICKRAMARATNE.

(Sgd.) W. D. HEWAVITARNE,
Hony. Secretary,
Vidyodaya Sabha.

20th December, 1941.
Maligakanda Temple, Colombo.

1D20
Document
between
Venerable H.
Pemananda
and Wimala
Dhamma
Hewavitarne
31.12.41

1D20

**Document between Venerable H. Pemananda and Wimala
Dhamma Hewavitarne**

10

Translation

Having connected the undermentioned goods belonging to the same Vidyodaya Pirivena Viharasthana to the list of goods mentioned in the agreement signed by me (Hikkaduwe Sri Sumangala Pemananda Nayaka Thera) and Mr. Wimaladharma Hewavitarne on 20th December, 1941, to be protected in the same manner as mentioned in the said agreement and to be replaced in this Viharasthana was entrusted to the said Wimaladhamma Hewavitarne.

(Sgd.) H. PEMANANDA,
Hikkaduwe Sri Sumangala Pemanandabhidhana 20
Nayaka Thera, Kruthyadhikari (Manager),
Vidyodaya Pirivena Viharasthana.

1. Maha Bhashyay Part 1.
1. Vachaspathi Part 1 to 5.
1. Vachaspathi Part 6 to 10.
1. Vachaspathi Part 11 to 16.
1. Vachaspathi Part 17 to 21.
1. Sabdakalpadruma Full Book.
- 1 Webster's English Dictionary.
- 1 Collection of Memoirs.
- 1 Eastern India...
- 1 Sussruta Sanhita.
- 1 Sabdasthoma Part 1.
- 1 Brahma Wai Vartha Purana Part 1.
- 1 Brahma Wai Vartha Purana Part 2.
- 1 Kavya Sangraha.

30

- 1 Kira Tarjunaya.
 1 Kasikawali.
 1 Wilson's Sanskrit Language.
 1 Siddha Hema Kavmudi.
 1 Katha Saritsagara.
 1 Siddhantha Chandrika Part 1.
 1 Siddhantha Chandrika Part 2.
 1 Kawya Mala.
 1 Manusanhita.
 10 1 Sabda Kalpadruma Part 1.
 1 Sri Krusta Sanhita.
 1 Mugdhabodha.
 1 Sahitya Darpana.
 1 Rajatarangini.
 1 Sanskrit-English Dictionary.
 1 Rigveda Sanhita.
 1 Johnson's Hitopadesa.
 1 Bhagawatgeeta.
 1 Kriyarth Samucchaya.
 20 1 Abhidana Ratnamala.
 1 Bhatti Kavya.
 1 Kadambari.
 1 Desi Nama Mala.
 1 Bengali-English Dictionary.
 1 Sahitya Darpana.
 1 Selections from Mahabharata.
 2 Abhidharmapradeepika.
 1 Dasa Kumara Charita.
 1 Meghaduta (English).
 30 1 Udana Commentary (English).
 1 Atharvaveda Sanhita.
 1 Sankhya Karika.
 1 Holy Bible.
 1 Childer's Pali Dictionary (in a box).
 1 Jinaraja Wansa (in a Box).
 1 Maha Sadda Neeti.
 1 Subhasita Ratna Bhandagara.

1D20
 Document
 between
 Venerable H.
 Pemanda and
 Winmala
 Dhamma
 Hewavitane
 31.12.41—
Continued

1D20
 Document
 between
 Venerable H.
 Pemananda
 and
 Wimala •
 Dhamma
 Hewavitarne
 31.12.41—
Continued

1 Mugdha Bodha.	
1 Naishadha Kavya.	
1 Sakuntala.	
1 Kiratajuna.	
1 Bala Ramayana.	
1 Panini.	
1 Uttara Naishadha Charita.	
2 Vruhat Devatha.	
1 Political Works.	
1 Western Tibet.	10
21 Bound Books of Tripitaka Series.	
21 Unbound books of Tripitaka Series.	
1 Pachittiyapali (Bound).	
1 Vimanavatthu Petawatthu (Bound).	
1 Vimathivinodani.	
1 Abhidharma Mula Teeka.	
1 Papancha Sudani.	
19 Ola Leaf Books.	
33 Siamese Books.	
15 Burmese Books.	20
48 Siamese Tripitaka Books.	
10 Vanga Books.	
1 Mahasadda Niti.	
54 Pali text Society Books.	
8 Asiatic Society Books.	
1 Book of Ceylon.	
1 Eastern India History.	
1 Theosophy (Latin).	
1 Sacred City of Anuradhapura.	
1 Ceylon History English.	30
1 Lead Image Seated.	
1 Tall Lead Image.	
5 Siamese Lead Images Seated.	
1 Small Diamond Casket.	
2 Silver Chamara.	
1 Ebony Image of Elephant.	

I took into my custody also the goods mentioned in this list to be added to the list of goods mentioned in the agreement signed by me and Rev. Hikkaduwe Sri Sumangala Pemananda Nayaka Thera on 20th December, 1941, to be protected in the same manner as stated in the above mentioned agreement and to their replacement thereafter.

(Sgd.) W. D. HEWAVITARNE,
Hon'y. Secretary,
Vidyadhara Sabha.

31st December, 1941.

1D20
Document
between
Venerable
H. Pemananda
and
Wimala
Dhamma
Hewavitarne
31.12.41—
Continued

10

1D47

**Letter from the 1st Defendant-Appellant to the Vidyadhara
Sabha**

Translation

To The Vidyadhara Sabha, with the affection towards
the Sasana.

Sirs,

Whilst inviting your reference to my letters dated 21.3.41 and 13.5.41 and the Secretary's replies thereto, I wish to place the following for the consideration of the Sabha.

20 "The present principal's statement to me as mentioned by me in my letter of 13.5.41 that 'Nothing can be done without Soratha's consent,' his reply to the Sabha on this matter as I have understood that "The Sabha has no right to interfere with the internal affairs" and as I mentioned in the same letter and the mention in his report dated 27.7.40 that he appointed several teachers, go beyond all doubts to prove that he holds the view that the power or right conferred on the Sabha by Deeds Nos. 925 and 1265 is now extinct.

30 As the Sabha has failed to take necessary actions after silent acquiescence to my request made through the letter dated 21.3.41 and having accepted null and void the appointments mentioned in report dated 27.7.40, it is felt that the Sabha also accepts that the right conferred on it by the said Deeds is now extinct.

If it is so, and if the said right became extinct before the appointment of the present principal, even before the acquiescence to my request of the letter dated 21.3.41 he cannot have any powers that should be possessed by a principal of this Pirivena, since the date of his appointment.

40 As things are in this plight and if the Sabha even now recognises that it still holds the right conferred by the deeds, I request the Sabha after the acquiescence of my request made by the letter dated 21.3.41

1D47
Letter from
the 1st
Defendant-
Appellant to
the Vidyadhara
Sabha
7.1.42

1D47
Letter from
the 1st
Defendant-
Appellant to
the Vidyadhara
Sabha
7.1.42—
Continued

to take suitable action over it which was delayed till now and having accepted the appointments mentioned in the report dated 27.7.40 null and void, to take necessary actions against it also.

I kindly inform you that if you fail to do so before the end of this month, I will have to consider that the Sabha also recognises the fact that it has now lost the right conferred on it by deeds.

I am, wishing the stability of Sasana.

(Sgd.) M. DHAMMANANDA.

(Morontuduwe Nayake Thero.)

Maligakande Viharasthana,
Colombo, 7.1.42.

10

2D12T
Minutes of the
Sabha Meeting
20.1.42

2D12T

Minutes of the Sabha Meeting

Translation

Reference Page 143.

Minutes of the meeting of Vidyadhara Sabha held on 20th January, 1942, at the Vidyodaya Pirivena, Maligakanda, Colombo.

Those Present : Rev. Baddegama Sri Piyaratana Thero, Hon'ble Mr. D. S. Senanayake, Minister, Hon'ble Mr. C. W. W. Kannangara, Minister, Messrs. Munasinghe, Proctor, W. H. W. Perera, Proctor, 20 D. L. F. Pedris, Dr. G. P. Malalasekera, Mudaliyar E. A. Abayasekara and Mr. W. D. Hewavitarne (Secretary).

Hon'ble Mr. D. S. Senanayake, Minister, was selected to the chair and the proceedings commenced with the reciting of the Five Precepts (Pansil).

The Minutes of the meeting held on 1st December, 1941, was read by the Secretary and adopted.

The Secretary informed the House that a class room in the Sri Sumangala Memorial Hall cannot be utilised for our work as Rev. Morontuduwe Dhammananda Nayaka Thero has stored some of his 30 belongings in the rooms and retains the key (according to Rev. Morontuduwe Nayake Thero) on the instructions of the Administrator, Rev. Pemananda.

The Chairman stated that the monks referred to should be consulted. Thereupon, the Secretary conducted Rev. Morontuduwe Nayake Thero and Rev. Hikkaduwe Pemananda Nayaka Thero to the meeting.

Questioned on this by the Chairman Rev. Pemananda Nayaka Thero said that he did not give the keys to Rev. Morontuduwe Nayaka Thero but that he (Rev. Morontuduwe) had taken the key from the 40

Tamil cooly. Rev. Morontuduwe Nayaka Thero said that because the room he occupies is in a dilapidated condition, it is true that he had kept some of his belongings in Sri Sumangala Memorial Hall. Asked whether that hall could be obtained now, he (Rev. Morontuduwe) stated that he has sent letters to the Sabha and that it is necessary to reply to his letters prior to his answering that question.

2D12T
Minutes of the
Sabha Meeting
20.1.42—
Continued

The Chairman pointed out that there is no relation between those letters and this incident. He said that he would like to know clearly whether Rev. Morontuduwe Nayaka Thero is resorting to this
10 sort of pressure tactics in order to indicate his right. Rev. Morontuduwe Dhammananda Nayaka Thero said :—“ I am staying here as a pupil of Rev. Hikkaduwe Sri Sumangala Nayaka Thero. I shall not leave that hall. If possible remove me.” The Chairman said that the point is now clear and as the presence of the two monks is not necessary for the proceedings of the rest of the meeting, he called upon the monks to leave the meeting. The rest of the work of the meeting was done after the monks went away.

Deeds.—The Secretary informed that some days back as arranged, the Secretary, the Rev. Principal of the Pirivena, Messrs. D. R. de
20 S. Abhayanayake, Proctor, D. L. Edusuriya, Advocate, and Mudaliyar E. A. Abayasekara made whatever explanation possible to Mr. H. V. Perera, K.C. The Secretary said that Mr. H. V. Perera, K.C., stated that he could not give opinion on the matter off hand and that he would inform in writing after considering the matter. The Secretary said that he is trying to provide all particulars needed by Mr. H. V. Perera, K.C. The Secretary also stated that he would place the matter before the House after matter receives the attention of the advocate.

Page 145.

30 In order to get the Pirivena exempted from the regulations of the Temple and Devale Land Ordinance a sub-committee consisting of Hon'ble Mr. D. S. Senanayake, Minister, Hon'ble Mr. C. W. W. Kannangara, and the Secretary was elected to register the Vidyadhara Sabha under a special Act and to produce the necessary things of this nature.

Mr. Wimaladharma Hewavitarne stated that in these war-torn days when the books of the library needed safety, on the request of Rev. Pemananda Nayaka Thero who was in charge of the library, the goods mentioned in an inventory compiled by him (Rev. Pema-
40 nanda) were taken to Bandarawela for safe-keeping by him as Secretary. He also stated that Rev. Pemananda requests that they be in the custody of the Sabha till the situation turns out to be good and then return them to the Pirivena. The house agreed to this request.

New Teachers.—The Rev. Principal of the Pirivena informed the Sabha that Pandit Hegoda Dhamminda Thero, Pandit Telambure Pavarakitthi Thero and Galagama Saranankara Thero were enlisted as teachers. The Rev. Principal of the Pirivena also stated that he remembers that this was made known to the Sabha at a previous meeting and that an increased amount was obtained for the expenses of the tutorial staff. These appointments were confirmed by the Sabha.

Payment of Grant According to new system

A discussion took place as to whether new system of allotments 10 of grants to Pirivenas should be accepted. It was decided to accept grants under the new scheme.

A letter from Rev. Morontuduwe Dhammananda Nayaka Thero dated 7th January, 1942, was then read. It was decided to state in a reply to that letter that everything done by the Sabha was legal and constitutional.

Non-attendance of Students.—The Rev. Principal of the Pirivena stated that the Pirivena was reopened after the holidays on 5th January, that about 40 students attended then, and that not more than seven or eight attend now. He also stated that advertisements appeared 20 twice in public papers to the effect that the Pirivena has been reopened and that all students must attend classes. The Rev. Principal of the Pirivena stated that students do not attend classes owing to war-scare and suggested that the different classes under different teachers should be inaugurated in outstations. It was the opinion of the House that the conducting of classes on a temporary scale in outstations would be satisfactory if arrangements could be made.

Adopted.

(Sgd.) C. W. W. KANNANGARA,

President.

20.2.1942.

30

(Sgd.) W. D. HEWAVITARNE,

Secretary.

20.2.42.

1057

1D13

**Extract from the Instruction Book relating to the Instructions
re Deed attested by C. A. Jayatilleke, Notary Public**

Translation

No. of Instruction : 33253

1D13
Extract from
the Instruction
Book relating
to the Instruc-
tions re
Deed attested
by C. A.
Jayatilleke,
Notary Public
16.2.42

Date of Instruction	16.2.1942.
Name of person giving Instruc- tions	The Parties.
Names of grantors	Hikkaduwe Sri Sumangala Pemananda, the Viharadhipathi of the Nalagasdeniya Sri Nagarama Viharaya, the 2nd High Priest of the Colombo Nine Korales, the Adikari of that Pirivena and residing at Vidyodaya Pirivena in Maligakanda.
Names of grantees	Panditha Welivitiye Soratha, the Viharadhipathi of Tilakarama Viharaya of Hettigoda in Hikkaduwa and the Vice-Principal of Vidyodaya Pirivena, Colombo, and a resident there.
Particulars of Transaction, con- sideration, name and situation of land covenants, etc. .. .	Appointment of an Adikari. * * * * * Land :—Sri Nagarama Viharaya in Nalagasdeniya referred to in Deed No. 1299 attested by K. D. P. Abhayasiriwardena and lands appertaining thereto.
The Deed written according to instructions. Number	31079.
Date	16.2.1942. (Sgd.) C. A. JAYATILAKA, N.P.

1D7

Extract from Deed No. 31079

Translation

No. 31079

Appointment of an Adhikari

I, Hikkaduwe Sri Sumangala Pemananda, the second Nayaka Thero of the Colombo Nine Korales and the Viharadhipathi of Hikkaduwe Nalagasdeniya Sri Nagarama Vihare and the Adhikari of the Vidyodaya Pirivena, Maligakanda in Colombo—

1D7
Extract from
Deed No.
31079
17.2.42

1D7
 Extract from
 Deed No.
 31079
 17.2.42—
 Continued

Send Greeting :—

Whereas Nalagasdeniya Sri Nagarama Viharasthana and lands and fields belonging thereto described in the Schedule hereinafter referred to devolved on me the said Nayaka Isthavira from my tutor Paramparawa and are under my control subject to my Adhikariship.

And Whereas I am now weak in my constitution and unable to carry on the management and control of the said Sri Nagarama Viharasthana and the lands and fields appertaining thereto according to the precepts of the Sasana and as it is necessary to appoint one who is fit to manage and control the said Viharasthana, I hereby appoint 10 Pandita Welivitiye Sorata Isthavira, the Incumbent of Hikkaduwe Hettigoda Tilakaramaya and the Assistant Teacher of the Colombo Vidyodaya Pirivena, my chief pupil, the lawful adhikari of the said Nalagasdeniya Sri Nagarama Viharasthana.

1D40
 Minutes of the
 Meeting of the
 Vidyadhara
 Sabha
 17.6.42

1D40

Minutes of the Meeting of the Vidyadhara Sabha

Translation

Minutes of the meeting of the Vidyadhara Sabha held on the 17th June, 1942, at the Maligakande Vidyodaya Pirivena.

The following were present : Parivenadhipathi Ven. Baddegama 20 Sri Piyarathana Thero, Hon. Mr. C. W. W. Kannangara, Proctor J. Munasinghe, Dr. G. P. Malalasekera, Proctor W. H. W. Perera, Mudaliyar E. A. Abayasekara and Mr. Raja Hewavitarne.

As there was one less to form a quorum it was decided to summon a meeting on the next day with the attendance of a full quorum to have the minutes confirmed.

The letter of resignation of Mr. W. D. Hewavitarne from the post of Secretary was tabled. Mr. Raja Hewavitarne informed the meeting that a letter to reconsider his decision to resign from the post of Secretary has been sent.

The resignation of Mr. W. D. Hewavitarne was accepted with regret in consideration of his services rendered as the Secretary of the Vidyadhara Sabha.

1D40
Minutes of the
Meeting of the
Vidyadhara
Sabha
17.6.42—
Continued

Mr. Raja Hewavitarne was appointed Secretary. It was decided to confirm the acceptance of the resignation of Mr. W. D. Hewavitarne from the post of Secretary by the meeting by informing him by a letter signed by the Hon. Mr. C. W. W. Kannangara as the President and Mr. Raja Hewavitarne as the Secretary.

The Parivenadhipathi informed the meeting of the Pirivena 10 classes that were being conducted in outstations. It was informed that for the expenses of these classes the Ven. Priest had only received Rs. 500/- and that he will need more money for these expenses.

It was decided to spend Rs. 500/- for the classes and Rs. 100/- for travelling expenses for the Ven. Parivenadhipathi Priest. The Hon. Mr. C. W. W. Kannangara expressed his willingness to accompany Ven. Priest to Pannila and Karanagoda branches in his car.

Vas Pinkama.—It was decided to invite the Parivenadhipathi for the Vas period in the Parivenasthana and to obtain all necessary conveniences and to distribute collection lists to obtain funds by the 20 Secretary.

(Sgd.) RAJA HEWAVITARNE,
Hony. Secretary.

Confirmed.

(Sgd.) C. W. W. KANNANGARA,
Chairman.

2D12U**Minutes of the Sabha Meeting**

2D12U
 Minutes of the
 Sabha Meeting
 23.10.42

Translation

Minutes of the Vidyadhara Sabha meeting held at the
 Office of the Minister of Education on the 23rd
 October, 1942

Those present were the Ven'ble Principal of the Vidyodaya Pirivena, Hon'ble Mr. C. W. W. Kannangara, Dr. G. P. Malalasekera, Proctor J. Moonesinghe, Mudaliyar E. A. Abayasekara, Messrs. D. L. F. 10 Pedris, Raja Hewavitarne, B. R. Dias, Francis Gunaratne and A. W. Kaluarachchi.

Proposed by Dr. Malalasekera and seconded by Mr. J. Moonesinghe, Minister Kannangara was voted to the chair. After the usual taking of Pansil, the minutes of the meeting held on July 17, 1942, was read and confirmed. The appointments made and decisions taken at the meeting held on July 17, proposed by Dr. Malalasekera and seconded by Mudaliyar Abayasekara were approved.

Proposed by Dr. G. P. Malalasekera and seconded by Mr. D. L. F. Pedris, the motion that Mudaliyar P. D. Ranatunge should be appointed 20 to the membership vacated by the death of the Health Minister Mr. W. A. de Silva, was unanimously carried. The Secretary was directed to write to the Public Trustee asking him to remit the money that should be paid to the Vidyodaya Pirivena from the Dharmapala Fund. An account of the interview that the sub-committee consisting of the Ven'ble Principal of the Vidyodaya Pirivena, the Ven'ble Vice-Principals, Messrs. B. R. Dias, E. A. Abayasekara and Raja Hewavitarne had held expressing unwillingness to manage the Pirivena under the new ordinance dealing with Pirivenas, was given before the meeting.

30 Minister Kannangara informed the Sabha that it was necessary to appoint a suitable person to the posts which have fallen vacant by the demise of the Ven'ble Hikkaduwe Pemananda Nayaka Thero who was the Director of the library at the Vidyodaya Pirivena and also

2D12U
 Minutes of the
 Sabha Meeting
 23.10.42—
Continued

Kruthyadhikari (Manager) thereof. The Secretary announced that the ex-secretary Mr. W. D. Hewavitarne entrusted the keys that had been with the Ven'ble Pemananda Nayaka Thero to Rev. Vachissara. The Secretary was directed to write to Rev. Vachissara requesting him to return those keys at once to the Sabha until a suitable person is appointed in place of the Ven'ble Hikkaduwe Pemananda Nayaka Thera.

A discussion took place about the letter sent by Mr. W. D. Hewavitarne regarding the effects and deeds belonging to the Pirivena. It was decided to write to him to keep in his own safe custody the 10 said effects and deeds. The letter forwarded giving an account of the interview that Messrs. W. D. Hewavitarne and D. R. de S. Abhayanayake had with Mr. H. V. Perera, K.C., on the subject of the deeds of the Pirivena was placed before the meeting. Proposed by Dr. G. P. Malalasekera and seconded by Mr. J. Moonesinghe a sub-committee consisting of Messrs. D. L. F. Pedris, E. A. Abayasekara and Raja Hewavitarne was appointed to take further steps on the matter ; and the said sub-committee was directed in order to find further facts about the subject to discuss matters with Advocate Edussuriya and Proctor Abhayanayake. It was again brought to the notice of the 20 Sabha that the Sri Sumangala Memorial Hall was required for holding the annual Examination, and that Ven'ble Morontuduwe Nayaka Thero was forcibly withholding the keys thereof. The Secretary was unanimously directed to open somehow the doors of the hall and have it made ready for holding the examination. This terminated the business of the meeting.

Approved.

(Sgd.) D. S. SENANAYAKE,
Chairman.

(Sgd.) R. HEWAVITARNE, 30
Secretary.

1063

1D37

**Letter by the Members of the Sabha to Venerable Dewundera
Wachissara Thero**

Translation

1D37

Letter by the
Members of the
Sabha to
Venerable
Dewundera
Wachissara
Thero
11.12.42

‘ Vija Uppatatan Setta ’
Vidyadhara Sabha.

Vidyodaya Oriental College,
Maligakanda,
Colombo.

10

11th December, 1942.

To Rev. Dewundera Wachissara Thero,
Assistant Teacher,
Vidyodaya Pirivena,
Maligakanda,
Colombo.

Rev. :

We herewith respectfully inform you to hand over the keys of
the Vidyodaya Pirivena buildings, such as shrine room, library, row
of rooms (residence of the students), store-room and others (except
20 the keys of your dwelling-house), which are in your custody at present,
before Friday, 18th instant, to either the Principal or the Honorary
Secretary of the Vidyadhara Sabha and obtain a letter signed by the
receiver.

To this effect,

By Order of the Sabha,

(Sgd.) D. S. SENANAYAKE.

„ D. L. F. PEDRIS.

„ W. H. W. PERERA.

„ B. R. DIAS.

„ C. W. W. KANNANGARA.

„ E. A. ABAYASEKARA.

„ RAJA HEWAVITARNE.

30

Agreement signed by Venerable D. Jinaratana and Others*Translation*

P37
 Agreement
 signed by
 Venerable D.
 Jinaratana
 and Others
 2.3.43

Sri Buddha Era 2486.

On this 2nd day of March in the Christ Era 1943 at the Vidyodaya Bhikku-Sishya-Niwasaya at Dematagoda in Colombo.

The Terms of Settlement regarding the Present dispute of Vidyodaya Pirivena :—

1. Deed given by Devundara Sri Jinaratana Nayaka Thero, Incumbent of Gangaramaya in Hunupitiya, to Morontoduwe Dhammananda Nayaka Thero and Devundara Wachissara Thero in respect of the ownership or control of the Vidyodaya Pirivenviharasthanaya should be legally cancelled.
2. Morontoduwe Nayaka Thero should be appointed by the Vidyadhara Sabha to a Vice-Principalship with the approval of the Parivenadhipathy Nayaka Thero. Morontoduwe Nayaka Thero should conduct himself in obedience to the Vidyadhara Sabha and the Parivenadhipathy Nayaka Thero.
3. Devundara Wachissara Thero should be appointed with the approval of Devundara Sri Jinaratana Nayaka Thero, the Chief pupil of Hikkaduwe Nayaka Thero, for the purpose of assisting the Parivenadhipathy Nayaka Thero in Kruthiadhikari matters (in matters of management).
4. All teachers should be subject to the control of the Vidyadhara Sabha without taking any action in future in law or in any other way to establish any personal claims in the Vidyodaya Pirivena.

This agreement having been accepted the same was signed by the two parties in the presence of us :—

30 Witnesses :

1. (Sgd.) PAHAMUNE SRI SUMANGALA.
2. „ MULLEGAMA SRI GUNARATANA.
3. „ B. REWATA.
4. „ H. M. S. R. DHIRANANDA.
5. „ YAGIRALA PANNANANDA.
6. „ P. VAJIRANANA.

Signatures :

- (Sgd.) D. JINARATANA.
- „ BADDEGAMA PIYARATANA.
- „ M. DHAMMANANDA.
- „ K. DEVARAKKHITA.
- „ D. WACHISSARA.

Terms of Settlement

Translation

In the 2486th year of the Buddha Era and/or 2nd March, 1943, at the Vidyodaya Bhikku Sisya Niwasa.

The Conditions on the settlement of the present disputes at the Vidyodaya Pirivena :—

1. The Deed by which Venerable Devundara Siri Jinaratana Nayake Thero, Viharadhipathi of Gangaramaya Hunupitiya, entrusted the right or control of the Vidyodaya Pirivena Vihara to Venerable 10 Morontuduwe Dhammananda Nayake Thero and Revd. Devundara Wachissara Thera should be legally cancelled.

2. The Vidyadhara Sabha, with the consent of the Principal, should appoint Venerable Morontuduwe Dhammananda Nayaka Thero to a Vice-Principalship, and he on his turn, should act with loyalty to the Principal and the Sabha.

3. To assist the Principal in his duties Rev. Devundara Wachissara should be appointed as Kruthyadhikari with the approval of Ven. Devundara Jinaratana, the Chief Pupil of the late Venerable Hikkaduwe Sri Sumangala Nayake Thera. 20

4. All the teachers of the Pirivena, hereafter should act in loyalty to the Vidyadhara Sabha, without raising any disputes in connection with the private rights and claims to the Pirivena, either through courts of law or otherwise.

Signatures :

(Sgd.) D. JINARATANA.
,, BADDEGAMA PIYARATANA.
,, M. DHAMMANANDA.
,, K. DEWARAKSHITA.
,, D. WACHISSARA. 30

Witnesses as to this was signed by
both the parties concerned.

(Sgd.) PAHAMUNE SRI SUMANGALA.
,, MULLEGAMA SRI GUNARATANE.
,, B. REWATA.
,, H. M. S. R. DHEERANANDA.
,, YAGIRALA PANNANANDA.
,, P. VAJIRANANA.

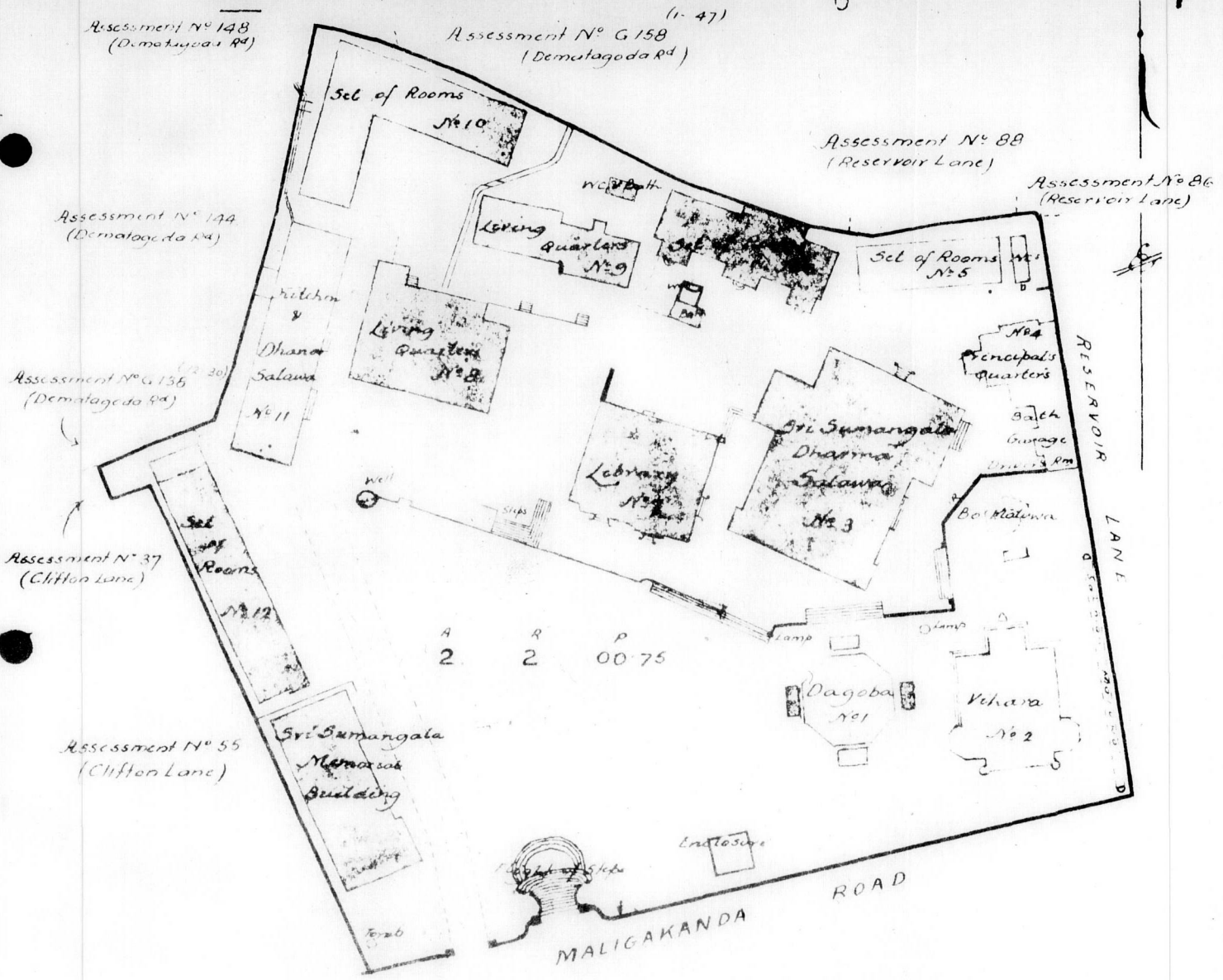
This agreement was entrusted to Hon'ble Mr. C. W. W. Kannagara, a President of the Vidyadhara Sabha, who witnessed all the 40 proceedings of the conference, to be forwarded to the Vidyadhara Sabha.

I. W. W. INDATISSA
 Licensed Surveyor & Leveller,
 QUARRY ROAD,
 DEHIWALA.

No. 786.
 (Copy)

15

43



Scale of One Chains to an Inch.

PLAN

of
 An Allotment of Land

Bearing former Assessment No 105 and Present Assessment No 131, Maligakanda Rd, Maradana.

Maligakanda Vidyodya Pirivena

Situated at

Maligakanda Road, within the Colombo Municipality
Colombo District

WESTERN PROVINCE

Bounded as follows:-

North: by Premises bearing Assessment Nos 148 & 158⁽¹⁻⁴⁷⁾ (Dematagoda Road) and 86 & 88 (Reservoir Lane).

East: " Reservoir Lane.

South: " Maligakanda Road.

West: " Premises bearing Assessment Nos 136⁽²⁻³⁰⁾, 144 & 148 (Dematagoda Rd) and A. 37 & 55 (Clifton Lane)

Containing in Extent 2 2 00.75 Surveyed on 10th July 1943.

I. W. W. Indatissa
 Licd. Surveyor & Leveller.

1067

P8

Plan No. 786

P8

Plan No. 786
10.7.43

This act of this gentleman, who appears as a Buddhist leader, caused me pain, insult and a loss. I am now not in a position to get any of my goods and therefore I am faced with a great difficulty.

1D50
Leaflet by the
1st Defendant-
Appellant
23.11.42—
Continued

It should be realised by those who are impartial, that what he did was a grave offence. Therefore, I most regretfully hereby announce as a self-penalty for the wrongs done by that gentleman who appears as a leading Buddhist and until the wrongs and damage done by him are put right and pardon begged for, I am fasting since 6 a.m. today.

I am,
10 WAGISWARACHARYA MORONTUDUWE
SRI NANESWARA DHAMMANANDA,
Nayaka Thera of Sabaragamuwa, Sripada-
sthana and Viharadhipati of Maligakanda
Temple.
Date: 23.11.1942. (Sgd.) M. DHAMMANANDA.

1D66

**Letter from Venerable Pahamune Dharmakirti Sri
Saranankara Sumangala Maha Nayaka Thero**

Translation

20 Malwatu Maha Vihara,
Kandy,
20th August, 1944.

1D66
Letter from
Venerable
Pahamune
Dharmakirti
Sri Saranankara
Sumangala
Maha Nayaka
Thero
20.8.44

To
Wagiswarachariya Morontuduwe Sri Gnaneswara Dharmananda,
Chief Nayaka Thero of Sabaragamuwa Province and
Sripadasthana, Viharadhipathy of Vidyodaya
Pirivena-Vihara,
Maligakanda,
Colombo.

30 We received the letter dated 8th instant sent to us by you. However, it does not appear in 'Lekammitiya' the Upasampada of Kirti Sri Sumangala Dewundara Jinaratana, the Chief Nayaka Thero

1D66
 Letter from
 Venerable
 Pahamune
 Dharmakirti
 Sri Saranankara
 Sumangala
 Maha Nayaka
 Thero
 20.8.44—
Continued

of the Nine Korales. Therefore, we cannot send you a copy of his Upasampada Register. But, I remember that he was ordained by the name of Hikkaduwe Nayaka Thero. Though I was not a member of the Karaka Sabha during that time, I was in the Sangha Sabha which ordained him.

We do not know anybody being ordained by the name of Hikkaduwe Nayaka Thero, the ordination before Dewundara Nayaka Thero. Mahagoda Sri Gneswara Nayaka Thero was ordained in the year 1889.

We have no memory to say definitely, the year of ordination of 10 Dewundara Nayaka Thero, as mentioned in his Statutory Declaration to be 1878. That year may be 1878 or 1879. The ordination of Mabotuwana Siddhartha Thero, too, does not seem to appear in the 'Lekammitiya'. Therefore, even his Upasampada Register cannot be sent.

Mahagoda Sri Gneswara Nayaka Thero who disrobed and became a layman in 1916, was reroled and ordained by the names of Galgiriya Sri Buddharakkhitha Maha Nayaka Thero and Dewundara Sri Jinaratana Nayaka Thero. Even this ordination is not registered in 'Lekammitiya'. Therefore, we cannot send the Upa-20 sampada Register of the second ordination of Sri Gneswara Nayaka Thero.

Rev. Welivitiye Sorata was ordained in 1917 by the names of Mahagoda Sri Gneswara Nayaka Thero and Kahawe Pematana Thero. But, it is to be seen that the name of Hikkaduwe Pemananda Nayaka Thero was also written later as a teacher of Rev. Sorata.

To this effect,

PAHAMUNE DHARMAKIRTI SRI SARANANKARA SUMANGALA Maha Nayaka Thero of Syamopali Maha Nikaya, Viharadhi-30 pati of Uposhita, Pusparama Maha Vihara, Kandy.

1071

1D59

Extract from the Register at Malwatte Vihara

Translation

COPY

1D59

Extract from
the Register
at Malwatte
Vihara
17.10.44

2488/1944.

17th October.

Saka 1792.

First Letter " Cha' ,"

Number 25.

10 " Pahamuna Samanera whose teachers are Hinabowe Nayaka Thero, Viharadhipathy of Badagamuwa in Mahagalboda Korale in Ehala Dolospattuwa of Seven Korales and Pahamuna Thero residing in Hindagolla Vihara, Gandaha Korale, and Godatale Thero, Vihara-dhipathy of Torana at Weuda."

I certify that this is a copy of the Register at Malwatu Vihara, Kandy.

To this effect,

(Sgd.) PAHAMUNE SRI SUMANGALA

PAHAMUNE DHARMAKIRTI SRI SARANANKARA SUMANGALABHIDHANA,

20

Maha Nayaka Thero of Syamopali Maha Nikaya, Viharadhipathy of Uposita Pushparama Viharas, Kandy.

1D51

Leaflet by the 1st Defendant-Appellant

Translation

1D51

Leaflet by the
1st Defendant-
Appellant
29.4.45

INFORMATION TO ALL

In order that our King may attain victory and peace in war and to bring relief from disease and horror to our suffering Ceylonese a group of dayakayas of this temple requested permission from me to

30

1D51
Letter by the
1st Defendant-
Appellant
29.4.45—
Continued

perform a bana and pirith ceremony in this Vihara from the 22nd instant. As the chief object of the ceremony was very appropriate I granted the permission.

The dayakas who advertised a notice about the ceremony in the "Dinamina" on the 17th instant made preparations to enable the first bana preaching to be performed on the 22nd instant when Rev. Baddegama Piyaratana Thera without either permission from me or on invitation from the Dayakas got on to the bana preaching seat and from that day interrupted and aided to interrupt the bana-preaching ceremony. 10

From yesterday night he has started to obstruct the preaching hall under the pretext of pirith chanting. This is an act of violence designed to interrupt the pirith ceremony which was scheduled to commence from today.

I feel that the cause of doing so was that he and his followers did not like the chief object of the ceremony. It has become a source of agony and distress to my heart.

Therefore, I kindly informed them to leave the preaching hall with respect to dhamma and law, and in loyalty to the King, without interrupting the pirith ceremony which was scheduled to be started 20 today by the dayakas of this temple.

If this is not done I announce with deep regret that I will observe a complete fast from midnight today on behalf of the King and the innumerable people afflicted with the effects of war, till they admit their fault and give an undertaking not to commit such offences in future and until the dayakas commence the ceremony for which they had obtained permission from me.

To this effect,
Wishing good for humanity and Buddhism,
(Sgd.) M. DHAMMANANDA. 30

Morontuduwe Sri Dhammananda, Nayaka Thera,
The Viharadhipati of Vidyodaya Pirivena Vihare,
Maligakanda, Colombo.

29th April, 1945.

1073

1D10

Letter from Venerable K. Sri Ratnajoti Nayaka Thero

Translation

1D10
Letter from
Venerable K.
Sri Ratnajoti
Nayaka Thero
1.12.45

Ven. K. Sri Ratnajoti Nayaka Thero,

M.O.S.S.,

Chief High Priest, D.D.H.P.,

Principal,

Vidyarthodaya Pirivena,

Veherapitiya,

10 Incumbent, Imbulgoda and Ratmalgoda Viharas.

Polgahawela, 1st December, 1945.

With Great affection.

Dear Sir,

I have to give deep thought to what you told me the other day. The reason is because you are a friend of mine. I have to respect your request and as the connection between me and the other side is much. Due to this I am in a difficulty. In sympathy for me please accept this request of mine. In all my life time I have never up to now appeared before a court to give evidence. Whatever may happen
20 I cannot do this. Therefore, do not make me a witness in the case and involve me in it. Even though you make me a witness without my consent I shall never come forward to give any evidence.

(Sgd.) K. RATNAJOTI.

1D54

Letter forwarding Certificates of Prachina Examination 1944

Translation

1D54
Letter forward-
ing Certificates
of Prachina
Examination
1944
15.3.46

No. 5B/055/7.

Education Office,
Colombo, 15.3.1946.

30 *Certificate of Prachina Examination, 1944*

With Honour,

I herewith enclose 92 copies of the above certificates pertaining to the successful students of your Pirivena. You are requested to inform me early after handing them over and getting their signatures. The numbers of the certificates of the students referred to are as follows :—

1D54
Letter forward-
ing Certificates
of Prachina
Examination
1944
15.3.46—
Continued

223, 226, 229, 231, 233, 237, 239, 242, 249, 260, 268, 269, 274,
276, 281, 288, 289, 290, 293, 298, 333, 336, 64, 66, 68, 70, 72, 73,
77, 81, 98, 99, 100, 103, 104, 107, 108, 110, 116, 118, 121, 124,
126, 130, 132, 136, 140, 143, 149, 151, 156, 158, 162, 166, 167,
172, 175, 183, 193, 198, 199, 202, 213, 2, 5, 8, 10, 12, 15, 16,
17, 24, 29, 30, 32, 35, 68, 47, 54, 62.

(Sgd.) E. A. ABAYASEKARA,
Secretary.

Prachina Bhashopakara Society.

To :—

The Principal of Vidyodaya Pirivena.

10

2D12Y

Minutes of the Sabha Meeting

Translation

2489 B.E./1946 A.D.

Minutes of the Meeting of the Vidyadhara Sabha held
on 17.3.1946 at 5.30 p.m. at Mahabodhi Mandira

Those present:— the Principal of the Pirivena, Telduwe Pavarakitti, Hon. Mr. D. S. Senanayake, Raja Hewavitarne, Wimaladharmawasthana, Hon. Mr. D. S. Senanayake, Proctor W. H. W. Perera, Proctor J. Munasinghe, 20
Mudaliyar E. Abayasekara, Mud. Ratnatunga, C. V. de Soya, H. H. Appuhamy, H. D. Chikera, Dr. B. E. Fernando, A. M. Senaratne, M. Rajapakse, S. Goonewardene, D. J. Pathinayake, A. W. Kaluaratchi, D. L. F. Pedris and D. B. Madanayake.

After the preliminary work was over, proposed by Mr. Raja Hewavitarne, seconded by A. W. Kaluaratchi, Hon. Mr. D. S. Senanayake was elected to the Chair. To begin with a vote of condolence on the death of Mr. D. B. Perera was passed and it was decided to communicate to the family of the deceased. This resolution was seconded by Proctor W. H. W. Perera and was accepted by the 30
House. All those present expressed their heartfelt sympathy rising to the moment of silence.

Mr. Raja Hewavitarne proposed and Proctor W. H. W. Perera seconded that Dr. B. E. Fernando be elected to fill the vacancy created by the death of Mr. D. B. Perera. In view of the fact that there were no other names, this was adopted unanimously.

In conclusion Rev. Baddegama Piyaratana, Principal of the Pirivena speaking expressed his pleasure over the appointment of Mr. B. E. Fernando.

(Sgd.) R. HEWAVITARNE,
Hony. Secretary.

1947.12.6.

10

Minutes adopted :

(Sgd.) C. W. W. KANNANGARA,
President.

6.12.1947.

Z2A

Translations of Z2

Minutes of a Meeting of the Vidyadhara Sabha and the Vidyodaya Dayaka Sabha of the Vidyodaya Pirivena, Maligakanda, held on Wednesday, 11th April, 1956, at 5 p.m. at the Vidyodaya Pirivena.

20 *Present.*—Dr. C. W. W. Kannangara, Mudaliyar P. D. Ratnatunga, Mudaliyar E. A. Abayasekara, Senator A. M. Samarasinghe, Messrs. H. W. Amarasuriya, N. Moonesinghe, R. Hewavitarne, Gamini Jayasuriya, Tissa Ratnatunga, P. C. Perera, C. D. A. Gunawardena, R. Atthanayaka, M. C. Jinadasa, K. Amunugama, G. P. Wickramaratchi, Dr. A. D. P. A. Wijegoonewardene, Mr. U. Ratnatunga, and Dr. G. P. Malalasekera.

Proposed by Mr. Amarasuriya and seconded by Mr. Perera, Dr. Kannangara occupied the Chair. Proceedings commenced with Pansil.

30 Dr. G. P. Malalasekera, Hony. Secretary of the Vidyadhara Sabha, read the notice convening the meeting which had been published in the "Dinamina" of 4.4.1956 and the rules regarding the election of a Sabhapathi to the Sabha, to fill a vacancy created by death.

Before coming to the business of the meeting, the Chairman proposed a vote of condolence on the death of Mr. Daya Hewavitarne. This was passed, all present standing in silence.

The Chairman then stated that the meeting had been convened, according to the notice that had been read, to elect a Sabhapathi to
40 the Vidyadhara Sabha to fill the vacancy created by the death of Mr. Daya Hewavitarne, and called for nominations.

2D12Y

Minutes of the
Sabha Meeting
17.3.46—
Continued

Z2A

Translation of
Z2
11.4.56

Z2A
Translation of
Z2
11.4.56—
Continued

Dr. Malalasekera proposed and Mr. Amarasuriya seconded that Mr. U. Ratnatunga be elected to fill the vacancy.

There being no other nominations, the Chairman declared that Mr. U. Ratnatunga was duly elected a Sabhapathi of the Vidyadhara Sabha.

(Sgd.) Illegibly.

Hony. Secretary of the Vidyadhara
Sabha.

Certified as correct record of the proceedings.

(Sgd.) C. W. W. KANNANGARA,
Chairman of the meeting of 11th April, 1956.

10

Translated by me.

(Sgd.) Illegibly.

Interpreter, D.C., Colombo. 9.8.56.

Z3A
Translation of
Z3
11.4.56

Z3A

Translations of Z3

*Minutes of a Meeting of the Vidyadhara Sabha, held on April 11th 1956,
at 5.30 p.m. at the Vidyodaya Pirivena, Maligakanda, with
Dr. C. W. W. Kannangara in the Chair*

The others present were : Mudaliyar P. D. Ratnatunga, Mudaliyar 20
E. A. Abayasekara, Senator A. M. Samarasinghe, Messrs. H. W. Amara-
suriya, N. Moonesinghe, R. Hewavitarne, Gamini Jayasuriya, U.
Ratnatunga and G. P. Malalasekera (Hony. Secretary).

Dr. Malalasekera informed the meeting that at a joint meeting of the Vidyadhara Sabha and the Vidyodaya Dayaka Sabha a little while earlier, Mr. U. Ratnatunga had been elected as a Sabhapathi of the Vidyadhara Sabha to fill the vacancy created by the death of Mr. Daya Hewavitarne. The Chairman welcomed Mr. Ratnatunga.

Dr. Malalasekera informed the meeting that he would be out of the Island for about six weeks from April 12, 1956, and proposed that 30
Mr. U. Ratnatunga be appointed to act as Hony. Secretary of the Sabha during his absence. This proposal was seconded by Mr. Amarasuriya and carried unanimously.

On the proposal of Dr. Malalasekera, seconded by Mr. Hewavitarne, it was agreed that as from 1st April, 1956, the allowance given to the Bhikku Teachers of the Pirivena be increased to Rs. 2.50 per day.

Z3A
Translation of
Z3
11.4.56—
Continued

It was agreed that a building scheme be prepared and application be made to the Lanka Bauddha Mandalaya for assistance in carrying it out. Part of the Scheme would be a commemorative building in honour of the Founder of the Pirivena, the late Ven. Hikkaduwe Sri Sumangala, Nayaka Thero. It was estimated that the Scheme
10 proposed would cost about five lakhs of rupees and The Lanka Bauddha Mandalaya was to be asked to contribute half this amount, the rest to be collected by public donations.

The meeting terminated with a vote of thanks to the Chair.

(Sgd.) Illegibly.

Hony. Secretary, Vidyadhara Sabha.

Certified as a correct record of the proceedings.

(Sgd.) C. W. W. KANNANGARA,

Chairman of the meeting of 11.4.56.

Translated by me.

20 (Sgd.) Illegibly.

Interpreter D.C., Colombo. 9.8.56.

1D55.

Letter from the Director of Education

REGISTERED

No. SB/OSS/7
Education Office,
Colombo, 20.5.1946.

1D55
Letter from
the Director
of Education
20.5.46

Certificates of Prachina Examination, 1944

30 Dear High Priest,

You are requested to send me immediately in the annexed two covers, sealed and registered, the above certificates referred to in your letter dated 8th instant sent to the Secretary of the Prachina Bhashopakara Society.

(Sgd.) IAN SANDEMAN,
Director of Education,

President of the Colombo Prachina Bhashopakara Society.

Ven. Morontuduwe Sri Dhammananda Nayaka Thero,
Vidyodaya Pirivena, Colombo.

2D34

Letter from
the Director of
Education to
the 1st
Defendant-
Appellant
20.5.46

2D34

**Letter from the Director of Education to the 1st
Defendant-Appellant**

For the information of Mr. Raja Hewavitarne, M.S.C., with
reference to the conversation with me on the 17th instant.

REGISTERED

Translation

(Sgd.) IAN SANDEMAN.
D.E.
20.5.46.

No. S.B./O.S.S./7.
Education Office,
Colombo, 20.5.1946. 10

Certificate of the Oriental Examination of 1944

Nayaka Thero,

I have to ask you to send to me immediately the aforesaid
certificates mentioned in the letter sent by you to the Secretary of
the Oriental Studies Society dated the 8th instant in the two envelopes
sent herewith sealed and by registered post.

(Sgd.) IAN SANDEMAN,
Director of Education,

President of the Oriental Studies Society. 20

Ven'ble Morontuduwe Sri Dharmananda,
Nayaka Thero,
Vidyodaya Pirivena,
Colombo.

 P33

**Letter from the Director of Education to the
Plaintiff-Respondent**

Translation

No. S.B.
Education Office, 30
Colombo, 26.8.46.

P33

Letter from
the Director of
Education to
the Plaintiff-
Respondent
26.8.46

I have the honour to inform you that I have sent certificates by
registered post on 20.3.46 bearing No. 363. The Postal Department
has informed this office that it was accepted by Rev. R. B. Pamaratane
Thero and handed over to Rev. Morontuduwe Dhammananda Nayaka
Thero who claimed to be the Principal of the Pirivena.

I hereby inform you that I have written to the Head of the Postal Department that the said priest (Rev. Morontuduwe) is not the person recognised by the Department as the Principal of the Pirivena and that steps are being taken to recover the contents of the packet.

A further communication on this matter will be sent to you in due course.

(Sgd.) IAN SANDEMAN,
Director of Education.

10 Ven. Baddegama Sri Piyaratana Nayake Thero,
Principal,
Vidyodaya Pirivena,
Colombo.

P33
Letter from
the Director of
Education to
the Plaintiff-
Respondent
26.8.46—
Continued

1D18

Minutes of the Vidyadhara Sabha

Translation

Page 175.

The Minutes of the Vidyadhara Maha Sabha held at
Mahabodhi Hall on 6th December, 2491/1947

20 Those present were :—Ven. Baddegama Sri Piyaratana Nayaka Thera, Principal Vidyodaya Pirivena, Ven. Pandita Hegoda Dhamminda, Dr. C. W. W. Kannangara, Mud. E. A. Abayasekara, Mud. P. D. Ratnatunga, Mr. Raja Hewavitarne, Mr. Wimaladhamma Hewavitarne, Dr. E. Amarasinghe, Mr. C. V. de Soysa, Mr. A. W. Kaluarachchi, Mr. D. J. Patinayake, Mr. D. B. Madanayake, Mr. Devapriya Walisingha, Mr. H. C. Chikera, Mr. V. N. Ratnatunga, Mr. T. J. Dharmaratna, Mr. M. Rajapaksha, Mr. E. J. Perera.

30 After the Parivenadhipati administered pansil the proposal put by Mr. E. A. Abayasekara that Dr. C. W. W. Kannangara be elected to occupy the chair was seconded by Mr. C. V. de Soysa and adopted. Then Mr. Kannangara occupied the chair.

First of all the notices regarding the meeting appearing in "Dinamina" of 1947.11.28 and the Daily News of 1947.11.27 were read. Then after regretting the death of Dr. B. E. Fernando who was a president of the Sabha merit was bestowed on him. The minutes of the last meeting submitted by the Secretary was adopted on being proposed by Mr. E. A. Abayasekara and seconded by Mr. A. W. Kaluarachchi.

1D18
Minutes of the
Vidyadhara
Sabha
6.12.47

1D18
Minutes of the
Vidyadhara
Sabha
6.12.47—
Continued

Mr. Raja Hewavitarne proposed to elect Dr. E. Amarasinghe to the Vidyadhara Sabha membership that has fallen vacant owing to the death of Dr. B. E. Fernando. Mr. H. D. Chikera seconded it. In the absence of any other proposal Dr. E. Amarasinghe was unanimously elected to fill the vacancy. The Nayaka Thera expressed his consent at the election of Dr. E. Amarasinghe.

Written and signed.

RAJA HEWAVITARNE.

To the effect of adopting.

(Sgd.) GUNAPALA MALALASEKERA.

1948.8.5.

10

2D12V
Minutes of the
Sabha Meeting
5.8.48

2D12V

Minutes of the Sabha Meeting

Translation

Reference Page 177.

Minutes of the meeting of Vidyadhara Sabha held on Thursday 5th August, 2492 B.E./1948 A.D. at 5.15 p.m. at Mahabodhi Mandira, Maligakanda.

Those present : Principal of the Pirivena, Rev. Baddegama Sri Piyaratana Maha Nayaka Thero, Pandit Hegoda Dhamminda Thero, 20 Dr. G. P. Malalasekera, Messrs. W. H. W. Perera, Proctor, H. W. Amarasuriya, M.P., Dr. C. W. W. Kannangara, Messrs. Gamini Jayasuriya, C. V. de Soysa, Mudaliyar P. D. Ratnatunga, Messrs. A. W. Kaluarachchi, Inspector of Schools, M. Rajapakse, J. C. Jayatilleke, Ayur. Phy. D. J. Pathinayake, Messrs. H. H. Appuhamy, M. A. William Appuhamy, Francis Gunaratne, J. M. Wijepala, Wimala-Dharma Hewavitarne (Treasurer), E. J. Perera and two representatives from Sri Sasanadhara Samithiya, Maradana and Sri Parakrama Lama Samajaya, Maligakanda.

Proposed by Mr. A. W. Kaluarachchi and seconded by Mr. 30 W. H. W. Perera, Dr. Malalasekera was elected to the Chair. The Rev. Principal of the Pirivena administered Pansil (the five Precepts) to those present. Thereafter, advertisements in the Daily News and Dinamina convening this meeting was read. A vote of condolence was passed on the death of Dr. E. Amarasinghe, a former President of the Vidyadhara Sabha and bestowed merit subsequently. The Treasurer read the minutes on behalf of the Secretary who is abroad. Proposed by Mr. C. V. de Soysa and seconded by Mr. D. J. Pathinayake the minutes were adopted. The name of Mr. Nalin Munasinghe, C.C.S., 40 was proposed by Mr. W. H. W. Perera to fill the vacancy occurred by the death of Mr. E. Amarasinghe, the former President. Seconded by Mr. C. V. de Soysa the resolution was unanimously carried.

Thereupon, Nayaka Thero expressed his pleasure at the election of Mr. Munasingha and thanking the Vidyadhara Sabha for the administration and protection of the Vidyodaya Pirivena made a speech embodying religious advice. After the chairman's speech the proceedings of the meeting terminated.

2D12V
Minutes of the
Sabha Meeting
5.8.48—
Continued

Adopted.

(Sgd.) C. W. W. KANNANGARA,

Chairman.

(Sgd.) W. D. HEWAVITARNE,

31.1.1949.

10

Actg. Secretary.

1D15

**Notice Regarding the Special General Meeting of the
Vidyadhara Sabha convened for 31.1.49**

Translation

Page 177 attached to 2D12V.

Extract from the "Sinhala Bauddhaya" paper of 22.1.49.

NOTICE

The Vidyadhara Sabha of Vidyodaya Pirivena, Maligakanda,
Colombo.

20 It is hereby informed that a special general meeting of the above Sabha and the dayakayas will be held at the Mahabodhi Building, Maligakanda at 5.15 p.m. on Monday the 31st January, 1949, for the purpose of electing a member to fill the vacancy caused by the death of Mr. J. Munasinghe who had been a member of the above Sabha on the 4th of this month.

RAJA HEWAVITARNE,

Hony. Secretary.

Vidyadhara Sabha.

2D12W

30 **Minutes of the Special General Meeting of the Sabha**

Translation

Reference Page 178.

Minutes of the Special General Meeting of the Vidyadhara Sabha held on Monday, 31st January, 2493 B.E./1949 A.D.

A Special General Meeting of the members of the Vidyadhara Sabha and benign supporters (dayakas) was held on Monday, 31st

1D15
Notice Regarding
the Special
General Meeting
of the
Vidyadhara
Sabha
Convened for
31.1.49—
22.1.49

2D12W
Minutes of
the Special
General
Meeting of the
Sabha
31.1.49

2D12W
Minutes of
the Special
General
Meeting of the
Sabha
31.1.49—
Continued

January, 1949 at 5.15 p.m., at the Mahabodhi Mandira, Maligakanda. The purpose of calling this meeting was to elect a member of the Vidyadhara Sabha in place of late Mr. J. Munasinghe who died on 4th January, 1949.

Those Present:—Dr. C. W. W. Kannangara, Mudaliyar P. D. Ratnatunga, Dr. G. P. Malalasekara, Messrs. Raja Hewavitarne, Wimala Dharma Hewavitarne, N. Munasingha, W. H. W. Perera, H. W. Amarasuriya, Mudaliyar E.A. Abayasekara, Messrs. Gamini Jayasuriya, Daya Hewavitarne, E. J. Perera, Francis Gunaratne, C. V. de Soysa, M. Rajapakse, P. Weerasooriya Ariyaratne, A. W. Kaluarachchi and 10 J. C. Jayatillaka. Two representatives from Sri Sugatha Samayanurakshaka Samithiya and Sasanadhara Samithiya were present.

Page 179.—Having elected Dr. C. W. W. Kannangara to the chair the proceedings at the meeting commenced with the administration of the Five Precepts (Pansil). The Secretary explaining the purpose of the special General meeting read out the notice convening the meeting of the members and supporters (dayakayas) of the Vidyadhara Sabha that appeared in the Sinhala Baudhaya Paper on 22nd January, 1949.

Mr. W. H. W. Perera proposed and Mudaliyar P. D. Ratnatunga 20 seconded a vote of condolence on the death of a long standing member of the Sabha, Mr. J. Moonasinghe. In this connection the whole House observed silence for a few moments. It was decided to communicate the grief of the House, to the members of the family of late Mr. Munasinghe.

The House then proceeded to elect a member in place of the late Mr. Munasingha, and the Chairman called for nominations. The representative of the Sugathasamayanurakshaka Samithiya proposed the name of Dr. A. D. P. A. Wijegunaratne. Mr. Raja Hewavitarne, Secretary of the Sabha, phoned up Dr. Wijegunaratne and asked him 30 whether he has any objections. Dr. Wijegunaratne declined the honour with thanks stating that he is too busy and that he is not in a position to attend the weekly meetings of the Sabha. Thereupon, the proposer withdrew the name of Dr. Wijegunaratne. Mr. W. H. W. Perera and Mudaliyar P. D. Ratnatunga proposed and seconded respectively the name of Mr. Daya Hewavitarne to fill the vacancy. This was unanimously carried.

At this stage the proceedings of the meeting terminated.

Adopted.

Secretary.

President.

1083

2D35

**Letter from the Secretary, Oriental Studies Society, to
the Plaintiff-Respondent**

Translation

2D35

Letter from
the Secretary,
Oriental
Studies Society
to the Plaintiff-
Respondent
7.2.49

No. SBB/OSS.
Education Office,
Colombo, 7.2.49.

Certificate of Oriental Examination, 1944

Ven'ble Nayaka Thero,

10 I am sending herewith by Mr. H. M. Gunawardena, an officer of this office duplicate copies of the certificates of the 92 successful candidates that appeared for the aforesaid examination from the Vidyodaya Pirivena.

Their numbers are given below.

I have to ask you to send me by the same officer acknowledgement by signature and date of receipt of the said Certificates after verification on the duplicate of this letter itself and also to hand over these certificates as early as possible to the candidates entitled to them and inform me by letter that you have done so.

20 The numbers of the said certificates are :—

2, 5, 8, 10, 12, 15, 16, 17, 35, 38, 24, 29, 30, 32, 47, 54, 62, 64, 65, 66, 68, 70, 72, 73, 98, 99, 100, 103, 104, 107, 77, 81, 108, 110, 116, 118, 121, 124, 125, 126, 130, 131, 132, 136, 137, 138, 139, 140, 143, 162, 166, 167, 149, 151, 156, 157, 158, 172, 175, 183, 193, 198, 199, 202, 213, 223, 224, 225, 226, 229, 231, 233, 237, 239, 240, 241, 242, 249, 260, 288, 289, 290, 298, 293, 266, 268, 269, 274, 276, 282, 333, 336.

(Sgd.) E. A. ABAYASEKARA,
Secretary, Oriental Studies Society.

30 The Ven'ble Baddegama Sri Piyaratana Nayaka Thero,
Parivenadhipathi of Vidyodaya Pirivena,
Colombo.

Leaflet by the 1st Defendant-Appellant

Translation

A sorrowful information to the Buddhist mendicants
 and the General Public

On the 19th of this month, at 8.30 in the night, I came to the Mahabodhi office to use the telephone. During this time, Mr. Rajah Hewavitarne, who came there, saw me sitting in the office, began to threaten Mr. Francis Guneratne, who was the Manager of the office, saying : " Francis, didn't I tell you not to take this priest here. Take 10 your hat and get out quickly," and so on. For a while I remained in silence in the inner room and came out to go away. Then I saw Mudaliyar Ratnatunga waiting in the verandah and questioned him, " Oh : how are you, Ralahamy ? " Then he asked me why I came here at this time and I told him that I came here to send a message through the telephone.

Mr. Hewavitarne who went out threatening Mr. Gunaratne, saw me standing in the verandah and came back. We both (Mudaliyar and I) having descended from the verandah to the compound, proceeded forth. When Mr. Rajah Hewavitarne abused Mr. Guneratne 20 again and again for taking me there, I questioned : " What is the fault of my coming to this office ? " He replied : " I don't like your coming here as you are claiming through the Court the temple founded by our ancestors." When I questioned him whether this was not common to the Buddhist general public, he began to speak, burning with anger. Concerning a harsh word used by him in that talk, I told him not to utter brutal words. After that, he, having gone a fathom or half-fathom forward, came jumping and gave me a blow on the right hand side of my chest. Then he manhandled me completely, made me fall down and ran away before I got up. 30 Personally I don't have any aggression towards anybody else who assaults me. It is said in Dhamma that the disrespect made to a single monk is a disrespect to the whole Sangha. It is for the sake of making essential arrangements by the Buddhist monks and the laity in order to protect the respect of the Sangha in future without facing such savagous situations as this that I suffer from a full fast.

To this effect,

**MORONTUDUWÉ SRI DHAMMANANDA
 NAYAKA THERA.**

Mahabodhi Office,
 22.9.1949.

1085

P40

**Letter written by Venerable D. Wachissara to Venerable
Wanaratana**

Translation

P40

Letter written
by Venerable
D. Wachissara
to Venerable
Wanaratana
10.4.50

Gangaramaya,
Hunupitiya, Colobmo 2.
10th April, 1950.

The Chief High Priest of Colombo.

I write to inform with kindness.

10 Dear Wanaratana,

The writing I gave you the other day is a most powerful one. The greater is its power as it has been written by a Proctor and Notary. When you show it to the Fiscal's Aratchi he will be helpless to do anything. He should return. Therefore act fearlessly and with dignity. You should constantly send for the Dayakayas and talk to them. The plaintiffs in the case cannot act forcibly in any way— However, it is our duty to act thoughtfully. I am prepared with all the other necessary papers. As regards them there is nothing lacking. They have been got ready according to law. Therefore, there is no
20 room for us to recede now or in the future or to repent for our action. Further, until the Fiscal comes and summon me to Court Wanaratana (you) should not leave the Temple. It does not matter that I am not there on the day that the Fiscal comes. Wanaratana (you) are my authorised agent. Also clever advocates here say that since that written authority has been given it is not necessary that I should be present there. Today Mr. Advocate Jayasuriya stated that it is better I should not be there. A member of Parliament told me the same thing today. However, I shall also endeavour to be present. There will be no loss due to my absence. May you be happy.

30

I am,
Yours sincerely,
(Sgd.) D. WACHISSARA.

The letter of Punnananda Thero was received. He should be informed that that letter is here.

D. W.

1D4

Extract from
the Report of
the Vidyodaya
Pirivena
27.7.40

1D4

Extract from the Report of the Vidyodaya Pirivena

Translation

The Report of the Pirivena which was submitted to His Excellency the Governor by the plaintiff on 27th July, 1940.

To Venerable Upadhyaya Dewundera Jinaratana Nayaka Thero of Colombo and Nine Korales, the Viharadhipathi of Gangaramaya Vihare at Hunupitiya and the Chief Pupil of the Venerable Hikkaduwe Sri Sumangala Nayaka Thero, the founder of the Pirivena, who is much interested in the welfare of the Pirivena. 10

* * * *

1D4A

Extract of
Report of Rev.
Baddegama
Piyaratana,
Nayaka Thero,
Principal,
Vidyodaya
Pirivena, dated
27th July,
1940. Year
1928-1939
27.7.40

1D4A

**Extract of Report of Rev. Baddegama Piyaratana Nayaka
Thero, Principal, Vidyodaya Pirivena, dated 27th
July, 1940. Year 1928-1939**

* * * *

Page 1

With the death of Rev. Sri Sumangala Maha Nayaka Thero Rt. Rev. Heiyanthuduwe Sri Devamithtrabhidhana Chief Maha Nayaka Thero and Rt. Rev. Mahagoda Sri Gnaneswarabhidhana, Chief Nayaka Thero, were appointed as Director and Principal, of the Pirivena respectively. These Mahanayaka Theros having held the posts 20 life long brought about progress of the Pirivena in all respects.

With the death of Rev. Sri Gnaneswara Maha Nayaka Thero Rt. Rev. Kahawe Sri Sumangala Ratanasarabhidhana, Chief Maha Nayaka Thero was appointed as the Principal of the Pirivena. He brought about great developments and passed away on 3rd of March, 1936. The Vidyadhara Sabha appointed me to the post of the Principal of the Pirivena which fell vacant with the death of the said monk. This appointment received the unanimous support of the teaching staff. Though there were two posts of Vice-Principal during the time of the first and second Principals of the Pirivena, there was 30

actually one post of Vice-Principal during the Principalship of Rev. Kahawe Sri Sumangala Ratanasarabhidhana. However I brought about two posts of Vice-Principal as earlier and appointed Abhidharmika Vagisvaracharya Kukulnape Sri Devarakshitha Thero, former lecturer, Calcutta University, and Panditha Rev. Welivitiye Soratha Thero. Though it was recognised that with the increase of the number of students a proportionate increase in the number of members of the staff was desirable it could not be brought about as the income of the Pirivena was not sufficient to meet the expenses of the staff.

10 Therefore, work was managed with difficulty. However at the request of the Vidyadhara Sabha Rev. Welivitiye Premaratana Thero, Principal of Ananda Pirivena, Galle, was appointed a Tutor of the Pirivena in 1936. In 1938 Rev. Hegoda Dhammananda and in 1940 Rev. Galagama Saranankara and Rev. Thellambure Pavarakirthi were appointed as Tutors.

Present Vidyadhara Sabha.—Mr. D. S. Senanayake (Minister of Agriculture), Mr. W. A. de Silva (Health Minister), Mr. C. W. W. Kannangara (Minister of Education), Messrs. J. Moonesinghe, W. H. W. Perera, Proctor, Raja Hewavitarne, M.S.C., Matara (Hony. Secretary),
20 Dr. D. B. Perera, Mudaliyar E. A. Abayasekara (Chief Interpreter Mudaliyar, Government of Ceylon), Prof. G. P. Malalasekera, Messrs. B. R. Dias (Hony. Treasurer), T. G. C. Perera Lekam, K. W. Gona-kumbura and Wimaladharma Hewavitarne.

Deaths.—Dr. C. A. Hewavitarne, a President of the Vidyadhara Sabha who contributed his share with a sense of responsibility and who did a lot of service to the country, community and religion, died on 3rd April, 1929. The death of this gentleman was an irreparable loss. Muhandiram D. P. A. Wijewardene who was elected to fill the vacancy occurred by the death of Mr. Hewavitarne died on 8th
30 January, 1940. This gentleman also did the work of the Pirivena with a keen interest. Mr. Neil Hewavitarne, Member for Udugama in the State Council, who held a post of a President of the Sabha and who worked with much attachment to the Pirivena, died on 30th October, 1939. The death of this gentleman too was an irreparable loss. We mention our deep regret of their deaths.

1D4A
Extract of
Report of Rev.
Baddegama
Piyaratana
Nayaka Thero,
Principal,
Vidyodaya
Pirivena, dated
27th July,
1940. Year
1928-1939
27.7.40—
Continued

X6

Death
Certificate of
D. S. Senana-
yake (2nd
Defendant)
22.3.52

X6

Death Certificate of D. S. Senanayake (2nd Defendant)

Application No. B4350.
18.5.55.

CEYLON

Certificate of Death

No. 1754.

Western Province : Colombo District.
Slave Island : Division.

Date and place of death	Twenty-second March, 1952. Central Hospital, Horton Place, Kollupitiya.
Name in full	Rt. Hon. Don Stephen Senanayake.
Sex and race	Male : Sinhalese.
Age	Sixty-nine years.
Rank or profession	Prime Minister, Ceylon.
Name of parents	Mudaliyar Don Spater Senanayake, Elizabeth Catherine Senanayake.
Cause of death and place of burial or cremation	Injury to base of brain following a horse riding accident. Independent Square, Cinnamon Gardens. Accident.
Name and residence of informant, and in what capacity he gives information ..	Joseph Nicholas Cecil Tiruchelvam, 50, Rosmead Place, Colombo, Inquirer into Death.
Informant's Signature	Registered on the Certificate of the above-named inquirer under Section 2a.
When registered	Twenty-third May, 1952.
Signature of Registrar	R. Ratnam.

I do hereby certify that the foregoing is a true copy of Death Registration filed of record in this office.

(Sgd.) Illegible.

Asst. Registrar-General.

Registrar-General's Office.

Colombo, 18th May, 1955.

X1

Extract from the "Ceylon Observer" of 9.4.52 containing the Notice of Meeting in connection with the Death of D. S. Senanayake (2nd Defendant)

NOTICE*Vidyadhara Sabha*

Rt. Hon. D. S. Senanayake, a member of the above Sabha having died on the 22nd March, 1952, notice is hereby given that a special General Meeting of the members and of the Dayakayas will be held ¹⁰ at Mahabodhi Mandiraya, Maligakanda, Maradana, on Sunday the 20th April, 1952, at 5.30 p.m. for the election of a member in place of the said deceased.

RAJA HEWAVITARNE,

Hony. Secretary.

Vidyadhara Sabha.

Maligakanda,

Colombo, 7th April, 1952.

X1

Extract from the "Ceylon Observer" of 9.4.52 containing the Notice of Meeting in connection with the Death of D. S. Senanayake (2nd Defendant) 7.4.52

X7A**Minutes of the Meeting of the Sabha***Translation*

²⁰ Minutes of a Meeting of the Vidyadhara Sabha and the Vidyodaya Dayaka Sabha held on Sunday, 20th April, at the Mahabodhi Mandira, Maligakanda, Colombo

Present.—Messrs. W. H. W. Perera, E. A. Abayasekara, G. P. Malalasekera, P. D. Ratnatunga, N. Moonesinghe, Raja Hewavitarne, W. D. Hewavitarne (all these being members of the Vidyadhara Sabha) and Messrs. Gamini Jayasuriya, K. T. Wimalasekera, M. W. J. Nanayakkara, C. G. Batuwatta, D. A. Talagala, M. Rajapakse, C. V. de Soysa, H. L. Don Henry, E. J. Perera, and B. S. Piyasena (being Members of the Vidyodaya Dayaka Sabha).

³⁰ Proposed by Mr. R. Hewavitarne and seconded by Mudaliyar Ratnatunga, Mr. W. H. W. Perera occupied the Chair. Mr. R. Hewavitarne acted as Secretary to the Meeting.

After Pansil, Mr. R. Hewavitarne read the Notices convening the Meeting which had appeared in The Ceylon Observer of April 9th. The Chairman explained the purpose of the meeting and moved a vote of condolence on the death of the Rt. Hon. D. S. Senanayake, who had been for many years a very valued member of the Vidyadhara Sabha. He recalled that Messrs. F. R. Senanayake and D. C. Sena-

X7A

Minutes of the Meeting of the Sabha 20.4.52

X7A
Minutes of the
Meeting of
the Sabha
20.4.52—
Continued

nayake, who had predeceased him had also been members of the Sabha. Dr. Malalasekera seconded the motion which was passed all standing in silence for two minutes. It was decided to send a copy of the Resolution to Mrs. D. S. Senanayake.

Dr. Malalasekera then proposed that Mr. Dudley Senanayake be elected to fill the vacancy created by the death of the Rt. Hon. D. S. Senanayake. This was seconded by the Chairman and being put to the meeting was carried unanimously.

The meeting terminated with a vote of thanks to the Chair.

Certified as correct :

10

(Sgd.)

Hony. Secretary, Vidyadhara Sabha.

20th May, 1952.

X7B
Minutes of the
Meeting of the
Sabha
30.4.52

X7B

Minutes of the Meeting of the Sabha

Translation

The Minutes of the Meeting of Vidyadhara Sabha held at 5.30 p.m. on Wednesday the 30th April, 1952, at the Mahabodhi Mandira, Maligakanda, Colombo

At this meeting there were present (1) Raja Hewavitarne, 20 (2) Wimaladharma Hewavitarne, (3) Nalin Moonesinghe, (4) Dr. G. P. Malalasekera, (5) Mudaliyar P. D. Ratnatunga, (6) Mudaliyar E. A. Abayasekara, (7) W. H. W. Perera, Proctor, and (8) D. L. F. Pedris.

After Dr. G. P. Malalasekera was elected to the Chair, the proceedings of the meeting were commenced after taking Pansil. The minutes of the special meeting held on the 30th ultimo were read over by the Secretary and confirmed.

The letter sent by Mr. Dudley Senanayake, the Prime Minister, accepting the membership created vacant by the death of Right 30 Honourable D. S. Senanayake was read at the meeting.

Mr. Raja Hewavitarne placed before the meeting his difficulty owing to several of his personal work, to do any more work as Secretary of the Vidyadhara Sabha which has been done by him for several years and pointed out the necessity for electing some one else in his place. Thereafter, Dr. G. P. Malalasekera was unanimously appointed for the said post.

Dr. Malalasekera proposed a vote of thanks for the invaluable services rendered by Mr. Raja Hewavitarne as Secretary of the Vidyadhara Sabha during a very difficult and critical period of the history of the Pirivena and was seconded by Mr. W. H. W. Perera, Proctor.

X7B
Minutes of the
Meeting of the
Sabha
30.4.52—
Continued

Mr. Raja Hewavitarne informed the meeting that Rev. Pundit Thellambure Pavarakeerthi had brought to his notice about some means of collecting funds for the repairs to the buildings of the Pirivena as permitted by Rev. Baddegama Piyaratana, the Principal
10 of the Vidyodaya Pirivena. After discussion it was decided to be unnecessary and Dr. G. P. Malalasekera undertook to prepare a scheme to attend to the repairs of the building of the Pirivena.

Thereafter the resignation of Mr. B. R. Dias from the membership of the Vidyadhara Sabha was brought to the notice of the Sabha and was accepted. It was also decided to hold a special meeting of the members of the Vidyadhara Sabha and Dayakayas on the 14th instant at 6 p.m. at Mahabodhi Mandira for the purpose of electing a member for the vacancy created by the resignation of Mr. B. R. Dias and it was further agreed to publish a notice in the newspapers
20 for the purpose.

Messrs. W. H. W. Perera and Wimaladharmas Hewavitarne agreed to go and trace the land at Mulleriyawa and the Sabha agreed to discuss at a later meeting about the selling of the said land and utilise the sale proceeds for some other purpose.

There was also a discussion to sell the lands at Anuradhapura and utilise the money for any other suitable purpose as legal action has been taken as the rents of Anuradhapura houses are not regularly paid.

Mr. Raja Hewavitarne stated that the land at Kottegangoda
30 has been leased out for Rs. 200/- for two years.

After a vote of thanks to the Chair the meeting dispersed.

Accepted.

(Sgd.)

Chairman.

(Sgd.) GUNAPALA MALALASEKERA,

Hony. Secretary.

Minutes of the Meeting of Vidyadhara Sabha

Translation

The Minutes of the Meeting of Vidyadhara Sabha held on 14th May, 1952/B.E. 2496 at 6.30 p.m. at Mahabodhi Mandira, Colombo

Those present were : D. L. F. Pedris, W. H. W. Perera, Wimaladharmawansa Hewavitarne, Raja Hewavitarne, N. Moonesinghe, P. D. Ratnatunga and G. P. Malalasekera (Hony. Secretary).

Mr. Pedris was elected to the Chair. After taking Pansil the 10 minutes of the meeting held on 20th April were read and confirmed.

The Secretary informed the Sabha that at the special meeting of the Vidyadhara Sabha and the Dayakayas of the Pirivena held at 6 p.m. today Mr. Jotipala Subasinghe was unanimously elected as a member of the Vidyadhara Sabha for the vacancy created by the resignation of Mr. B. R. Dias.

The Secretary informed the Sabha that a meeting of the teachers of the Pirivena would be held on Monday the 19th May at Mahabodhi Mandira under the chairmanship of the Principal of the Pirivena and the presence of the members of the Vidyadhara Sabha there would 20 be useful.

A Sub-Committee consisting of Messrs. Pedris, Raja Hewavitarne, Subasinghe, the Treasurer and the Secretary was appointed to look into the repairs to the buildings of the Pirivena according to the income received.

It was discussed as to what should be done for the insufficiency of the members' subscription. In addition to the usual subscription of Rs. 2/- paid now it was decided to inform the members to pay an additional sum of Rs. 3/- and the same to be collected on the dates of the meetings of the Sabha. 30

The Secretary was authorised to employ a cooly on a reasonable salary to keep the Pirivena Premises clean.

It was decided to start teaching English for the benefit of the pupils of the Pirivena and for that purpose the Secretary was authorised to employ a suitable Graduate with the sanction of the Principal of the Pirivena.

It was also decided to obtain an allowance from the Education Department for the purpose of paying the said Graduate. The Secretary informed that he discussed the matter with the Permanent Secretary to the Ministry of Education. 40

It was decided to employ without delay a suitable person in place of Mr. E. J. Perera (Upasaka) who has desired to resign from his services.

The Secretary informed that he would take special interest in reorganising the Dayaka Sabha of the Pirivena and will hold a meeting regarding it shortly.

After a vote of thanks to the Chair the meeting dispersed.

Accepted.

(Sgd.) C. W. W. KANNANGARA,

Chairman.

(Sgd.) GUNAPALA MALALASEKERA,

Hony. Secretary.

11.6.52.

Y3
Minutes of the Meeting
of Vidyadhara
Sabha
14.5.52—
Continued

10

X7C

Minutes of the Meeting of the Sabha

Translation

Minutes of a Meeting of the Vidyadhara Sabha and the Vidyodaya Dayaka Sabha held on Wednesday, 14th May, 1952, at the Mahabodhi Mandira, Maligakanda, Colombo

Present:—Messrs. D. L. F. Pedris, W. H. W. Perera, W. D. Hewavitarne, Raja Hewavitarne, N. Moonesinghe, Mudaliyar P. D. Ratnatunga and Dr. G. P. Malalasekera (all of them Members of the Vidyadhara Sabha) and Messrs. J. C. Jayatillake, D. J. Patinayake, C. P. Batuwatte, M. Rajapakse, H. H. Appuhamy, C. V. de Soysa, M. D. A. Wimalasena (being members of the Vidyodaya Dayaka Sabha).

Proposed by Dr. Malalasekera and seconded by Mr. R. Hewavitarne that Mr. Pedris take the Chair. Dr. Malalasekera acted as Secretary to the meeting.

Dr. Malalasekera explained that the meeting was held in order to elect a Member of the Vidyadhara Sabha in place of Mr. B. R. Dias who had resigned because of his inability to take part in the work of the Sabha. He read out the notice convening the meeting which had appeared in "The Sinhala Bauddhaya" of May 3rd, 1952.

The meeting having agreed to elect a successor, Dr. Malalasekera proposed that Mr. Jotipala Subasinghe of Dawson Road, Havelock Town, Colombo, be elected a Member of the Vidyadhara Sabha, in place of Mr. B. R. Dias. This proposal was seconded by Mudaliyar Ratnatunga and having been put to the House was carried un-animously.

Dr. Malalasekera also proposed that a vote of thanks be passed to Mr. Dias for his valuable services to the Sabha of which he has at one time been Hony. Treasurer. This was seconded by Mr. W. H. W. Perera and carried unanimously.

X7C
Minutes of the
Meeting of the
Sabha
14.5.52

X7C
Minutes of the
Meeting of
the Sabha
14.5.52—
Continued

Dr. Malalasekera stated to the Meeting that he had accepted the Office of Hony. Secretary of the Vidyadhara Sabha and appealed to all of them for their whole-hearted support.

The meeting terminated with a vote of thanks to the Chair.

(Sgd.) G. P. MALALASEKERA,
Hony. Secretary of the Vidyadhara Sabha of the Joint Meeting.

X10
Minutes of the
Meeting of
Maligakande
Vidyodaya
Dayaka Sabha
24.7.52

X10

Minutes of the Meeting of Maligakande Vidyodaya Dayaka Sabha

Page 15 of the Minute Book of Vidyodaya Dayaka Sabha

The Minutes of the Meeting of Maligakande Vidyodaya Dayaka Sabha held at 6 p.m. on Thursday the 24th July, 1952 10

Those present were Messrs. D. P. Jayasekera, Gamini Jayasuriya, Tissa Ratnatunga, P. O. Ratnatunga, P. C. Perera, A. M. Samarasinghe, R. M. Atthanayaka, M. N. Peiris, D. A. Gunawardene, D. E. Hettiaratchi, S. D. Dannie, Gunapala Malalasekera, Leelananda Caldera, P. U. Ratnatunga and M. D. A. Wimalasena.

The work of the meeting commenced after Dr. G. P. Malalasekera, the Head Chairman, presided and by observing Pansil (five precepts).

First of all, the minutes of the previous Committee meeting 20 was placed before the meeting by the Secretary and it was accepted after deleting the statement of Mr. Dannie regarding the Pirith ceremony.

Thereafter, the letter sent by Mr. Tissa Ratnatunga and the letter sent by Morontuduwe Nayaka Thero were read by the Secretary and it was decided to write and inform that the said letter could not be accepted as it was against our letter and that no further letters could be expected. Immediately a draft was made and the consent of the meeting was obtained.

Then it was decided to postpone the Pirith ceremony to perform 30 the religious ceremonies as agreed and to obtain 50 mats for the preaching hall.

Again Mr. Gamini Jayasuriya was enrolled as a member. Then the meeting dispersed happily after the day's proceedings.

(Sgd.) LEELANANDA CALDERA,
Joint Secretary.

Accepted.

(Sgd.) P. D. RATNATUNGA.

Translated by :

(Sgd.) Illegible.

S.T., D.C. Colombo.

X8**Death Certificate of Jotipala Subasinghe (19th Defendant)**

CEYLON
Certificate of Death

No. 7225.

Western : Colombo : District.
Wellawatte : Division.

X8
Death Certificate of
Jotipala Subasinghe (19th
Defendant)
11.1.54

Date and place of death	Eleventh, January, 1954. 26, Dawson Road, Havelock Town, Wellawatte North.
Name in full	Jothipala Subasinghe.
Sex and race	Male—Sinhalese.
Age	Forty-three years.
Rank or profession	Landed Proprietor.
Names of parents	F.: Subasinghe Mudiyanseralahamilage Appuhamy Subasinghe. M.: Chandrasekera Mudalige Cornelia Perera Chandrasekera.
Cause of death, and place of burial or cremation	Polyethemics Vera. Dr. James Pedris.
Name and residence of Informant, and in what capacity he gives information ..	Arthur Leslie Raymond, "Raymond House", Kanatta Road, Borella. Person causing burial.
Informant's Signature	A. L. Raymond.
When registered	12th January, 1954.
Signature of Registrar	L. A. Karunaratne.

I do hereby certify that the foregoing is a true copy of a Death Registration entry filed of record in this Office.

(Sgd.) Illegible.

Asst. Registrar-General.

The date of death in Case 1 of this entry corrected to twelfth January, 1954 "this seventeenth day of February, 1954, made by Charles Edwin Perera Jayasuriya of Green Bank" Campbell Place, Colombo, under Section 37(3) of the Birth and Death Registration Ordinance (Cap. 94).

(Sgd.) G. N. de SILVA,

Provincial Registrar, Western Province.

Colombo, 17th February, 1954.

X2

Extract from
the "Dina-
mina" of 26th
January, 1954,
containing the
Notice of
Meeting in
connection
with the Death
of Jothipala
Subasinghe
(19th
Defendant)
25.1.54

X2

**Extract from the "Dinamina" of 26th January, 1954, con-
taining the Notice of Meeting in connection with the Death
of Jothipala Subasinghe (19th Defendant)**

Translation

NOTICE

A meeting of the Dayakayas of the Vidyodaya Pirivena will be held at Vidyodaya Pirivena at 6 p.m. on 5th February, 1954, for the purpose of electing a member of the Vidyadhara Sabha in place of Mr. Jothipala Subasinghe deceased. 10

(Sgd.) G. P. MALALASEKERA,
Hony. Secretary.
25.1.54.

X7D

Minutes of the
Meeting of the
Sabha
5.2.54

X7D

Minutes of the Meeting of the Sabha

Translation

Minutes of a Meeting of Dayakayas of the Vidyodaya Pirivena and Members of the Vidyadhara Sabha held on February 5th, 1954 (B.E. 2497) at 6 p.m. at the Vidyodaya Pirivena, Maligakanda, Colombo, to elect to the Vidyadhara Sabha a person in place of the late Mr. Jotipala Subasinghe 20

Present.—Mudaliyar P. D. Ratnatunga, Messrs. Daya Hewavitarne, H. W. Amarasuriya, Gunapala Malalasekera, Gamini Jayasuriya, Leelananda Caldera, P. C. Perera, Mudaliyar L. N. Peiris, W. L. Wimalasena, P. B. Amunugama, D. P. Jayasekera.

Dr. Gunapala Malalasekera, President of the Vidyodaya Dayaka Sabha, occupied the Chair. Mr. Leelananda Caldera (Secretary of the Vidyodaya Dayaka Sabha) acted as Secretary.

After taking Tisarana and Pansil, the Chairman in explaining the object of the meeting, read the notice appearing in the Dinamina of Saturday, 26th January, 1954, and asked the meeting to propose names for the election of a person as Member of the Vidyadhara Sabha in place of the late Mr. Jothipala Subasinghe, who had died on the 8th January, 1954. 30

Mr. Leelananda Caldera proposed "That Senator Dr. A. M. Samarasinghe be elected to the Vidyadhara Sabha to fill the vacancy created by the death of Mr. Jothipala Subasinghe. This was seconded by Mr. P. B. Amunugama.

As no other name was formally proposed and seconded, the Chairman declared that the proposal was unanimously adopted.

The meeting then terminated.

(Sgd.) GUNAPALA MALALASEKERA,

Hony. Secretary, Vidyadhara Sabha.

10

Confirmed by :

(Sgd.) C. W. W. KANNANGARA,

Chairman of the Meeting of the Vidyadhara Sabha of 14.7.54.

Y5

Minutes of the Meeting of the Vidyadhara Sabha

Translation

Buddhist Era 2498.

Christian Era 1954.

20 Minutes of the Vidyadhara Sabha held at 6 p.m. on Wednesday the 14th July at Vidyadhara Pirivena in Maligakanda in Colombo

Those present :—Hon'ble Mr. C. W. W. Kannangara, Minister (in the chair).

Mudaliyar E. A. Abayasekara, Mr. Daya Hewavitarne, Mr. W. H. W. Perera, Dr. A. M. Samarasinghe, Senator Mr. Wimaladharma Hewavitarne, Mr. Raja Hewavitarne, Mr. D. L. F. Pedris, Mr. H. W. Amarasuriya and Gunapala Malalasekera (Hony. Secretary).

30 After taking Thisarana and Pansil, minutes of the Vidyadhara Sabha held on 29th December, 1953, and the minutes of the special meeting of the Dayakayas of the Vidyodaya Pirivena and of the members of the Vidyadhara Sabha held on 5th February, 1954, to appoint a member to fill the vacancy created in the Vidyadhara Sabha were read over and adopted.

The Secretary informed the Sabha that Morontuduwe Dhamananda Nayaka Thero has filed his objections in Court, to the appointment of Messrs. Dudley Senanayake, the late Mr. J. Subasinghe, and Dr. A. M. Samarasinghe, Senator, as members of the Vidyadhara Sabha and the enquiry into it is fixed for 22nd July, 1954, in the District Court of Colombo.

X7D

Minutes of the Meeting of the Sabha 5.2.54—
Continued

Y5

Minutes of the Meeting of the Vidyadhara Sabha 14.7.54

Y5
Minutes of the
Meeting of the
Vidyadhara
Sabha
14.7.54—
Continued

He further stated that it is very difficult for him to appear in Courts in Colombo as he has to spend a major portion of his time at Peradeniya in connection with his duties.

Thereupon, the following resolution proposed by Mr. W. H. W. Perera and seconded by Mr. D. L. F. Pedriš was put before the Sabha:—

That Messrs. Raja Hewavitarne and Mudaliyar E. A. Abaya-sekara be appointed and empowered to attend to all matters which are vested on the Secretary of this Sabha in connection with the enquiry into the objections filed by Morontuduwe Dhammananda Thero and also to produce all documents etc., relevant to this matter **10** in Court on the 22nd of July and to attend Court on all other subsequent days on which this enquiry is to be fixed for hearing.

Further they should on behalf of the Sabha attend to all matters in respect of this matter. The above resolution was placed before the Sabha and was unanimously carried.

After a vote of thanks to the Chair, the meeting ended.

(Sgd.) C. W. W. KANNANGARA,
Chairman.

(Sgd.) GUNAPALA MALALASEKERA,
Hony. Secretary, Vidyadhara Sabha.

20

Y6
Subscription
Book

Y6
Subscription Book

							Rs.	c.
M. E. Dharmadasa entrance							5	00
						(1)	10	00
year's subscription						(9)	250	00
K. T. Wimalasekera life member . .	..	..	..	..	..	(12)	250	00
Upajiva Ratnatunga life member	..	..	..	..	..		5	00
Leelananda Caldera entrance						(11)	10	00
							10	00
							10	00
1	..	..	15/-	31	..	..	15/-	61
2	..	..	15/-	32	..	..	15/-	62
3	..	..	15/-	33	..	..	250/-	63
4	..	..	250/-	34	..	..	25/-	64
5	..	..	15/-	35	..	M.O.	15/-	65
6	..	..	15/-	36	..	..	25/-	66
7	..	..	15/-	37	..	WDH	25/-	67
8	..	..	6/-	38	..	WDH	15/-	68
9	..	..	250/-	39	..	..	25/-	69
10	..	..	25/-	40	..	..	15/-	
11	..	..	15/-	41	..	..	25/-	
12	..	..	250/-	42	..	..	15/-	

Continued

						Rs. c.	Y6 Subscription Book— <i>Continued</i>
13	..	..	250/-	43	..	..	10/-
14	..	..	15/-	44	..	..	WDH 10/-
15	..	..	15/-	45	..	..	25/-
16	..	..	15/-	46	..	..	25/-
17	..	..	250/-	47	..	..	25/-
18	..	..	15/-	48	..	..	25/-
19	..	..	15/-	49	..	..	2/-
20	..	..	15/-	50	..	..	2/-
21	..	..	15/-	51	..	..	25/-
22	..	..	15/-	52	..	..	25/-
23	..	..	250/-	53	..	..	15/-
24	..	..	250/-	54	..	..	M.O. cashed 20/-
25	..	..	6/-	55	..	..	25/-
26	..	..	15/-	56	..	..	30/-
27	..	..	15/-	57	..	..	40/-
28	..	..	15/-	58	..	..	15/-
29	..	..	15/-	59	..	..	15/-
30	..	..	6/-	60	..	..	25/-
1.6.52							
M.E. Dharmadasa entrance							
						}	5 00
year's subscription						(1)	
						} cheque	10 00
M. Oliver Fernando entrance							
						}	5 00
year's subscription cash						(2)	
						}	10 00
E. D. S. Wijeyaratne entrance							
						}	5 00
year's subscription cash						(3)	
						}	10 00
A. M. Samarasinghe (Dr.) life member cheque							
						..	(4) 250 00
3.6.52							
C. G. Bamwatta entrance ..							
						}	5 00
year's subscription cash						(5)	
						}	10 00
M. U. Peiris (Mudaliyar) entrance							
						}	5 00
year's subscription cash						(6)	
						}	10 00
P. K. W. Siriwardena entrance							
						}	5 00
year's subscription cash						(7)	
						}	10 00
C. V. de Soysa entrance							
						}	5 00
month cash						(8)	
						}	1 00
K. T. Wimalasekera life member cheque							
						..	(9) 250 00
J. P. Elvitigala entrance							
						}	5 00
year's subscription						(10)	
						}	10 00
donation cash						(11)	
						}	10 00
Leelananda Caldera entrance							
						}	5 00
year's subscription cheque						(12)	
Upajiva Ratnatunga life member							
						..	(13) 250 00
12.6.52							
D. P. Jayasekera life member cheque							
						..	(13) 250 00

Continued

Y6
Subscription
Book—
Continued

		Rs. c.
S. D. Denner Sahaderiya entrance	}	5 00
year's subscription cash	}	10 00
R. M. Artanayake entrance	}	5 00
year's subscription cash	}	10 00
D. R. Ranasinghe entrance	}	5 00
year's subscription cash	}	10 00
A. D. P. A. Wijegoonewardene life member cheque	(17)	250 00
Carried over	Rs. ..	<u>1,431 00</u>
Brought forward	Rs. ..	1,431 00
K. A. Ayurwange entrance	}	5 00
year's subscription cash	}	10 00
Migara Ratnatunga entrance	}	5 00
year's subscription cash	}	10 00
Tissa Ratnatunga entrance	}	5 00
year's subscription cash	}	10 00
P. D. Ratnatunga (Mudaliyar) entrance	}	5 00
year's subscription cash	}	10 00
D. A. Gunawardena entrance	}	5 00
year's subscription cheque	}	10 00
Piyasoma Hewavitarne life member	(23)	250 00
Cheques deposited at Bank .. ..	..	530 00
Clearance cheques deposited at Bank .. ..	..	765 00
Cash deposited at Bank .. ..	..	461 00
	Rs. ..	<u>1,756 00</u> <u>1,756 00</u>
25.6.52		
Raja Hewavitarne life member cheque	(24)	250 00
Clearance cheque deposited at bank .. ..	..	250 00
	Rs. ..	<u>250 00</u> <u>250 00</u>
K. D. Amunugama entrance	}	5 00
June subscription cash	}	1 00
M. S. de Silva entrance	}	5 00
year's subscription cash	}	10 00
D. G. E. Weerapperuma entrance	}	5 00
year's subscription cash	}	10 00
M. A. P. Ranatunga entrance	}	5 00
year's subscription cash	}	10 00

Continued

					Rs. c.	Rs. c.	Y6 Subscription Book— <i>Continued</i>
7.6.52							
Cash deposited in bank	..	..	..	..		36 00	
Transfer cheque deposited in Bank	..	..	..	..		15 00	
					Rs. ..	51 00	51 00
<hr/>							
3.7.52							
M. D. A. Wimalasena entrance					(29)	5 00	
year's subscription cash						10 00	
M. Charlis entrance					(30)	5 00	
June subscription cash						1 00	
M. D. Sirisena entrance					(31)	5 00	
year's subscription cash						10 00	
D. R. Hettiarachchi entrance					(32)	5 00	
year's subscription cash						10 00	
D. A. E. Pallewala life member	..	..	..	..	(33)	250 00	
4.7.52							
Cash deposited in Bank	..	..	..	..		301 00	
					Rs. ..	301 00	301 00
<hr/>							
3.7.52							
Cheque to Hony. Secretary G559601	..	..	..	..		65 00	
Fixing locks to letter box	..	..	..	..		5 00	
500 postcards	..	..	..	..		15 00	
Printing 500 handbills	..	..	..	..		10 00	
Minute book and members register	..	..	..	..		6 50	
3 exercise books	..	..	..	..		0 45	
25 postcards for notice . . .	..	..	..	..		0 75	
For printing notices 3 times	..	..	..	..		12 00	
Hevisi on Poson day	..	..	..	..		15 00	
Stamps for 6 letters	.	..	..	..		30	
					Rs. ..	65 00	65 00
<hr/>							
3.7.52							
Cheque to Hony. Treasurer G559602	..	..	..	..		48 00	
Printing 500 postcards	..	..	..	..		4 00	
Paper and printing 500 note heads	..	..	..	..		7 50	
Paper and printing 1,000 receipt forms	..	..	..	..		20 00	
Making 5 seals	..	..	..	..		16 50	
					Rs. ..	48 00	48 00
<hr/>							
3.7.52							
Cheque to Jinasena & Co. G559603	..	..	..	..		50 00	
Repairs to clapper to Temple bell	..	..	..	..		50 00	
					Rs. ..	50 00	50 00
<hr/>							

Continued

Y6				Rs. c.	Rs. c.
Subscription	3.7.52				
Book—	Paper and printing 300 demy half size posters				20 00
Continued	Paper and printing 500 handbills 1/26 size				4 00
	Cheque in settlement G559604			24 00	
				Rs. ..	24 00 24 00
	10.7.52				
	M. A. J. Amarasinghe salary 15/6—30/6				12 50
	Cheque in settlement G559606			12 50	
				Rs. ..	12 50 12 50
	10.7.52				
	Piyasoma Hewavitarne		(34)	25 00	
	17.7.52				
	U. P. Ekanayake		(36)	25 00	
	J. Godavitane entrance		}	5 00	
	year's subscription			10 00	
	donation cash			10 00	
	Rt. Hon. Dudley Senanayake cheque		(41)	25 00	
	24.7.52				
	Gamini Jayasuriya entrance		}	5 00	
	year's subscription cash			10 00	
	R. G. Senanayake		(45)	25 00	
	H. P. T. Appuhamy cash		(46)	25 00	
	Lalitha Munasinghe cheque		(47)	25 00	
	M. A. Ariyawansa cash		(48)	25 00	
	25.7.52				
	Cash deposited in Bank				115 00
	Clearance cheque deposited in Bank				100 00
				Rs. ..	215 00 215 00
	31.7.52				
	Mats at Rs. 1.25				31 25
	Mat at 1.75				1 75
	Cheque in settlement G559609			33 00	
				Rs. ..	33 00 33 00
	M. G. J. Amarasinghe salary July				25 00
	Cheque in settlement G559610			25 00	
				Rs. ..	25 00 25 00
	Cheque No. G559607 7th July to 19th July				325 00
	Do. G559608 20th July to 27th July				200 00
	Do. G559611 28th July to 31st July				100 00
	Do. G559612 1st August to 7th August				175 00
	Do. G559613 8th August to 14th August				175 00
	Do. G559615 15th August to 21st August				175 00

Continued

			Rs. c.	Rs. c.	Y6 Subscription Book— <i>Continued</i>
Cheque No. G559616	22nd August to 21st August	.. ..	..	175 00	
Do. G559617	1st September to 4th September	.. ..	..	100 00	
Do. G559620	5th September to 11th September	.. ..	..	150 00	
Do. G559621	12th September to 18th September	.. ..	..	175 00	
Do. G559622	21st September to 26th September	.. ..	..	136 00	
Do. G559624	27th September to 31st September	.. ..	..	175 00	
Do. G559628	October 4, to 10th October	.. ..	..	100 00	
Do. G559630	October 10th to 17th October	.. ..	..	150 00	
Do. G559631	18th October to 25th October	.. ..	..	50 00	
H. W. Amarasuriya	.. ..	(43)	10 00		
H. C. Jinadasa	entrance	}	5 00		
	year's subscription cheque		10 00		
S. T. Molligoda	.. ..	(51)	25 00		
Mrs. M. G. Perera	cheque	(52)	25 00		
B. A. P. Abeysekera	Kiribathgoda cash.. ..	(53)	15 00		
K. D. Amunugama	subscriptions July and August cash	(49)	2 00		
M. Charles	subscriptions August and September cash	(50)	2 00		
Deposited cash in Bank	.. ..			19 00	
Transfer cheques sent to Bank	.. ..			15 00	
Clearance cheques sent to bank	.. ..			60 00	
		Rs. ..	94 00	94 00	
C. W. W. Kannangara	.. ..	(37)	25 00		
W. D. P. Dharmaratne	.. ..	(38)	15 00		
D. M. Jayasinghe	.. ..	(49)	10 00		
S. P. Silva Hamine	.. ..	(54)	20 00		
Mrs. C. A. Hewavitarne	.. ..	(55)	25 00		
Nalin Munasinghe	.. ..	(56)	30 00		
Wimala Dharma Hewavitarne	entrance	}	5 00		
	year's subscription		10 00		
Mrs. U. Ranasinghe	.. ..	(58)	15 00		
S. K. Munasinghe	.. ..	(59)	15 00		
D. S. W. Samarakoon	.. ..	(60)	25 00		
D. L. Hettiarachchi	.. ..	(62)	15 00		
Cash deposited in Bank	.. ..			50 00	
Transfer cheque sent to bank	.. ..			70 00	
Clearance cheque (Kandy) sent to Bank	.. ..			10 00	
Clearance cheque sent to Bank	.. ..			105 00	
		Rs. ..	235 00	235 00	
Printing notices	.. ..			20 00	
Cheque to . . .	.. ..			20 00	
		Rs. ..	20 00	20 00	
J. Goonewardena	.. ..	(63)	10 00		
Transfer cheque sent to Bank	.. ..			10 00	
		Rs. ..	10 00	10 00	

Continued

				Rs. c.	Rs. c.
Y6					
Subscription Book—					
<i>Continued</i>					
	Dharmasekera Kariyapperuma M.O.	..	..	(35) .. 15 00	
	R. M. Pereira (Mrs.) M.O.	..	..	(61) .. 25 00	
	L. M. H. Wijegunewardena cash	..	..	(64) .. 30 00	
	A. E. de Silva	..	..	(65) .. 25 00	
	D. P. A. Wijewardena	..	..	(66) .. 25 00	
	Justin Kotelawala	..	..	(67) .. 25 00	
	Piyadasa Moonesinghe	..	..	(68) .. 25 00	
	Palitha Weeraman entrance			5 00	
	August subscription			(69) 1 00	
	Deposited cash in bank	..	..		61 00
	Transfer cheques sent to bank..	..	..		50 00
	Clearance cheques sent to bank	..	..		25 00
	Money Orders	..	..		40 00
				Rs. .. 176 00	176 00
	P. C. Perera entrance			(70) 5 00	
	year's subscription			10 00	
	S. Sellahewa entrance			(71) 5 00	
	yearly subscription			10 00	
	B.T.S. Ltd. Ananda College	..	..	(72) .. 25 00	
	Cash deposited in bank	..	..		30 00
	Clearance cheque sent to bank..	..	..		25 00
				Rs. .. 55 00	55 00
	R. Buddhadasa	..	..	(73) .. 25 00	
	Dr. D. W. Perera	..	..	(74) .. 15 00	
	Dr. W. C. Fonseka	..	..	(75) .. 10 00	
	B. C. Wittachy	..	..	(76) .. 10 00	
	J. P. Elvitigala	..	..	(84) .. 15 00	
	Daisy Goonewardena	..	..	(77) .. 25 00	
	W. Anson Pinto	..	..	(78) .. 25 00	
	George Abeyawardena	..	..	(81) .. 25 00	
	Rajah Hewavitarne	..	..	(79) .. 25 00	
	G. Jayasuriya	..	..	(80) .. 25 00	
	Cash deposited in bank (money orders)	..	..		15 00
	Transfer cheques sent to bank	..	..		50 00
	Clearance cheques sent to bank	..	..		135 00
				Rs. .. 200 00	200 00
	Dr. W. P. Jayasuriya entrance			(82) 5 00	
	subscriptions August 1952 to July 1954			20 00	
	S. E. Seneviratne	..	..	(83) .. 20 00	
	Money orders sent to bank (clearance)	..	..		20 00

Continued

						Rs. c.	Rs. c.	Y6 Subscription Book— <i>Continued</i>
Transfer cheques sent to bank..	..	..	..	..	..		25 00	
					Rs. ..	45 00	45 00	
H. G. J. Amarasinghe salary August	..	..	..	..	..		25 00	
Cleaning temple garden on North	..	..	..	..	..		24 00	
Cheque No. 559618	..	..	..	..	..	25 00		
Cheque No. 559619	..	..	..	..	..	24 00		
					Rs. ..	49 00	49 00	
D. P. Wijesinghe	..	..	..	..	(85) ..	10 00		
G. P. D. Gabriel	..	..	..	..	(86) ..	50 00		
Mrs. B. R. Allas	..	..	..	..	(87) ..	25 00		
E. D. E. Gunaratne Ralahamy	..	..	..	..	(88) ..	25 00		
G. P. Wickrema Aratchy	..	..	..	..	(89) ..	25 00		
Lionel Amarasekera	..	..	..	..	(90) ..	25 00		
Richard de Saram	..	..	..	..	(92) ..	25 00		
Dr. D. Gunasekera	..	..	..	..	(93) ..	25 00		
W. Amarasinghe	..	..	..	..	(94) ..	25 00		
G. P. Malalasekera entrance						5 00		
					(95)			
subscriptions June 1952–May, 1953						10 00		
Brought forward	..	..	..	..	..	250 00		
Clearance cheque deposited	..	..	..	..	..		165 00	
Cash sent to bank	..	..	..	..	..		75 00	
Postal Orders sent to bank	..	..	..	..	..		10 00	
					Rs. ..	250 00	250 00	
J. P. Ovitigala	..	..	..	..	(96) ..	10 00		
D. E. Hettiaratchi	..	..	..	..	(97) ..	15 00		
H. L. L. Perera	..	..	..	..	(98) ..	25 00		
D. D. Arampetta	..	..	..	..	(99) ..	10 00		
W. H. W. Perera	..	..	..	..	(100) ..	25 00		
Clearance cheques sent to bank	..	..	..	..	..		10 00	
Transfer cheques sent to bank	..	..	..	..	..		15 00	
Money Order sent to bank	..	..	..	..	..		25 00	
Cash deposited in bank	..	..	..	..	..		35 00	
					Rs. ..	85 00	85 00	
Mrs. Simon Hewavitarne	..	..	..	..	(101) ..	10 00		
D. S. Jayakody	..	..	..	..	(102) ..	10 00		
C. A. Jayasekera	..	..	..	..	(103) ..	25 00		
D. M. Kumarasinghe	..	..	..	..	(104) ..	25 00		
Clearance cheques sent to bank	..	..	..	..	..		50 00	
Cash deposited in bank	..	..	..	..	..		10 00	
Transfer cheques sent to bank	..	..	..	..	..		10 00	
					Rs. ..	70 00	70 00	

Continued

						Rs. c.	Rs. c.
Mrs. J. C. Dias	..	..	..	..	.. (105)	35 00	
D. J. Kumarage	..	..	..	..	.. (106)	25 00	
Abraham Silva Appuhamy	..	..	..	..	.. (107)	25 00	
Ayr. Dr. Jayawardena, Horana	..	..	..	..	.. (108)	25 00	
Ayr. Dr. M. C. Chandrasena	..	..	..	..	.. (109)	15 00	
Transfer cheque sent to bank	..	..	..	..	..		35 00
Money Order sent to bank	..	..	..	..	..		25 00
Cash deposited in bank	..	..	..	..	..		65 00
					Rs. ..	125 00	125 00
D. S. C. Attanayake	..	..	..	..	.. (110)	25 00	
G. F. Moonesinghe	..	..	..	..	.. (111)	10 00	
G. Henry	..	..	..	..	.. (112)	25 00	
Mudanayake	..	..	..	..	.. (113)	25 00	
M.O. sent to bank	..	..	..	..	..		25 00
Cash sent to bank	..	..	..	..	..		60 00
					Rs. ..	85 00	85 00
D.L.J. . . . Salary September	..	..	..	..	..		25 00
Paid by cheque G559626	..	..	..	..	..	25 00	
					Rs. ..	25 00	25 00
Postage	..	..	..	..	..		4 35
Printing a notice	..	..	..	..	..		15 00
Envelopes and note paper to post notices	..	..	..	..	..		9 70
One doz. electric bulbs 60 volts.	..	..	..	..	..		9 00
Paid by cheque G559627	..	..	..	..	..	38 05	
					Rs. ..	38 05	38 05
25 webs of Holland Cambrie	..	..	..	..	..		462 50
Paid by cheque G559625	..	..	..	..	..	462 50	
					Rs. ..	462 50	462 50
Sewing	..	..	..	..	..		155 00
Paid by cheque G559629	..	..	..	..	..	155 00	
					Rs. ..	155 00	155 00
P. Abeywickrema	..	..	..	..	.. (115)	25 00	
G. H. D. Kumaradasa	..	..	..	..	.. (114)	25 00	
Transfer cheque sent to bank	..	..	..	..	..		50 00
					Rs. ..	50 00	50 00

Continued

					Rs. c.	Rs. c.	Y6
Jothipala Subasinghe .. .. .	..	..	..	.. (117) ..	25 00		Subscription
Clearance cheque sent to bank..	..	..	..	.. ..		25 00	Book—
							<i>Continued</i>
					Rs. ..	25 00	
T. D. Piyadasa entrance				}	5 00		
subscription for one year					10 00		
Cash sent to bank .. .. .	..	..	..	.. ..		15 00	
					Rs. ..	15 00	
500 post cards .. .. .	..	..	..	.. ..		15 00	
Paid by cheque to Hony. Secretary G559632	..	..	..	.. ..	15 00		
					Rs. ..	15 00	
L. Jayasundera .. .. .	..	..	..	.. (120) ..	20 00		
A. D. P. W. Wijegunawardena..	..	..	..	.. (119) ..	25 00		
N. Porolis Fernando .. .. .	..	..	..	.. (118) ..	25 00		
Mrs. Simon Hewavitarne .. .. .	..	..	..	.. (116) ..	15 00		
Transfer cheque sent to bank ..	..	..	..	.. ..		15 00	
Cash sent to bank .. .. .	..	..	..	.. ..		70 00	
					Rs. ..	85 00	
K. Edwin Jayakody .. .. .	..	..	..	.. (151) ..	10 00		
W. P. . . . entrance				}	5 00		
monthly subscription					(153) ..	1 00	
					10 00		
A. Bandaranayake .. .. .	..	..	..	.. ..		10 00	
Clearance cheque sent to bank..	..	..	..	.. ..		5 00	
Cash sent to bank .. .. .	..	..	..	.. ..		10 00	
Postal orders sent to bank ..	..	..	..	.. ..		10 00	
					Rs. ..	26 00	
Tom tom beater for 26.10.52 ..	..	..	..	.. ..		45 00	
Paid by cheque G559637 .. .. .	..	..	..	.. ..	45 00		
					Rs. ...	45 00	
Electric illumination on 26.10. 300 lights	..	..	..	.. ..		75 00	
Paid by cheque G559639 .. .. .	..	..	..	.. ..	75 00		
					Rs. ..	75 00	
T. D. Piyadasa .. .. .	..	..	..	.. (122) ..	20 00		
C. D. R. Pothuvila .. .. .	..	..	..	.. (123) ..	20 00		
G. S. Perera .. .. .	..	..	..	.. (124) ..	20 00		
M. G. A. Waidyaratne .. .. .	..	..	..	.. (125) ..	20 00		
Sophiamine .. .. .	..	..	..	.. (126) ..	20 00		
G. G. Paustinahamine .. .. .	..	..	..	.. (127) ..	6 00		
R. A. Annie Nona .. .. .	..	..	..	.. (128) ..	6 00		
C. P. Jayasinghe .. .. .	..	..	..	.. (129) ..	6 00		

Continued

Y6 Subscription Book— Continued					Rs. c.	Rs. c.
K. B. Punchi Nona .. .. .	..	..	..	.. (130) ..	6 00	
K. D. Johana Perera .. .. .	..	..	..	.. (131) ..	6 00	
Don Mary Tillekeratne .. .. .	..	..	..	.. (132) ..	6 00	
Lalita Peiris Nona .. .. .	..	..	..	.. (133) ..	6 00	
D. D. M. Jayaweera Bandara .. .. .	..	..	..	.. (134) ..	6 00	
W. Y. Marthina Boteju .. .. .	..	..	..	.. (135) ..	6 00	
P. Abeyasekera .. .. .	..	..	..	.. (136) ..	6 00	
Karunawathi Karunaratne .. .. .	..	..	..	.. (137) ..	6 00	
R. K. G. Perera .. .. .	..	..	..	.. (138) ..	6 00	
Mrs. Weerasekera .. .. .	..	..	..	.. (139) ..	6 00	
K. A. Setuhamy .. .. .	..	..	..	.. (140) ..	6 00	
D. Gunawardena .. .. .	..	..	..	.. (141) ..	10 00	
B. Samarasinghe .. .. .	..	..	..	.. (142) ..	10 00	
B. Sirimanne .. .. .	..	..	..	.. (143) ..	15 00	
B. B. Dias .. .. .	..	..	..	.. (144) ..	5 00	
B. Seneviratne .. .. .	..	..	..	.. (145) ..	5 00	
N. Porolis Fernando .. .. .	..	..	..	.. (146) ..	10 00	
R. H. Peiris .. .. .	..	..	..	.. (147) ..	11 00	
Dharmawardena .. .. .	..	..	..	.. (148) ..	10 00	
Wanigasekera Kaluhamy .. .. .	..	..	..	.. (149) ..	10 00	
S. T. Molligoda .. .. .	..	..	..	.. (150) ..	20 00	
Cash sent to bank .. .. .	..	..	..	.. ..		239 00
M.O. sent to bank .. .. .	..	..	..	.. ..		31 00
Clearance cheque sent to bank .. .. .	..	..	..	.. ..		20 00
				Rs. ..	290 00	290 00
Nalin Munasinghe .. .. .	..	..	..	.. (154) ..	25 00	
Mudlyr. M. N. Peiris .. .. .	..	..	..	.. (155) ..	6 50	
L. J. Ranhamy Gampaha .. .. .	..	..	..	.. (156) ..	5 00	
P. C. Perera .. .. .	..	..	..	.. (157) ..	5 00	
J. Gunawardena .. .. .	..	..	..	.. (158) ..	5 00	
D. A. Pallewela .. .. .	..	..	..	.. (159) ..	20 00	
J. A. M. Perera Hamine .. .. .	..	..	..	.. (160) ..	20 00	
M. D. Gunasena .. .. .	..	..	..	.. (161) ..	20 00	
S. Gunawathie .. .. .	..	..	..	.. (162) ..	6 00	
M. T. Allan None .. .. .	..	..	..	.. (163) ..	6 00	
L. C. Alwis .. .. .	..	..	..	.. (164) ..	6 00	
M. D. D. Karunawathie .. .. .	..	..	..	.. (165) ..	6 00	
Isabella Hamine and Nona Hamy .. .. .	..	..	..	.. (166) ..	6 00	
T. M. Wijeratne Upasika .. .. .	..	..	..	.. (167) ..	6 00	
R. D. L. Abeygunasekera .. .. .	..	..	..	.. (168) ..	6 00	
Allan Nona Upasikawa .. .. .	..	..	..	.. (169) ..	6 00	
Allan Nona Uapsikawa .. .. .	..	..	..	.. (170) ..	6 00	
N. W. P. E. Nanayakkara .. .. .	..	..	..	.. (171) ..	6 00	
Vithanage Ukkhamy .. .. .	..	..	..	.. (172) ..	6 00	
Mary Nona Hamine .. .. .	..	..	..	.. (173) ..	6 00	
M. K. Reyonona Hamine .. .. .	..	..	..	.. (174) ..	6 00	
Karunadasa Press .. .. .	..	..	..	.. (175) ..	6 00	
T. W. Louisa Hamine .. .. .	..	..	..	.. (176) ..	6 00	
K. D. Marthina Perera .. .. .	..	..	..	.. (177) ..	6 00	
J. Sopia Nona .. .. .	..	..	..	.. (178) ..	6 00	

Continued

					Rs. c.	Rs. c.	Y6 Subscription Book— <i>Continued</i>
B. M. D. Silva Hamine	..	..	..	.. (179) ..	6 00		
Leela Wijesinghe Hamine	..	..	..	.. (180) ..	6 00		
R. Karunawathie	..	..	..	.. (181) ..	6 00		
Meelin de Silva Hamine	..	..	..	.. (182) ..	6 00		
Chandra Amunugama	..	..	..	.. (183) ..	6 00		
Carried over				..	Rs. ..	338 50	
Brought forward				..	..	338 50	
M. D. Sirisena	..	..	..	.. (184) ..	6 00		
Y. R. Piyasena	..	..	..	.. (185) ..	6 00		
W. Sopinona	..	..	..	.. (186) ..	1 00		
P. Podinona Hamine	..	..	..	.. (187) ..	5 00		
P. Abeysekera	..	..	..	.. (188) ..	1 00		
L. Margaret Perera	..	..	..	.. (189) ..	2 00		
N. Simon Singho	..	..	..	.. (190) ..	2 00		
R. A. Wijemanne	..	..	..	.. (191) ..	1 00		
K. G. William	..	..	..	.. (192) ..	2 00		
T. H. Wijesuriya	..	..	..	.. (193) ..	2 00		
D. A. B. Pallewela	..	..	..	.. (194) ..	5 00		
M. D. Jinadasa	..	..	..	.. (195) ..	3 00		
Ovitigala Veda	..	..	..	.. (196) ..	5 00		
W. H. W. Perera	..	..	..	.. (197) ..	5 00		
Mrs. Damalasuriya	..	..	..	.. (198) ..	5 00		
H. Charlis	..	..	..	.. (199) ..	3 00		
Podinona Hamine	..	..	..	.. (200) ..	1 15		
H. N. Mendis	..	..	..	.. (201) ..	1 00		
P. K. W. Surendra	..	..	..	.. (202) ..	2 00		
Jothipala Subasinghe	..	..	..	.. (203) ..	20 00		
P. J. Ovitigala Veda	..	..	..	.. (204) ..	20 00		
M. S. Silva Mudalali	..	..	..	.. (205) ..	6 00		
A. Simon Perera	..	..	..	.. (206) ..	6 00		
Mr. Gunawardena	..	..	..	.. (207) ..	6 00		
Misinona Hamine	..	..	..	.. (208) ..	0 55		
.	..	..	..	.. (209) ..	2 90		
Amunugama Ratnam	..	..	..	.. (210) ..	2 00		
Postal Orders sent to bank	..	..	..	..		5 00	
Transfer cheque sent to bank	..	..	..	..		25 00	
Clearance cheque sent to bank	..	..	..	..		20 00	
Cash sent to bank	..	..	..	..		310 10	
				Rs. ..	360 10	360 10	
C. W. W. Kannangara	..	..	..	.. (222) ..	15 00		
Leelananda Caldera	..	..	..	.. (221) ..	5 00		
Mrs. Ranasinghe	..	..	..	.. (211) ..	1 00		
Gamini Jayasuriya	..	..	..	.. (212) ..	20 00		
Gamini Jayasuriya	..	..	..	.. (213) ..	6 00		
D. A. E. Pallewela	..	..	..	.. (214) ..	6 00		

Continued

Y6						Rs. c.	Rs. c.
Subscription	R. M. Attanayake	..	..	..	..	(215) ..	6 00
Book—	D. A. B. Pallewela	..	..	..	..	(216) ..	6 00
Continued	R. T. Ratnasuriya	..	..	..	..	(217) ..	20 00
	R. T. Ratnasuriya	..	..	..	..	(218) ..	6 00
	R. T. Ratnasuriya	..	..	..	..	(219) ..	6 00
	Upajiva Ratnatunga	..	..	..	..	(220) ..	20 00
	S. D. Denny	..	..	..	..	(223) ..	12 00
	P. K. W. Siriwardena	..	..	..	..	(224) ..	20 00
	Mudlyr. N. M. Peiris	..	..	..	..	(225) ..	6 00
	K. A. Ariyawansa	..	..	..	..	(226) ..	6 00
	Dr. A. D. P. A. Wijegoonewardene	..	..	..	..	..	20 00
	Dr. A. D. P. A. Wijegoonewardene	..	..	..	..	..	6 00
	Wimalasena	..	..	..	..	..	6 00
	Cash deposited in bank	..	..	..	..	..	178 00
	Cheque sent to bank	..	..	..	..	..	15 00
						Rs. ..	193 00
							193 00
	M. G. J. Amarasinghe salary October	..	..	..	..	..	25 00
	Paid by cheque 559635	..	..	..	..	..	25 00
						Rs. ..	25 00
							25 00
	Electric Department for illumination precincts	..	..	..	..	..	5 00
	Katina season	..	..	..	..	..	2 75
	Kitson lights 3 lamps	..	..	..	..	..	18 00
	18 Tambilies	..	..	..	..	..	5 40
	1 tin coffee	..	..	..	..	..	1 75
	Seven Katina robes	..	..	..	..	..	3 00
	for pinkama	..	..	..	..	..	16 00
	Transport of sewing	..	..	..	..	..	0 80
	Transport of	..	..	..	..	..	3 00
							0 75
	Envelopes 50	..	..	..	..	..	0 40
	Work on	..	..	..	..	..	2 90
	Paid by cheque 9559636	..	..	..	..	..	60 25
						Rs. ..	60 25
							60 25
	Cloth for	..	..	..	..	..	54 00
	By cheque	..	..	..	..	..	54 00
						Rs. ..	54 00
							54 00
	Padlock for book case	..	..	..	..	..	2 90
	Fixing same to book case	..	..	..	..	..	0 50
	1 writing pad	..	..	..	..	..	2 00
	100 envelopes	..	..	..	..	..	1 10
	30 .5 cts. stamps	..	..	..	..	..	1 50
	3 exercise books	..	..	..	..	..	0 60
	Wages for two labourers cleaning garden	..	..	..	..	..	6 00

Continued

					Rs. c.	Rs. c.	Y6
3 plates and 12 tumblers	..	..	..	..		5 01	Subscription Book— <i>Continued</i>
One .....	..	..	..	..		4 50	
4 electric bulbs	..	..	..	..		3 60	
Paid by cheque No. 559623	..	..	..	..	27 71		
					Rs. ..	27 71	27 71
Repairs to black board	..	..	..	..		9 00	
Repairs to 5 benches ..	..	..	..	..		7 50	
Rattan 2 benches ..	..	..	..	..		4 00	
Repairing 5 desks ..	..	..	..	..		12 00	
Repairing one chair ..	..	..	..	..		5 50	
Purchase of jak timber for desks	..	..	..	..		26 40	
Sand paper and nails ..	..	..	..	..		0 60	
Cost of sawing timber	..	..	..	..		1 60	
Paid by cheque 9559638	..	..	..	..	66 60		
					Rs. ..	66 60	66 60
Tom tom beater for 2.10.52	..	..	..	..		18 00	
Posting 500 committee meeting post cards	..	..	..	..		4 00	
Paid by cheque No. 9559639	..	..	..	..	22 00		
					Rs. ..	22 00	22 00
N. A. Charles subscriptions October, November, December	..	..	..	..		3 00	
Cash sent to bank ..	..	..	..	..		3 00	
					Rs. ..	3 00	3 00
Printing handbills 19.8.52, 28.8.52 and committee meeting cards September 52	..	..	..	..		10 00	
Paid by cheque No. G559641	..	..	..	..	10 00		
					Rs. ..	10 00	10 00
Making 25 desks and 25 chairs ..	..	..	..	..		697 50	
Paid by cheque G559642.	..	..	..	..	697 50		
					Rs. ..	697 50	697 50
M. G. J. Amarasinghe Salary November	..	..	..	..		25 00	
Paid by cheque No. G559640 ..	..	..	..	..	25 00		
					Rs. ..	25 00	25 00
Printing Katina accounts ..	..	..	..	..		31 00	
Paid by cheque No. G559643 ..	..	..	..	..	31 00		
					Rs. ..	31 00	31 00
M. G. J. Amarasinghe salary for December	..	..	..	..		25 00	
Paid by cheque No. G559644 ..	..	..	..	..	25 00		
					Rs. ..	25 00	25 00

Continued

Y6
Subscription
Book—
Continued

						Rs. c.	Rs. c.
Printing handbills 8.9.52 to 29. 11.52	..	..	..	..	..		63 00
Paid by cheque No. G559645	..	..	..	..	..	63 00	
					Rs. ..	63 00	63 00
<hr/>							
Printing handbills 9.12, 16.12, 23.12, 10.1, and 7.1.53	..	..	..	..	..		15 00
Paid by cheque No. G559646	..	..	..	..	..	15 00	
					Rs. ..	15 00	15 00
<hr/>							
M. G. J. Amarasinghe salary paid	..	..	..	..	..		25 00
Paid by cheque G559647	..	..	..	..	..	25 00	
					Rs. ..	25 00	25 00
<hr/>							
Cutting branches and Mango tree behind Dharma Salawa	..	..	..	..	..		30 00
Paid by cheque G559648	..	..	..	..	..	48 00	
Printing handbills 21.1, 29.1, 6.2, 13.2, 20.2, and 27.2	..	..	..	..	..		18 00
					Rs. ..	48 00	48 00
<hr/>							
One black board and	..	..	..	..	..		32 00
Paid by cheque No. G559649	..	..	..	..	..	32 00	
M. G. J. Amarasinghe salary February	..	..	..	..	..		25 00
Paid by cheque G559650	..	..	..	..	..	25 00	
1,000 clay lamps	..	..	..	..	..		30 00
Hevisi on 22.6.53	..	..	..	..	..		20 00
Coconut oil 8 gallons	..	..	..	..	..		45 60
Parker pen pencil set for Pinkama 22.8.53	..	..	..	..	..		32 50
Paid by cheque G374901	..	..	..	..	..	128 10	
					Rs. ..	128 10	128 10
<hr/>							
M. G. J. Amarasinghe salary May	..	..	..	..	..		25 00
Paid by cheque H374902	..	..	..	..	..	25 00	
					Rs. ..	25 00	25 00
<hr/>							
Maho Printers Ltd.	..	..	..	..	..		19 00
Paid by cheque H374903	..	..	..	..	..	19 00	
					Rs. ..	19 00	19 00
<hr/>							

Continued

						Rs. c.	Rs. c.	Y6 Subscription Book— <i>Continued</i>
M. G. J. Amarasinghe—Salary April	..	..	..	..	..		25 00	
Paid by cheque	..	..	..	..	..	25 00		
					Rs. ..	25 00	25 00	
H. Charles subscription for May	..	..	..	(229)	..	5 00		
Mudlyr. P. D. Ratnayake	..	..	..	(228)	..	10 00		
Cash sent to bank	..	..	..	..	..		5 00	
Cheque (transfer) sent to bank..	..	..	..	..	..		10 00	
					Rs. ..	15 00	15 00	
M. G. J. Amarasinghe Salary May	..	..	..	..	..		25 00	
Paid by cheque	..	..	..	..	..	25 00		
					Rs. ..	25 00	25 00	
Printing handbills for 14.3 and 29.3.	..	..	..	..	..		6 00	
Stencil set brush and stencil ink	..	..	..	..	..		7 00	
Paid by cheque 374906	..	..	..	..	..	13 00		
					Rs. ..	13 00	13 00	
M. G. J. Amarasinghe	..	..	..	..	..		25 00	
Paid by cheque H374907	..	..	..	..	..	25 00		
					Rs. ..	25 00	25 00	
M. G. J. Amarasinghe Salary July	..	..	..	..	..		25 00	
Paid by cheque H374908	..	..	..	..	..	25 00		
					Rs. ..	25 00	25 00	
Printing handbills 22.3	..	..	..	..	..		3 00	
Do. 26.6	..	..	..	..	..		3 00	
Do. 14.7	..	..	..	..	..		3 00	
Do. 24.7	..	..	..	..	..		5 00	
Printing post cards	..	..	..	..	..		4 00	
Paid by cheque H374909	..	..	..	..	..	18 00		
					Rs. ..	18 00	18 00	
M. G. J. Amarasinghe Salary August	..	..	..	..	..		25 00	
Paid by cheque H374910	..	..	..	..	..	25 00		
					Rs. ..	25 00	25 00	
M. G. J. Amarasinghe, Salary September	..	..	..	..	..		25 00	
Paid by cheque H374911	..	..	..	..	..	25 00		
					Rs. ..	25 00	25 00	

Continued

Y6
Subscription
Book—
Continued

			Rs. c.	Rs. c.
Dr. A. D. P. A. Wijegoonewardene Esala Pinkama	..	..	50 00	
M. Gamini Jayasuriya Esala Pinkama	..	..	25 00	
Mudlyr. Pallewala Esala Pinkama	..	..	10 00	
Dr. D. P. Jayasekera Esala Pinkama	..	..	25 00	
Mr. M. A. Dharmadasa Esala Pinkama	..	..	10 00	
U. Ratnayake Esala Pinkama	..	..	165 50	
Debited cash in bank	..	..		285 50
		Rs. ..	285 50	285 50
Pirith Mandapaya				41 25
Hevisi				50 00
Illumination electric				150 00
Miscellaneous expenses				49 25
Paid by cheque H374912	..	..	285 50	
		Rs. ..	285 50	285 50
M. D. A. Wimalasena annual subscription	..	.. (236)	10 00	
Nugera Ratnayake annual subscription	..	.. (227)	10 00	
Tissa Ratnatunga annual subscription	..	.. (228)	10 00	
Cash deposited in bank	..	..		30 00
		Rs. ..	30 00	30 00
U. Ratnatunga (Don : Kapakaru Sal. October and November)			50 00	
Dr. Gunapala Malalasekera (Don : Kapakaru Sal. December)	..	..	25 00	
Cash deposited in bank	..	..		75 00
		Rs. ..	75 00	75 00
Senator A. M. Samarasinghe (Don: Kapakaru Sal. January)	..	..	25 00	
Mudlyr. Pallewela (Don: Kapakaru Sal. February)	..	..	25 00	
Dr. A. D. P. A. Wijegoonewardene (Don: Kapakaru Sal. March)	..	..	25 00	
R. M. Athanayake (Don: Kapakaru Sal. April)	..	..	10 00	
Cash deposited in bank	..	..		85 00
		Rs. ..	85 00	85 00
P. K. W. Siriwardena annual subscription cash	..	.. (243)	10 00	
M. E. Dharmadasa annual subscription	..	.. (244)	10 00	
M. C. Jinadasa annual subscription cash	..	.. (245)	10 00	
W. P. Wickremasekera annual subscription cash	..	.. (246)	10 00	
H. L. Caldera annual subscription cheque	..	.. (247)	10 00	
Mudlyr J. P. Elvitigala annual Subscriptions Cash	..	.. (248)	10 00	
One transfer cheque deposited	..	..		10 00
One clearance cheque deposited	..	..		10 00
Cash deposited	..	..		40 00
		Rs. ..	60 00	60 00

Continued

		Rs. c.	Rs. c.	Y6
Mr. R. M. Arthanayake subscription June and May cash ..	(250) ..	10 00		Subscription Book— <i>Continued</i>
Mr. S. M. Denny subscriptions till May 54 ..	(249) ..	10 00		
Mr. P. C. Perera subscription till May 54 ..	(251) ..	10 00		
Mudlyr. M. N. Peiris subscriptions till May 54 ..	(252) ..	10 00		
Deposited in bank			40 00	
		<hr/>		
	Rs. ..	40 00	40 00	
		<hr/>		
Mudlyr. M. N. Peiris (subscription part) ..	(255) ..	15 00		
Deposited in bank			15 00	
		<hr/>		
	Rs. ..	15 00	15 00	
		<hr/>		
M. G. J. Amarasinghe Salary October–December, 1953 ..			75 00	
Paid by cheque		75 00		
		<hr/>		
	Rs. ..	75 00	75 00	
		<hr/>		
M. G. J. Amarasinghe salary January–March 54 ..			100 00	
Paid by cheque		100 00		
		<hr/>		
	Rs. ..	100 00	100 00	
		<hr/>		
M. A. G. Ratnatunga subscriptions till May ..	(254) ..	10 00		
Deposited in bank			10 00	
		<hr/>		
	Rs. ..	10 00	10 00	
		<hr/>		
M. G. J. Amarasinghe salary for August–September ..			50 00	
Paid by cheque H374916		50 00		
		<hr/>		
	Rs. ..	50 00	50 00	
		<hr/>		
M. S. de Silva subscriptions June 53–May 54 ..	(255) ..	10 00		
K. D. Amunugama September 52–June 53 ..	(256) ..	10 00		
Cash in bank			20 00	
		<hr/>		
	Rs. ..	20 00	20 00	
		<hr/>		
R. Jayasuriya July 53–June 55 ..	(257) ..	20 00		
T. Ratnayake	(258) ..	10 00		
P. Weeraman cheque		10 00		
Mudlyr. P. D. Ratnatunga		17 00		
		<hr/>		
Dr. A. M. Samarasinghe	(4)			
K. T. Wimalasena	(9)			
U. Ratnayake	(10)			
D. P. Jayasekera	(13)			
A. D. P. A. Wijegoonewardene	(17)			
P. Hewavitarne	(23)			
Raja Hewavitarne	(24)			
Mudlyr. D. A. B. Pallewela	(33)			
C. V. de Soysa				
K. M. Amarasinghe				
M. Charles				

Continued

Y6
 Subscription
 Book—
 Continued

P. Weeraman			
W. G. Wickrema Arachchi			
Hon. C. W. W. Kannangara			
Mr. N. Moonesinghe			
Mr. W. Rajakaruna			
W. Oliver Fernando	June 52-May 53	(2)	
W. E. Dharmadasa	June 52-May 53	(1)	(244) May 54.
E. D. S. Wijeratne	do.	(3)	
C. M. Kahawatta	do.	(5)	
M. M. Peiris Mudaliyar	do.	(6)	May 54
P. K. W. Siriwardena	do.	(7)	(243) May 54
J. P. Elvitigala	do.	(10)	(248) May 54
H. L. Caldera	do.	(11)	(247) May 54
G. M. Denny	do.	(14)	(249) May 54
R. M. Athanayake	do.	(15)	Paid May 54 (250)
D. A. Ranasinghe	do.	(16)	
K. W. Ariyawansa	do.	(18)	
M. Ratnatunga	do.	(19)	237) May 54
P. D. Ratnatunga Mudaliyar	do.	(21)	(228) May 54, June 54-December 55
C. D. A. Goonewardena	do.	(22)	
M. D. de Silva	do.	(26)	
D. G. E. Weerapperuma	do.	(27)	
M. A. G. Ranatunga	do.	(28)	
M. D. Sirisena	do.	(31)	
D. E. Hettiarachchi	do.	(32)	
G. Jayasuriya	July 52 June 53	(34)	July 53-January 55
J. Godavitana	July 52 June 53	(39)	
M. C. Jinadasa	do.	(40)	(245) June 54
W. D. Hewavitarne	Aug. 52-July 53	(57)	
P. C. Perera	June 52 July 53	(70)	(251) May 54
S. Sellahewa	Aug. 52 July 53	(71)	
D. W. Jayasuriya	do.	(82)	Resigned
G. P. Malalasekera	June 52 July 53	(95)	
T. D. Piyadasa	Oct. 52 Aug. 53	(121)	
Tissa Ratnatunga	June 52 May 53	(20)	(238) May 54 May 55
W. M. D. Wimalasena	do.	(29)	(236) May 54

- (1) M. Niver Fernando, No. 68, Sri Wickrema Road, Wellawatta.
- (2) M. E. Dharmadasa paid till May 54, No. 11, Elias Place, Ketawalamulla Road, Maradana.
- (3) E. D. S. Wijeratne, "Eijithe", Dematagoda Place, Colombo.
- (4) C. G. Batuwatta, 139, Ketawalamulla Lane, Maradana.
- Mudlyr. M. M. Peiris paid till May 54, "Sirimahala", Kelankaduwa Road, 1st Chapel Lane, Wellawatta.
- P. K. W. Siriwardena paid till May 54, 520, Maradana Road, Colombo.
- (5) I. P. . . ., 141, Ketawalamulla Lane, Maradana.
- Leelananda Caldera paid till May 54.
- (6) Denny.
- R. M. Athanayaka.
- (7) D. A. Ranasinghe.
- (8) K. A. Ariyawansa.
- Migra Ratnahamy paid till May 54.
- Mudlyr. P. D. Ratnahamy paid May 54.
- C. D. A. Gunawardena.
- (9) M. S. de Silva
- (10) Q. G. E. Weerapperuma.
- (11) M. A. P. Ranatunga.

- (12) M. D. A. Wimalasekera paid till May 54.
 (13) M. D. Sirisena.
 (14) D. E. Wittachchi.
 Gamini Jayasuriya.
 (15) J. Godivitharane.
 (16) M. C. Jinadasa paid till May 54.
 Wimaladharma Hewavitarne.
 P. C. Perera.
 (17) S. Sellahewa.
 (18) D. W. P. Jayasuriya paid till May 54.
 (19) Dr. G. P. Malalasekera.
 (20) T. D. Piyadasa.
 Tissa Ratnatunga paid till May 54.

Y6
 Subscription
 Book—
Continued

Life Members—

- (22) Dr. A. M. Samarasinghe, 104, Reid Avenue, Bambalapitiya.
 (21) Mr. K. T. Wimalasekera, Horana.
 Upajiva Ratnatunga.
 Mr. D. P. Jayasekera.
 Dr. A. D. P. A. Wijegoonewardene.
 Mrs. Piyasoma Hewavitarne.
 Mr. Raja Hewavitarne.
 Mudlyr. D. H. E. Pallewala.

				Rs. c.		
	Sivura			60 00		
	Hevisi			75 00		
	Electric Lights			75 00		
	do			30 00		
	Labour			25 00		
			Rs. ..	265 00		
July					Rs. c.	Rs. c.
7 ..	K. A. Ariyawansa			(48) ..	25 00	24 90
8 ..	Mrs. Neil Hewavitarne			(34) ..	25 00	24 10
9 ..	U. P. Ekanayake			(36) ..	25 00	24 10
10 ..	Nalin Moonesinghe			(56) ..	30 00	23 85
11 ..	S. P. Silva Hamine			(59) ..	20 00	23 90
	Wijaya Mandiraya Mallawegedera, Baddegama,					
12 ..	D. S. W. Samarakoon			(60) ..	25 00	24 00
	No. 1022, 3rd Division Maradana					
13 ..	H. G. T. Appuhamy			(46) ..	25 00	23 70
	Jayanivasa, Karlshrue Gardens, Maradana.					
14 ..	S. T. Molligoda			(51) ..	25 00	24 25
	J.P., U.M., Ellawatta Estate, Elpitiya					
15 ..	Wimaladharma Hewavitarne			(57) ..	25 00	23 90
16 ..	Lalitha Moonesinghe			(47) ..	25 00	23 50
17 ..	Mrs. R. A. Hewavitarne			(55) ..	25 00	24 10
18 ..	H. W. Amarasuriya			(43) ..	10 00	
	32/3, Flower Road, Colombo 7					
	D. E. Hettiarachchi			(62) ..	15 00	23 50
	Yahaladuwa Estate, Baddegama					

Continued

Y6						Rs. c.	Rs. c.
Subscription Book— Continued	19 ..	D. M. Jayasinghe	(49) ..	10 00			
		S. K. Moonesinghe	(59) ..	15 00	23 90		
	20 ..	C. W. W. Kannangara	(37) ..	25 00	24 35		
		Maradana					
	21 ..	Dudley Senanayake	(41) ..	25 00	23 80		
	22 ..	Robert Senanayake	(45) ..	25 00	23 90		
	23 ..	Mrs. M. G. Perera	(52) ..	25 00	23 85		
	24 ..	Mrs. R. M. Peiris	(61) ..	25 00	23 85		
		Kitulgala					
	25 ..	J. Goonewardena	(63) ..	10 00	} 23 95		
		31, Timbirigasyaya Road, Havelock Town					
		Mrs. H. Ranasinghe	(58) ..	15 00			
	26 ..	U. D. P. Dharmaratne	(38) ..	15 00			
		D. S. Kariyapperuma	(35) ..	15 00	23 90		
		"Mabima Nivasa", Waturugama					
	27 ..	L. M. H. Wijewardena	(69) ..	30 00	23 90		
		32, Ward Place, Colombo					
	28 ..	B. A. P. Abeysekera	(53) ..	15 00	24 10		
		Kiribathgoda, Kelaniya					
	29 ..	Don Philip Wijewardena		25 00	24 05		
	30 ..	Justin Kotelawala	(67) ..	25 00	24 45		
	31 ..	Earnest de Silva	(65) ..	25 00	23 95		
	August						
	1 ..	Gamini Jayasinghe	(80) ..	25 00	23 95		
	2 ..	Raja Hewavitarne	(79) ..	25 00	24 00		
	August						
	3 ..	George Abeyawardena	(81) ..	25 00	23 95		
	4 ..	P. Wijesinghe	(85) ..	10 00	} 23 90		
		D. E. Hettiarachchi	(97) ..	15 00			
	5 ..	Lionel Amarasekera	(90) ..	25 00		23 95	
	6 ..	G. P. Wickremaarachchi	(89) ..	25 00	23 95		
	7 ..	W. Amarasinghe	(94) ..	25 00	24 05		
		Wanduramba					
	8 ..	D. W. Perera	(74) ..	15 00	} 23 90		
		W. A. P. E. Fonseka	(74) ..	10 00			
		Pamankade Surgery, 549, Havelock Rd., Colombo					
	9 ..	Mrs. B. R. Alles	(87) ..	25 00	24 05		
	10 ..	Richard de Saram	(92) ..	25 00	23 95		
	11 ..	M. D. Gunasena	(93) ..	25 00	23 95		
		217, Norris Road, Colombo					
	12 ..	D. J. Kurunegala	(106) ..	25 00	23 95		
		Principal, Sri Rahula College, Matara					
	13 ..	Mrs. J. C. Dias	(105) ..	35 00	23 95		
	14 ..	Ayr. Dr. M. C. Chandrasekera		15 00	23 95		
	15 ..	Ayr. Dr. Jayawardena		25 00	23 95		
	16 ..	D. S. C. Aranayake		25 00	24 00		
	17 ..	C. C. Jayatilleke		25 00	23 95		
	18 ..	P. Moonesinghe		25 00	24 95		
	19 ..	L. H. Mettananda (B.T.S., Ananda College)		25 00	23 95		
	20 ..	L. C. Wittachchy 10/- plus 15/-			23 95		
	21 ..	D. D. Arampatha Rs. 10/-		20 00	23 95		
	22 ..	S. C. Senaratna 20/- G. P. Munasinghe 10/-		30 00	24 00		

Continued

						Rs. c.	Rs. c.	Y6 Subscription Book— <i>Continued</i>
23 ..	J. P. Ovitigala 15/- plus 10/-	..	..	..	..	25 00	24 00	
24 ..	M. Aron Singho	..	..	..	..	25 00	24 00	
25 ..	R. Buddadasa	..	..	..	..	25 00	24 00	
26 ..	Daisy Goonewardena	..	..	..	..	25 00	24 00	
27 ..	G. D. Emis Appuhamy	..	..	..	..	25 00	24 00	
28 ..	P. D. Ratnatunga	..	..	..	..			Dane delivered
29 ..	G. P. Malalasekera	..	..	..	..			Dane delivered
30 ..	T. G. C. Perera	..	..	..	..			Dane delivered
31 ..	Abraham Silva	..	..	..	..	25 00		
September								
1 ..	Mudanayake	..	..	..	..	25 00		
2 ..	A. Henry	..	..	..	..	25 00		
3 ..	P. Abeywickrema	..	..	..	..	25 00		
4 ..	G. H. D. Kumaradasa	..	..	..	..	25 00		
5 ..	Gamini	..	..	..	..
6 ..	G. D. Jayasundera	..	..	..	..			Dane supplied
7 ..	J. Subasinghe	..	..	..	..	25 00		
8 ..	W. H. W. Perera	..	..	..	..	25 00		
9 ..	Mrs. Simon Hewavitarne	..	..	..	..	25 00		
10 ..	G. P. D. Gabriel	..	..	..	..	25 00		
11 ..	G. P. D. Gabriel	..	..	..	..	25 00		
12 ..	A. D. P. A. Wijegoonewardene	..	..	..	..	25 00		
13 ..	Allen Senanayake	..	..	..	..			Dane supplied
14 ..	H. L. H. Perera	..	..	..	..	25 00		
15 ..	N. Porolis Fernando	..	..	..	..	25 00		
16 ..	L. Jayasundera Rs. 20/-	..	..	..	..
22 ..	D. W. Kumarasinghe	..	..	..	..	25 00		
By cheque								125 00
7 sheets galvanised and iron sheet at 13/25							92 75	
2 doz. sheets sand paper							3 30	
Cart hire							2 00	
3 bushels lime							4 75	
$\frac{1}{4}$ cube sand							6 00	
1 bag cement							9 50	
Cash								150 00
Snowcem 2							140 00	140 00
Cash								200 00
Cash								125 00
Snowcem $\frac{1}{2}$							70 00	70 00
Cash								150 00
Snowcem $\frac{1}{2}$							48 00	48 00
Cash								200 00
Paint							33 00	33 00
Rickshaw hire Snowcem							2 00	
Gutter hooks							2 00	
<hr/>								
Paint supplied by Gamini ?								
1 cwt. Snowcem white							70 00	70 00
Cash								100 00
Cash								100 00
Nails and paint supply by Gamini							219 38	219 38

Continued

Y6
Subscription
Book—
Continued

							Rs. c.	Rs. c.
Advance cash	..	..	..	..	..	..		30 00
Do.	..	..	..	..	..	..		30 00
Do.	..	..	..	..	..	..		25 00
500 round tiles	..	..	..	..	..	..	37 50	
$\frac{1}{4}$ cube sand	..	..	..	..	..	..	6 00	
3 bushels	..	..	..	..	..	..	4 50	
$\frac{1}{2}$ bushel lime	..	..	..	..	..	..	2 13	
$\frac{1}{4}$ bushel lime transport	..	..	..	..	..	..	2 00	
1 bottle turpentine	..	..	..	..	..	..	2 00	
Received from Mrs. C. A. Perera	..	..	..	..	..	..	1,000 00	
Received from W. D.	..	..	..	..	..	..	250 00	
Received from Gamini Paint	..	..	..	..	..	..	219 38	
Received from Gamini	..	..	..	..	..	..	270 00	
<hr/>								
1 doz. sheets sand paper	..	..	..	..	..	..	1 75	
14 lbs. green paint	..	..	..	..	..	..	17 00	17 00
Advance cash	..	..	..	..	..	..		75 00
One tin yellow paint	..	..	..	..	..	..	2 00	
Advance for timber	..	..	..	..	..	..		40 00
3 rafters 2" x 4" 15 ft. long each	..	..	..	..	..	..	21 00	
7 $\frac{1}{2}$ ft. 2" x $\frac{1}{2}$ " reepers	..	..	..	..	..	..	3 75	
... plant	..	..	..	..	..	..	2 10	
$\frac{1}{2}$ lb. nails	..	..	..	..	..	..	0 35	
$\frac{3}{4}$ lb. nails	..	..	..	..	..	..	0 50	
$\frac{1}{4}$ lb. nails	..	..	..	..	..	..	0 20	
$\frac{1}{2}$ lb. nails	..	..	..	..	..	..	0 40	
Cart hire	..	..	..	..	..	..	1 50	
Carpenter	..	..	..	..	..	..	10 00	
Colombo Commercial Co.	..	..	..	..	..	..	410 55	410 55
K. N. Abdul Cader Rawther	..	..	..	..	..	..	334 50	334 50
Lime 2 bushels	..	..	..	..	..	..	10 00	101 50
$\frac{1}{4}$ cube river sand	..	..	..	..	..	..	6 50	
3 lbs. washing soda	..	..	..	..	..	..	4 50	
3 doz. Yuthu bricks	..	..	..	..	..	..	18 00	
3 doz. Yuthu bricks	..	..	..	..	..	..	18 00	
2 lbs. nails	..	..	..	..	..	..	1 20	
3 sheets galvanized sheets	..	..	..	..	..	..	40 50	40 50
Sand $\frac{1}{4}$ cube	..	..	..	..	..	..	6 50	
3 gallons paint	..	..	..	..	..	..	136 25	136 25
2 doz. sand paper	..	..	..	..	..	..	4 80	
Cart hire	..	..	..	..	..	..	75	
Advance labourer	..	..	..	..	..	..		100 00
Do.	..	..	..	..	..	..		200 00
Do.	..	..	..	..	..	..		250 00
Do.	..	..	..	..	..	..		150 00
2 bushels lime	..	..	..	..	..	..	4 50	
Transport	..	..	..	..	..	..	0 25	
Advance for tiles	..	..	..	..	..	..		100 00
1 bottle linseed oil	..	..	..	..	..	..	2 50	
2 bushels lime	..	..	..	..	..	..	3 00	
Transport	..	..	..	..	..	..	0 25	
Tiles	..	..	..	..	..	..	37 50	
Labour advance	..	..	..	..	..	..		100 00

Continued

						Rs. c.	Rs. c.	Y6 Subscription Book— <i>Continued</i>
14 lbs. cement	..	..	..	..	..	1 82		
3 bottles varnish	..	..	..	..	..	9 00		
Paid balance	..	..	..	..	..		259 17	
			410 55			10 00		
			334 50			6 50		
			40 50			4 50		
			<hr/>					
			136 25			18 00		
			1,130 60			18 00		
			<hr/>					
			2,052 40			1 20		
			98 15			6 50		
			<hr/>					
			1953 65			4 80		
			<hr/>					
			46 35			1 75		
Paint	..	..	88 00			4 50		
Tin	..	..	4 25			0 25		
Tin	..	..	6 50			2 50		
			<hr/>					
			98 75			3 00		
						0 25		
						37 50		
						1 82		
						9 00		
						<hr/>		
						Rs. .. 130 07		
			1,001 50					
			130 07					
			<hr/>					
			Rs. .. 871 43					
1,130 60								
871 43								
<hr/>								
259 17								
7 .. S. M. Ariyawansa	..	..	..	..	..	25 00		
8 .. Neil Hewavitarne	..	..	..	..	..	25 00		
9 .. U. P. Ekanayake	..	..	..	..	..	25 00		
10 .. Nalin Moonesinghe	..	..	.....	..	..	30 00		
11 .. S. P. Silva Hamine	..	..	..	..	..	20 00		
12 .. D. S. W. Samarakoon	..	..	..	..	..	25 00		
13 .. H. G. T. Appuhamy	..	..	..	..	..	25 00		
14 .. S. T. Molligoda	..	..	..	..	..	25 00		
15 .. Wimaladharma Hewavitarne	..	..	..	..	..	25 00		
16 .. Lalith Moonesinghe	..	..	..	..	..	25 00		
17 .. C. A. Hewavitarne (Mrs.)	..	..	..	..	..	25 00		
18 .. H. W. Amarasuriya	..	..	..	..	..	10 00		
D. E. Hettiarachchi	..	..	..	..	..	15 00		
19 .. D. M. Ranasinghe	..	..	..	..	..	10 00		
S. K. Moonesinghe	..	..	..	..	..	15 00		

Continued

Y6							Rs. c.	Rs. c.
Subscription Book— <i>Continued</i>	20 ..	C. W. W. Kannangara ..	..	..	..	..	25 00	
	21 ..	Dudley Senanayake ..	..	..	..	..	25 00	
	22 ..	Robert Senanayake ..	..	..	..	..	25 00	
	23 ..	M. G. Perera (Mrs.) ..	..	..	..	..	25 00	
	24 ..	R. M. Peiris ..	..	..	..	..	25 00	
	25 ..	J. Goonewardena ..	..	..	..	..	10 00	
		H. Ranasinghe, Mrs. ..	..	..	..	..	15 00	
	3 ..	George Abeyawardena ..	..	..	..	..	25 00	23 95
	4 ..	D. W. Wijewardena ..	..	..	..	..		23 90
	5 ..	None Amarasekera ..	..	..	..	..	25 00	23 95
	6 ..	H. E. Seneviratne ..	..	..	..	..		23 95
	7 ..	W. Amarasinghe ..	..	..	..	..	25 00	24 05
	8 ..	Eva Sirimanne ..	..	..	..	..		23 90
	9 ..	D. W. H. Perera and W. A. E. Fonseka ..	..	..	..	..	25 00	24 05
	10 ..	Richard de Saram ..	..	..	..	..	25 00	23 95
	11 ..	M. D. Lawrence ..	..	..	..	..	25 00	23 95
	12 ..	W. Weerasinghe ..	..	..	..	..		23 95
	13 ..	.. ..	..	..	..	..		23 95
	14 ..	.. ..	..	..	..	..		23 95
	15 ..	D. S. Wijewardena ..	..	..	..	..		23 95
	16 ..	.. ..	..	..	..	..		24 50
	17 ..	.. ..	..	..	..	..		23 95
	18 ..	Piyadasa Moonesinghe ..	..	..	..	..	25 00	24 95
	19 ..	L. H. Metthananda ..	..	..	..	..	25 00	23 95
	20 ..	.. ..	..	..	..	..		23 95
	21 ..	Dr. D. W. Jayawardena ..	..	..	..	..		23 95
	22 ..	R. Buddadasa ..	..	..	..	..	25 00	24 00
	23 ..	J. P. Ovitigala 15/- +10/- ..	..	..	..	..	25 00	24 00
	24 ..	M. Anson Pinto ..	..	..	..	..	25 00	24 00
	25 ..	S. E. Seneviratne 20/- ..	..	..	..	..	20 00	24 00
	26 ..	Daisy Goonewardena ..	..	..	..	..	25 00	24 00
	27 ..	G. D. P. Gunasekera 12/10 ..	..	..	..	..	25 00	24 00
		U. Ratnatunga 12/90 ..	..	..	..	..		—
	28 ..	P. D. Ratnatunga ..	..	..	..	..	Dane supplied	
	29 ..	Dr. G. P. Malalasekera ..	..	..	..	..	do.	
	30 ..	T. G. C. Perera, D. R. Hewavitarne ..	..	..	..	..	do.	
	31 ..	Abraham Silva Epa Appuhamy ..	..	..	..	..	25 00	
	3 ..	N. E. Weerasooria ..	..	..	..	..		—
	4 ..	E. A. Abayasekara ..	..	..	..	..		—
	5 ..	D. P. Jayasekera ..	..	..	..	..		—
	6 ..	G. P. Wickremaratchchi ..	..	..	..	..	25 00	
	7 ..	Mrs. B. R. Allan ..	..	..	..	..	25 00	
	8 ..	W. H. W. Perera ..	..	..	..	..	25 00	
	9 ..	R. G. Samarasinghe ..	..	..	..	..		—
	10 ..	G. P. D. Gabriel ..	..	..	..	..	25 00	
	11 ..	G. P. D. Gabriel ..	..	..	..	..	25 00	
	12 ..	P. H. Silva ..	..	..	..	..		—
	13 ..	Allan Senanayake ..	..	..	..	..		—
	14 ..	H. L. H. Perera ..	..	..	..	..	25 00	
	15 ..	W. J. Gunawardena ..	..	..	..	..		—
	16 ..	J. R. Jayewardene ..	..	..	..	..		—
	17 ..	.. ..	..	..	..	..		—
	18 ..	C. A. Vijatileke ..	..	..	..	..		—

Continued

						Rs. e.	Rs. e.	Y6
July								Subscription
7 ..	K. A. Ariyawansa	..	..	..	..	25 00	24 90	Book—
8 ..	Neil Hewavitarne (Mrs.)	..	..	..	..	25 00	24 10	<i>Continued</i>
9 ..	U. P. Ekanayake	..	..	..	..	25 00	24 10	
10 ..	Nalin Munasinghe	..	..	..	..	30 00	23 95	
11 ..	S. P. Silva Hamine	..	..	..	..	20 00	23 90	
12 ..	D. S. Samarakoon	..	..	..	..	25 00	24 00	
13 ..	H. G. T. Appuhamy	..	..	..	..	25 00	23 70	
14 ..	S. T. Molligoda	..	..	..	..	25 00	24 25	
15 ..	Wimaladharma Hewavitarne	..	..	..	..	25 00	23 90	
16 ..	Lalitha Moonesinghe	..	..	..	..	25 00	23 50	
17 ..	A. Hewavitarne (Mrs.)	..	..	..	..	25 00	24 10	
18 ..	H. W. Amarasuriya	..	..	..	..	10 00	23 50	
	D. E. Hettiarachchi	..	..	..	..	15 00		
19 ..	D. M. Jayasinghe	..	..	..	..	10 00	23 90	
	S. K. Moonesinghe	..	..	..	..	15 00		
20 ..	C. W. W. Kannangara	..	..	..	..	25 00	24 35	
21 ..	Dudley Senanayake	..	..	..	..	25 00	23 90	
22 ..	Robert Senanayake	..	..	..	..	25 00	23 90	
23 ..	M. G. Perera (Mrs.)	..	..	..	..	25 00	23 85	
24 ..	R. M. Peiris (Mrs.)	..	..	..	..	25 00	23 85	
25 ..	J. Goonewardena	..	..	..	..	10 00	23 95	
	H. Ranasinghe	..	..	..	..	15 00		
26 ..	A. D. P. Dharmaratne	..	..	..	..	15 00	23 90	
	D. S. Kariyaperuma	..	..	..	..	15 00		
27 ..	L. M. H. Wijewardena	..	..	..	..	30 00	23 90	
28 ..	B. A. P. Abeysekera	..	..	..	..	15 00	24 10	
29 ..	D. P. Wijewardena	..	..	..	..	25 00	24 05	
30 ..	Justin Kotalawala	..	..	..	..	25 00	24 05	
31 ..	A. E. de Silva	..	..	..	..	25 00	23 95	
1 ..	Gamini Jayasuriya	..	..	..	..	25 00	23 95	
2 ..	Raja Hewavitarne	..	..	..	..	25 00	24 00	
	Dona Navaratna	..	..	..	..	15 00		
	O. Sirimanne	..	..	..	..	10 00		
	H. E. Seneviratne	..	..	..	..	—
1.	G. D. Jayasundera							
2.	W. Amarasinghe							
3.	Mrs. H. Amarasinghe							
4.	Mrs. E. Amarasinghe							
5.	Richard de Saram							
6.	Mrs. Simon Hewavitarne							
7.	Mrs. Perera							
8.	N. Goonetilleke							
9.								
10.	R. A. Samarasinghe							

M. D. A. Wimalasena, Esqr.,
435, Main Road,
Kotte.

X9

X9

Death
Certificate of
W. H. W. Perera
(6th Defendant)
8.1.55

Death Certificate of W. H. W. Perera (6th Defendant)

Application No. 4352/18.5.55.

No. 203.

CEYLON

CERTIFICATE OF DEATH

Colombo District:

Division Slave Island

Date and place of death	Eighth January, 1955. Central Hospital, Horton Place, Colombo.
Name in full	Willorage Henry William Perera.
Sex and race	Male, Sinhalese.
Age	Seventy-four.
Rank or profession	Proctor S. C. & N. P.
Name of parents	Father not known. Mother not known.
Cause of death and place of burial or cremation	Myocardial degeneration. Dr. B. C. Weerappah.
Name and residence of informant and in what capacity he gives information	Alutge Dharmadasa Hemachandra Samaranayake, 10, Ascot Avenue, Colombo 5. Nearest relative, present at death.
Informant's sign.	A. D. H. Samaranayake.
When registered	8th day of January, 1955.
Signature of Registrar	R. Ratnam.

I do hereby certify that the foregoing is a true copy of a Death Registration entry filed of record in this office.

(Sgd.) Illegible.
Asst. Registrar-General.

Registrar General's Office.
18th May, 1955.

X3

Extract from the "Dinamina" of 24th January, 1955, containing the Notice of Meeting in connection with the Death of W. H. W. Perera (6th Defendant)

NOTICE

In order to elect a President for Vidyadhara Sabha in place of Mr. W. H. W. Perera, Proctor, who died on the 7th January, 1955, it is hereby notified that a Meeting of the Dayakayas and the remaining Presidents, will be held at Vidyodaya Pirivena, Maligakanda, 10 Colombo, at 5.30 p.m. on Friday the 4th February, 1955.

(Sgd.) GUNAPALA MALALASEKERA,
Hony. Secretary of Vidyadhara Sabha.

Colombo, 21st January, 1955.

Translated by :

(Sgd.) Illegible.

S.T., D.C., Colombo.

Y7

Minutes of the Joint Meeting of the Vidyadhara Sabha and Vidyodaya Dayaka Sabha

20

*Translation**Vidyodaya Dayaka Sabha*

A joint meeting of the Vidyadhara Sabha and Vidyodaya Dayaka Sabha was held at 5.30 p.m. on 4th February, 1955, at Vidyodaya Pirivena in Maligakanda in Colombo to fill the vacancy created by the death of Proctor Mr. W. H. W. Perera by appointing a Sabhathy to the Vidyadhara Sabha.

The following members along with a few others were present at the meeting on this day : Hon'ble Dr. C. W. W. Kannangara, Minister, Raja Hewavitarne, Daya Hewavitarne, Mudaliyar P. D. Ratnatunga, Senator Dr. A. M. Samarasinghe, Dr. A. D. P. A. Wijegoonewardene, Dr. G. P. Malalasekera, Upajeewa Ratnatunga, Tissa Ratanatunga, Gamini Jayasuriya, Mudaliyar N. M. Peiris, Mudaliyar D. A. E. Pallewela, K. D. Amunugama, W. P. Wickremarachi, P. C. Perera, P. K. W. Siriwardene, Nalin Munasinghe, W. D. Hewavitarne, S. D. Danny, and R. M. Arthanayake.

After taking Pansil, the Hon'ble Dr. C. W. W. Kannangara, Minister, was elected to the Chair, proposed by Mr. Raja Hewavitarne and seconded by Mr. P. C. Perera.

X3

Extract from the "Dinamina" of 24th January, 1955, containing the Notice of Meeting in connection with the Death of W. H. W. Perera (6th Defendant) 21.1.55

Y7

Minutes of the Joint Meeting of the Vidyadhara Sabha and Vidyodaya Dayaka Sabha 4.2.55

Y7
Minutes of
the Joint
Meeting of
the
Vidyadhara
Sabha and
Vidyodaya
Dayaka
Sabha
4.2.55 —
Continued

The Secretary of the Vidyodaya Dayaka Sabha read over the notice published in the papers stating why the meeting was convened.

Thereupon Hon'ble Dr. C. W. W. Kannangara called upon the members to bring up a resolution to fill up the vacancy of Sabhapathy in the Vidyadhara Sabha.

The resolution brought forward by Mr. P. C. Perera proposing the name of Mr. Gamini Jayasuriya for appointment as Sabhapathy to fill the vacancy in the Vidyadhara Sabha was seconded by Mudaliyar N. M. Peries.

Later another resolution was brought forward by another gentleman who was present at the meeting. 10

Then the Chairman declared that he was not a member of the Vidyodaya Dayaka Sabha and therefore that resolution was rejected.

As no other resolutions were brought forward by the members the only resolution proposing the name of Mr. Gamini Jayasuriya for appointment as a Sabhapathy of the Vidyadhara Sabha was adopted.

As this was the only reason for holding the meeting, the meeting was thus concluded.

By Order.

(Sgd.) R. M. ARTHANAYAKE, 20
Hony. Secretary.

Approved.

(Sgd.) P. K. W. SIRIWARDENE,
President.

27.2.1955.

X7E
Minutes of
the Meeting
of the Sabha
4.2.55

X7E
Minutes of the Meeting of the Sabha

Translation

Minutes of the meeting of the Vidyadhara Sabha and the Dayakayas held at the Vidyodaya Pirivena, Maligakanda, Colombo, on 30 Friday the 4th February, 1955, at 5.30 p.m.

Those present were :

The Hon. Mr. C. W. W. Kannangara (Chairman), Raja Hewavitarne, Mudaliyar P. D. Ratnatunga, Daya Hewavitarane, Nalin Munasinghe, W. D. Hewavitarne, A. M. Samarasinghe being members of the Vidyadhara Sabha, Dr. A. D. P. A. Wijegoonewardene, Mudaliyar D. E. Pallewela, Mudaliyar N. M. Peiris, Upajeewa Ratnatunga, Tissa Ratnatunga, P. C. Perera, P. K. W. Siriwardena, Gamini Jayasuriya, Mr. Dennie, Mr. Amunugama and R. M. Arthanayake being members of the Dayaka Sabha. 40

After taking Tisarana and Pansil the Secretary explained to the Sabha the object of the meeting viz., the appointment of a member to the Sabha for the vacancy created by the death of Proctor W. H. W. Perera, who was a member of the Sabha. The notice published in the Dinamina of 24.1.55 for convening this meeting was read out.

N7E
Minutes of
the Meeting
of the Sabha
4.2.55—
Continued

Thereafter the Chairman called upon the Sabha to propose the name of a person to be appointed to fill the vacancy.

Mr. P. C. Perera proposed the name of Mr. Gamini Jayasuriya and it was seconded by Mudaliyar N. M. Peiris and was carried 10 unanimously. The Chairman then informed the Sabha that Mr. Gamini Jayasuriya was elected as a member of the Vidyadhara Sabha in place of the late Mr. W. H. W. Perera.

After a vote of thanks to the Chair the meeting dispersed.

(Sgd.) C. W. W. KANNANGARA,
Chairman.

Y1

Extract from the "Lankadipa"

Translation

Meeting of the Vidyadhara Sabha ends abruptly.

20 The Minister of Local Government who took the chair gets up and goes away early.

Opinions of two parties clashed and therefore the meeting of the Vidyadhara Sabha held yesterday at Vidyodaya Pirivena at Maligakanda Road had to be stopped abruptly.

The Hon'ble Mr. C. W. W. Kannangara, Minister of Local Government, who was in the Chair, realising that the trivial dispute that arose was gradually aggravating, abandoned the meeting and went away.

30 The origin of the dispute was due to the fact that a decision could not be arrived at as to whether it was only those who pay contributions would be regarded as "Dayakayas".

Mr. C. W. W. Kannangara spoke and said that the first item of the agenda of the meeting was to appoint somebody to fill the vacancy created by the death of Mr. W. H. W. Perera who was the Sabhapathy of the Vidyadhara Sabha.

Mr. N. W. Romiel Perera proposed that Mr. J. A. Albert Perera be appointed to fill that vacancy.

Y1
Extract
from the
"Lankadipa"
5.2.55

Y1
Extract
from the
"Lankadipa"
5.2.55—
Continued

Opposed

Mr. Kannangara said that Mr. Albert Perera could not be appointed as a member. Only a Dayakaya can propose names and only a Dayaka can second names and only a Dayakaya can be appointed as a member.

Only those whose names are in the list of Dayakayas and only those who pay regular subscriptions can be regarded as Dayakayas.

Accordingly, he said that all those who were present at the meeting were not included in the Dayaka Sabha.

Mr. Romiel Perera who was opposed to this opinion said that all 10 persons who look after the needs of the Temple should be Dayakayas.

He further asking if neighbours are not given the privilege of "Dayakayaship" to whom should it be given, pointed out a regulation which has been framed for the appointment of "Sabhapathies".

As Mr. Kannangara did not approve of this opinion those who were present at the meeting found fault with him.

At this juncture stating that Mr. Gamini Jayasuriya has been appointed as a Sabapathy of the Vidyadhara Sabha, Mr. Kannangara left the meeting and went away.

Thereafter a Police party who came there stating to be on the 20 orders of Mr. Kannangara went back as there was no trouble at that time.

The majority of those who were present at the meeting expressed their objections to the appointment of Mr. Gamini Jayasuriya. Vidyadhara Sabha consists of 13 persons.

According to what Mr. P. U. Ratnatunga, the Treasurer of the Vidyadhara Sabha said only those who are registered as Dayakayas could be regarded as such. He further said that he intends distributing application forms for enrolment as Dayakayas to all persons in the very near future. 30

Translated by me.
(Sgd.) Illegible.

S.T., D.C.

Y8
Extract
from the
"Lankadipa"
19.2.55

Y8

Extract from the "Lankadipa"

Translation

(Extract from the Lankadipa—Saturday, 19th February, 1955.)

"A Meeting of the Vidyadhara Sabha"

A joint meeting of the Vidyadhara and Vidyodaya Dayaka Sabhas was held recently at Vidyodaya Parivenasthana under the 40

Chairmanship of the Hon. Minister Mr. C. W. W. Kannangara to appoint a Sabhapathi for the vacant office of Sabhapathi (member) of Vidyadhara Sabha. A report also regarding this meeting was published in the Lankadipa.

There were present several persons who were non-members of Vidyodaya Dayaka Sabha. Before the conclusion of the meeting these persons also brought forward a proposition. As they were non-members of the Vidyodaya Dayaka Sabha, the Chairman ruled out their proposition. It may be that these non-members who were 10 present were subscribers by several ways to this sacred place. But however in a meeting conforming to its rules, the right to bring forward a proposition and the right to vote lies only with members. Hitherto, the Sabhapathies of the Vidyadhara Sabha were appointed on the proposals of the Dayaka Sabha. The Vidyodaya Dayaka Sabha has been held for a long time. To become a member of this Dayaka Sabha there is no hindrance to anyone.

(Sgd.) R. M. ARTHANAYAKE.

Temple Road,
Colombo 10.

Y8
Extract
from the
"Lankadipa"
19.2.55—
Continued

20

X11

Minutes of the Meeting of Vidyodaya Dayaka Sabha

Page 18 of Minute Book of Vidyodaya Dayaka Sabha.

The minutes of the Vidyodaya Dayaka Sabha held at 6 p.m. on Thursday the 14th August, 1952, at the Maligakande Vidyodaya Pirivena.

Those present were Doctor Gunapala Malalasekera, Raja Hewavitarne, M. N. Pieris, Tissa Ratnatunga, Gamini Jayasuriya, P. C. Perera, P. D. Ratnatunga, D. A. E. Pallewela, R. M. Arthanayake, C. P. Jayasekera, K. A. Ariyawansa, P. K. W. Siriwardene, P. U. 30 Ratnatunga, H. L. Caldera, and M. D. A. Wimalasena.

The meeting commenced by observing Five Precepts (Pansil) after the presiding of the Chairman, Dr. Gunapala Malalasekera.

First of all the minutes of the previous Committee meeting was read and produced by the Secretary and was confirmed.

It was decided to inquire the matters referred to the Police and write and inform accordingly.

Thereafter, the Chairman suggested to appoint Mudaliyar M. N. Peiris and Mr. Gamini Jayasuriya respectively as Secretaries in place of Messrs. Leelananda Caldera and D. P. Jayasekera, as they will be 40 absent from Ceylon for several months. It was confirmed having seconded by Mr. P. C. Perera.

X11

Minutes
of the
Meeting of
Vidyodaya
Dayaka
Sabha
14.8.52

XII
Minutes
of the
Meeting of
Vidyodaya
Dayaka
Sabha
14.8.52—
Continued

Thereafter it was decided to send reminders to helpers who have not paid money after undertaking "Was Dana" and also to supply furniture for the use of Bhikkus studying here.

Then the Secretary suggested to hold functions on all Full Moon days and hold meetings as a trial as a sufficient number of members are not attending the functions held on week days and as it is difficult to attend meetings twice a week and it was confirmed.

Thereafter, it was agreed to publish a letter in the Sinhala Bauddhaya, Silumina and Lankadipa papers to invite a helper to illuminate the Dagoba at all times. 10

At this stage the meeting dispersed having wished merits to the Devas.

Accepted.

(Sgd.) LEELANANDA CALDERA,

,, R. M. ARTHANAYAKE,

President.

Translated by :

(Sgd.) Illegibly.

S.T., D.C., Colombo.

25.8.55

20

R1A
Handbill
10.4.56

R1A

Handbill

Translation

Vidyadhara Sabha

When a vacancy occurs in this Sabha the right and authority of electing a person to fill such vacancy is vested in the general meeting consisting of the remaining Sabapathies (members) and the Dayakas.

Nevertheless, at a meeting held on 4.2.56 for the purpose of electing a member to the Vidyadhara Sabha it was declared that nobody other than the members of the "Vidyodaya Dayaka Sabha", said to 30 have been constituted recently, would be recognised as the Dayakas of the Vidyodaya Pirivena. That declaration is altogether contrary to the method of election specified in Deed No. 925 relating to the Vidyadhara Sabha.

It is announced that a meeting will be held on 11th of this month at Vidyodaya Pirivena at 5 p.m. for the purpose of electing a member to the Vidyadhara Sabha. By the fact that the Secretary of the Vidyodaya Dayaka Sabha has affixed his signature to the notice,

pertaining to the meeting appearing in the "Dinamina" of the 4th instant, it is evident that no others than the members of that Sabha will be recognised as Dayakas of the Vidyodaya Pirivena.

RIA
Hand: ill
10.4.56—
Continued

We the undersigned Dayakas of the Vidyodaya Pirivena do hereby lodge our protest to the election of "Sabhapathis" recognising only the members of the Vidyodaya Dayaka Sabha as Dayakas of the Vidyodaya Pirivena, and declare that we will not accept anyone so elected as a Sabhapathi of the Vidyadhara Sabha.

Signed

10	C. D. R. L. POTUWILA	D. S. NANAYAKKARA
	M. W. EDWIN PERERA	R. PETER PERERA
	D. S. WIJESINGHE	H. C. SILVA
	J. A. ALBERT PERERA	H. WICKREMANAYAKE
	D. L. JAYATILLEKE	B. K. PERERA
	D. A. TALAGALA	W. DHARMADASA
	P. PATTINIGE	P. GOONETILLEKE
	W. R. FONSEKA	T. D. GOONEDASA
	U. A. PERERA	A. PETER SINGHO
	A. M. EDWIN SINGHO	

20 Maligakanda,
10.4.56.
Loco Press, Maradana.

W1

Notice of Meeting appearing in "Ceylon Observer"

Vidyadhara Sabha

Notice is hereby given that a meeting of the Vidyodaya Pirivena Dayaka Sabha will be held at 5 p.m. on 14th August, 1958, at Vidyodaya Pirivena, Maligakanda, Colombo, to elect a member to the Vidyadhara Sabha to fill the vacancy created by the death of the late
30 Mr. Raja Hewavitarne on July, 17th, 1958.

Members of the Dayaka Sabha are requested to be present.

GAMINI JAYASURIYA,
Hony. Secretary,
Vidyadhara Sabha.

1.8.58.

W1
Notice of
Meeting
appearing in
"Ceylon
Observer"
1.8.58

W4
 Notice Signed
 by Gamini
 Jayasuriya
 and
 Arthanayaka
 1.8.58

W4

Notice signed by Gamini Jayasuriya and Arthanayaka

Selection of a Member to the Vidyadhara Sabha

A meeting of the Vidyodaya Pirivena Dayaka Sabha will be held at 5 p.m. on 14th August, 1958, at Vidyodaya Pirivena, Maligakanda, Colombo, to elect a Member to the Vidyadhara Sabha to fill the vacancy created by the death of the late Mr. Raja Hewavitarne on 17th July, 1958.

Members of the Dayaka Sabha are requested to be present in time.

10

(Sgd.) GAMINI JAYASURIYA,
Hony. Secretary, Vidyadhara Sabha.

(Sgd.) R. M. ARTHANAYAKE,
Hony. Secretary, Vidyodaya Dayaka Sabha.
 1958.8.1.

Please bring this letter with you.

(Sgd.) R. M. ARTHANAYAKE.

Translated by me.

(Sgd.) B. DAHANAYAKE,
Sworn Translator, D.C., Colombo. 20

W5A
 Minutes of
 the Joint
 Meeting of
 Vidyadhara
 Sabha and
 Vidyodaya
 Dayaka Sabha
 14.8.58

W5A

**Minutes of the Joint Meeting of Vidyadhara Sabha and
 Vidyodaya Dayaka Sabha**

Translation

Minutes of the Joint Meeting of the Vidyadhara Sabha and
 Vidyodaya Dayaka Sabha held at the Vidyodaya
 Pirivena, Maligakanda, Colombo, at 5 p.m. on Thursday
 14th, August, 1958.

Those present were : Dr. C. W. W. Kannangara, Mudaliyar E. A. Abayasekara, Messrs. D. P. Jayasekera, K. T. Wimlaasekera, Leela- 30
 nanda Caldera, Mudaliyar M. N. Pieris, Dr. A. D. P. A. Wijegoone-
 wardene, Dr. A. M. Samarasinghe, Messrs. D. L. F. Pedris, Nalin
 Moonesinghe, Gamini Jayasuriya, Wimaladharma Hewarvitarne
 Palitha Weeraman, Migara Ratnatunga, M. A. G. Ratnatunga, S.D.
 Denny, M. D. A. Wimalasena, K. D. Amunugama, R. M. Artha-
 nayake, P. K. W. Siriwardene, Mudaliyar P. D. Ratnatunga and
 Mr. Upajeeva Ratnatunga.

Dr. C. W. W. Kannangara was voted to the Chair and meeting commenced with Pansil.

Mr. Leelananda Caldera read the notice convening the meeting which had been published in the Dinamina and Observer and copy of the notification sent to members by letter and the rules regarding the election of a Sabhapathi to the Vidyadhara Sabha to fill a vacancy.

The Chairman proposed a vote of condolence on the death of Mr. Raja Hewavitarne. This was carried all standing in silence.

The minutes of the joint meeting of the Vidyadhara Sabha and 10 the Vidyodaya Dayaka Sabha held on 11th April, 1956, were read and confirmed.

The Chairman then paid a tribute to the immense services rendered by the late Mr. Raja Hewavitarne to the Vidyodaya Pirivena and stated that the meeting had been convened to elect a Sabhapathi to the Vidyadhara Sabha to fill the vacancy created by the death of Mr. Raja Hewavitarne and called for nominations.

Dr. A. M. Samarasinghe proposed and Mr. D. L. F. Pedris seconded that Dr. A. D. P. A. Wijegoonewardene being the fit and proper person be elected to fill the vacancy. Dr. A. D. P. A. Wijegoone- 20 wardene who was present at the meeting agreed to serve as a Sabhapathi of the Vidyadhara Sabha. There being no other names proposed Dr. A. D. P. A. Wijegoonewardene was declared duly elected a Sabhapathy of the Vidyadhara Sabha.

Dr. C. W. W. Kannangara spoke of the excellent service rendered in the past to the Vidyodaya Pirivena by Dr. A. D. P. A. Wijegoone-wardene and wished him every success.

Mr. Leelananda Caldera stated that there were important func- tions to be performed by the Dayaka Sabha and suggested more frequent meetings. He also mentioned that the Venerable Kalu- 30 kondayawe Pannasekera Nayaka Thero, a member of the Acharya Mandalaya of the Vidyodaya Pirivena, had been elected Maha Nayaka and that the second meeting to finalise the arrangements for the ceremony of conferring this title would be held at 5 p.m. on Monday 1st September, and wished all members to be present.

(Sgd.) GAMINI JAYASURIYA,
Hony. Secretary, Vidyadhara Sabha.

(Sgd.) R. M. ARTHANAYAKE,
Hony. Secretary, Vidyodaya Dayaka Sabha.

(Sgd.) C. W. W. KANNANGARA,
40 *Chairman.*

Translated by me :

(Sgd.) B. DAHANAYAKA,
Sworn Translator, D.C., Colombo.

W5A
Minutes of
the Joint
Meeting of
Vidyadhara
Sabha and
Vidyodaya
Dayaka Sabha
14.8.58—
Continued

**English Translation of the Extract from the Epigraphia
Zeylanica**

Extract of
Epigraphia Zeylanica

Page 98. Vol. 1, Part III—Pages 98-100.

Translation 1

Slab A.

(Lines 1-5). On the 10th day of the waxing moon, in the (lunar) month of Vap², in the sixteenth year after the elevation of his regal canopy, the great King Siri Sangabo Abahay³, who was born unto the great king Abahay Salamevan⁴, an eminent Ksatriya, being descended from the royal line of the Okkaka dynasty, which is the pinnacle of the illustrious Ksatriya race, having been conceived in the womb of the annointed queen Dev Gon of equal birth in the same (Ksatriya) race—who enjoyed the dignities of Governor and Chief Governor⁵, and who, having in due course become king, has been illumining⁶, the Island of Lanka with his majestic effulgence-convened⁷, an assembly of the great community of monks resident in Sey-giri-vehera⁸ and Abahay-giri-vehera⁹. (Ll. 5-9)¹⁰ (At this assembly, His Majesty) ²⁰ conferred¹¹ with competent persons as to the expediency of selecting¹² such of the (Monastic) rules as pleased him out of those (in force) at his own Abahay-giri-vehera and out of those formerly instituted at Sey-giri-vehera by his brother, the master of religious ceremonies¹, and of establishing the same at this Vihara also.

(Thus) in respect of the great community of monks living in this Vihara, as well as in respect of the employees, the serfs, (their respective) duties, and the receipts and disbursements, His Majesty passed these (following) regulations, rendering² them explicit by means of comments. 30

(Ll. 9-15). The monks residing in this Vihara shall rise at the time of early dawn and shall meditate on the four protective formulas⁴, and having finished cleansing the teeth⁵, shall put on and cover themselves with their (yellow) robes as prescribed in the Sikakarani⁵. They shall (then) go to the “check-room”⁷ of At-vehera, and exercising a spirit of benevolence and reciting paritta⁷ formulas shall descend (into the refectory) and receive gruel and boiled rice.

To the monks who are unable to attend the ‘check room’ through illness, shall be granted a vasag each, when recommended by the physicians. 40

To the monks who reside in this vihara and read³ the Vinaya-pitaka, shall be assigned five vasag⁴ of food and raiment; to the monks who read the Sutta-pitaka, seven vasag; and to the monks who read the Abhidhamma-pitaka, twelve vasag.

The necessaries (of life) assigned to monks by lay patrons⁵ after due calculation shall be given without causing any omission thereof⁶.

(L1. 15-20). Those that reside permanantly and grant the necessary things (for the maintenance of monks) here, shall enjoy¹ the lands and villages attached to all the avasa (monks' residences) **10** connected with this vihara, but they shall not enjoy the same conjointly⁸ with the avasa so attached⁹.

Orders shall be issued to employees and employees shall be dismissed only by the monks in council; no orders shall be issued or any servant be dismissed by individuals acting alone.

The monks residing in this Vihara shall by no means possess the fields, orchards etc., in any place belonging to At-vehera.

P36
English
Translation
of the
Extract
from the
Epigraphia
Zeylanica—
Continued

1D5

Extract from the Vidyodaya Magazine

Translation

20

The Vidyodaya Magazine

Page 22

Therefore, we know that during that on the advice of our Hikka-duwe Sri Sumangalabhidhana, Chief High Priest and founder of the Vidyodaya Pirivena, a magazine called the "Samaya Sangara" was published which helped anybody in this country to obtain a fair knowledge conveniently and tendered this help to the public.

We know, in place of that, the same was granted thereafter for some time by Dewundera Sri Sumangala Jinaratanabhidhana Nayaka Isthavira, Incumbent of Hunupitiya Gangaramaya who is the chief **30** pupil of our Chief priest by publishing, helping and advising the Magazine the "Jinalankara".

1D5
Extract
from the
Vidyodaya
Magazine

1D41

Printed Verses by the Plaintiff-Respondent

Translation

(The following stanzas were composed by the plaintiff in Sanskrit as blessings to the Venerable Sri Sumangala Jinaratana Nayaka Thero in his 80th Birth-celebration.)

1D41
Printed
Verses
by the
Plaintiff-
Respondent

1D41
Printed
Verses
by the
Plaintiff-
Respondent—
Continued

Delightful stanzas concerning the Venerable Sri Jinaratana Nayaka Thera's completion of 80th year.

May the Noble Triple Gem Protect You

1. May Sri Jinaratana, the Chief Monk, live the long life, prescribed for a human being (100 years), in delight without having any difficulty by the power of the noble Triple Gem.
2. May the Chief pupil of the founder of Vidyodaya, the Mahopaddhyaya Rev. Sri Jinaratana live a long and full life.
3. For whose completion of 80th year this noble and great celebration is held. May he live a long and prosperous life. 10
4. As a result of whose Viharadhipathiship the Gangarama Vihara was improved quickly. May he the prosperous Nayaka Thera live long.
5. May he who holds a Upaddhayaya post at Uposhitarama Maha Vihara of Syamopali Nikaya live a long life.
6. May the Nayaka Thero who was brought up and looked after by Sri Sumangala Nayaka Thero as his own eye and who is the chief among his pupils live long.
7. May this Nayaka Thero well-known as Jinaratana, learned Sri Gnaneswara was whose pupil, live long. 20
8. Improving the Buddhist religion like the moon in the sky may Venerable Sri Jinaratana Nayaka Thero shine long in the Sasana in good health and in delight.
9. In the 80th birth celebration of Sri Jinaratana Nayaka Thero, they were composed and sent by Baddegama Piyaratana Thero.

1D42
Plaintiff-
Respondent's
Letter

1D42

Plaintiff-Respondent's Letter

Translation

With Kindness.

Received the letter sent by you, but I am sorry to inform that I 30 cannot attend the celebration. It should be arranged to be read, on behalf of me, the delightful stanzas written in the other page, expres-

sing my pleasure for the celebration, after having shown them to our Venerable Nayaka Thera and Rev. Sorata. It is better if they are printed.

1D42
Plaintiff-
Respondent's
Letter—
Continued

Apart from this, I could not still fulfil what I wanted. I have still what I have brought from there. What am I do to ?

Yours affectionately,
(Sgd.) B. PIYARATANA.

1D44

Letter by Venerable Sri Sumangala

1D44
Letter by
Venerable Sri
Sumangala

10

Translation

This letter is sent by Sri Sumangala, the Chief High Priest, and the Viharadhipathi of the Pirivena-Vihara known as Vidyodaya, established at Maligakanda near the city of Colombo, to Sirivimala Mahathera, the chief of the community, the Viharadhipathi of Jetavana Vihara in the great city of Ratanakosindadeva in Siam, in order to ask the condition of the Sasana (Buddhism).

1D62

Warrant of Viharadhipathiship of the Delgamu Rajamaha Vihara

1D62
Warrant of
Viharadhi-
pathiship
of the
Delgamu
Rajamaha
Vihara

20

Translation

No. 1758

Warrant of Viharadhipathiship.

The purport of the Warrant of Viharadhipathiship caused to be written, signed and granted on this 8th day of June, 1942, or 2486 Buddha Era, is as follows :—

The Delgamu Rajamaha Viharaya situated at Kuruwiti Korale in the District of Ratnapura, Sabaragamuwa Province, is a Vihara belonging to the Range of Mahanayaka Thera of Malwatta Vihara at Kandy.

1D62
Warrant of
Viharadhi-
pathiship
of the
Delgamu
Rajamaha
Vihara—
Continued

At present there is no one as Viharadhipathi to control the said Vihara and to do the necessary things for its welfare.

The Venerable Vagisvarachariya Morontuduwe Sri Gnaneswara Dhammananda, the Viharadhipathi of Maligakanda Vihara in Colombo and the Nayaka Thera of Sabaragamuwa Province and of Sripadasthana, is a fit and suitable person to be appointed as Viharadhipathi of the said Vihara.

Therefore I do hereby appoint the said Nayaka Thera as the Viharadhipathi of the said Delgamu Rajamaha Vihara and empower him and his Sisyanusisya Paramparawa to control the said Vihara 10 and to have hold and possess all the movable and immovable properties belonging to the said Vihara and to fulfil all necessary things which the said Vihara may require for its completion and to perform all religious matters at the said place and also to cause the supporters thereof to receive meritorious benefit by doing religious affairs.

(Sgd.) PAHAMUNE SRI SUMANGALA.

Pahamune Dharmakirti Sri Saranankara Sumangala,
Mahanayaka Thera of Mahaviharawansika Syamopali
Mahanikaya and Viharadhipathi of the two Viharas
Uposhitha-Pushparama, Kandy.

20

Written by :

(Sgd.) H. DHIRANANDA,

Secretary.

Nayake Thero.

1D64
Notes from
the Diary of
Venerable
Hikkaduwe
Sri
Sumangala

1D64

Notes from the Diary of Venerable Hikkaduwe Sri Sumangala

1879

Expenses for the ordination of Rev. Jinaratana Rs. 21/-

1D65
Notes from the
Diary of
Venerable
Hikkaduwe
Sri Sumangala

1D65

Notes from the Diary of Venerable Hikkaduwe Sri Sumangala

30

Rev. Jinaratana went to reside at Hunupitiya on 1st day of February, 1885.

Offered on the same day..	..	..	Rs. 2/-
Again	..	..	Rs. 5/-
Again	..	..	Rs. 3/-
			<hr/>
			Rs. 10/-
			<hr/>

1D67

**The Writing by Venerable Hikkaduwe Sri Sumangala
with the Envelope**

Confidential

You may have known that it is wanted to write a deed again concerning the plot of land situated here, over which a deed has been written in your name. With regard to the question in what way it should be written what Proctor Ranasinghe has said is this that it is better to write it in my name in such a way that it should be owned
10 by my pupillary succession. When you are questioned you should answer that you like to do in that way too ; or if anybody does not like to do in that way you should answer that you will like to write it making it a general Sanghika, or if it is not done so, you must answer that you do not like in any way to dedicate it to a lay society. It is bad if a giving of a land to laymen by a bhikku were to be regarded as an example in future. After having included the Pirivena within the temple if it is included in the list of temples such as Dighasanda Pirivena, Vijayabahu Pirivena, Sunnetta Pirivena, etc. in the past it can be given to the Pirivena. When the Pirivena is considered now
20 as a College it is impossible to sign a deed for that. To obtain the permission from the Governor to give it as a Sanghika, it is necessary to make an application with stamps valued at Rs. 10/-. We shall pay that Rs. 10/-.

Envelope

To

Mahabotuwana Siddhartha Isthavira of
Nalagasdeniya Sri Nagarama Vihare,
Hikkaduwa.

W2

30 **Notice of Meeting appearing in " Dinamina "**

Selection of a Member to the Vidyadhara Sabha

A Meeting of the Vidyodaya Pirivena Dayaka Sabha will be held at 5 p.m. on 14th August, 1958, at Vidyodaya Pirivena, Maligakanda, Colombo, to elect a member to the Vidyadhara Sabha to fill the vacancy created by the death of the late Mr. Raja Hewavitarne on 17th July, 1958.

Members of the Dayaka Sabha are requested to be present in time.

(Sgd.) GAMINI JAYASURIYA,
Hony. Secretary, Vidyadhara Sabha.

40

Translated by me :

(Sgd.)
Sworn Translator, D.C., Colombo.

1D67

The Writing by
Venerable
Hikkaduwe Sri
Sumangala
with the
Envelope

W2

Notice of
Meeting
Appearing in
" Dinamina "

W3
 Death
 Certificate of
 Raja
 Hewavitarne
 17.7.58

W3

Death Certificate of Raja Hewavitarne

Application No. C7907.

No. 1841

Colombo District.

Slave Island Division.

1. Date and place of death ..	Seventeenth day of July (Fifty-eight), 1958. 6, Albert Crescent, Colombo 7.
2. Name in full	Rajasingha Hewavitarne.
3. Sex and race	Male—Sinhalese.
4. Age	Fifty-nine years.
5. Rank or profession	Merchant.
6. Names of parents	Father : Edmund Hewavitarne. Mother : Sujatha Hewavitarne.
7. Cause of death, and place of burial or cremation	(a) Coronary Thrombosis. (b) Hypertensive heart disease. Dr. G. R. Wijegunaratne.
8. Name and residence of Informant, and in what capacity he gives information	Jagathsingha Chandrawansa Weerasekera. 6, Albert Crescent, Colombo 7. Nearest relative present at death.
9. Informant's signature	(Sgd.) Illegibly.
10. When registered	Seventeenth day of July, 1958 (Fifty-eight).
11. Signature of Registrar	(Sgd.) R. Retnam.

I do hereby certify that the foregoing is a true copy of a death Registration entry filed of record in this office.

(Sgd.) Illegibly.
Asst. Registrar-General.

Registrar-General's Office.
 27th August, 1958.

X4

Extract from the "Sinhala Bauddhaya" of 12th April, 1952, containing the Notice of Meeting in connection with the Death of D. S. Senanayake (2nd Defendant)

Translation

NOTICE

Rt. Hon'ble D. S. Senanayake, a member of the Vidyadhara Sabha, having died on 22nd March, 1952, notice is hereby given that a meeting of the members and of the Dayakas will be held at 10 Mahabodhi Mandira, Maligakanda, on Sunday the 20th, April, 1952, at 5.30 p.m. for the election of a member in place of the said deceased.

RAJA HEWAVITARNE,
Hony. Secretary,
Vidyadhara Sabha.

X4

Extract from the "Sinhala Bauddhaya" of 12th April, 1952, containing the Notice of Meeting in connection with the Death of D. S. Senanayake (2nd Defendant)

X5

Extract from the "Sinhala Bauddhaya" of 3rd May, 1952, containing the Notice of Meeting in connection with the Resignation of B. R. Dias (11th Defendant)

Translation

NOTICE

20 A meeting of the members of the Vidyadhara Sabha and of the Dayakayas will be held at 6 p.m. on Wednesday the 14th, May, 1952, at Mahabodhi Mandira, Maligakanda, for the purpose of electing a member in place of Mr. B. R. Dias who has resigned from the Vidyadhara Sabha.

(Sgd.) **GUNAPALA MALALASEKERA,**
Hony. Secretary,
Vidyadhara Sabha.

X5

Extract from the "Sinhala Bauddhaya" of 3rd May, 1952, containing the Notice of Meeting in connection with the Resignation of B. R. Dias (11th Defendant)

Y2**List of Members**

30

<i>Membership</i>	<i>Date of Admission</i>	<i>Addresses</i>
Dr. Gunapala Malalasekera	.. 1. 6.52 ..	"Samanala", Longden Terrace, Colombo
Mr. Leelananda Caldera ..	.. 1. 6.52 ..	"Anoma", Nawala Road, Nugegoda
Mr. P. C. Perera ..	.. 1. 6.52 ..	No. 14, Visakha Road, Bambalapitiya, Colombo 4

Y2

List of Members

Y2 List of Members— Continued	Membership	Date of Admission	Addresses
	Mr. M. Oliver Fernando ..	.. 1. 6.52 ..	No. 65, Sriwickrema Road, Wellawatte 6
	Mudaliyar P. D. Ratnatunga ..	.. 1. 6.52 ..	No. 32, Church Road, Wellawatte
	Mr. E. D. S. Wijeyratne ..	.. 1. 6.52 ..	Dematagoda Place, Maradana
	Mr. C. V. de Soysa ..	.. 1. 6.52 ..	No. 141, Ketawalamulla Lane, Maradana
	Mr. D. G. Batuwatta ..	.. 1. 6.52 ..	No. 139, Ketawalamulla Lane, Maradana
	Mr. M. E. Dharmadasa ..	.. 1. 6.52 ..	No. 11, Elions Place, Ketawalamulla Lane, Maradana 9
	Mr. S. D. Denny ..	.. 1. 6.52 ..	No. 508, Maradana Road, Maradana 10
	Dr. W. F. ..	.. 1. 6.52 ..	No. 194, Havelock Road, Colombo 5
	Mr. A. M. Samarasinghe ..	.. 1. 6.52 ..	No. , Atliyar, Reid Avenue, Bambalapitiya 7
	Mr. M. D. A. Wimalasena ..	.. 1. 6.52 ..	No. 435, Main Road, Kotte
	Mr. D. P. Jayasekera ..	.. 1. 6.52 ..	No. . . . , " Vijita ", Piliyandala
	Mr. K. T. Wimalasekera ..	.. 1. 6.52 ..	No. , Horana
	Mr. D. L. F. Pedris ..	.. 1. 6.52 ..	No. , Alfred Place, Colombo 3
	Mudaliyar M. S. Peries ..	..	Kelankaduwa Place, Wellawatte, Colombo 6
	Dr. A. D. P. A. Wijegoonewardene ..	..	Borella Cross Road, Borella
	Mr. D. D. A. Gunawardene ..	.. 1. 6.52 ..	No. 10, Pendennis Avenue, Kollupitiya
	Mr. H. Charles ..	.. 1. 6.52 ..	No. 14/16, Marties Lane, Mihindumawata, Colombo 12
	Dr. D. D. Abeyratne, Registrar ..	.. 1. 6.52 ..	No. 132, Galle Road, Wellawatte
	Mr. J. P. Alwitigala ..	.. 1. 6.52 ..	Narahenpitiya, Colombo 5
	Mr. P. D. Madanayake ..	.. 1. 6.52 ..	No. 17, Malay Street, Slave Island
	Mr. R. M. Arthanayake ..	.. 1. 6.52 ..	" Atiyawala ", Temple Road, Maradana
	Mr. P. U. Ratnatunga ..	.. 1. 6.52 ..	No. 89, 5th Lane, Colombo
	Mr. K. D. Amunugama ..	.. 1. 6.52 ..	No. 48, Clifton Lane, Maligakanda, Colombo
	Mr. S. D. Waidyasekera ..	..	No. 34, Dematagoda Road, Maradana
	Mr. J. C. Jayatilaka ..	..	" Jayanivasa ", Dematagoda Road, Colombo
	Mr. Lucksman Wijewardena ..	..	Ward Place, Colombo
	Mr. D. A. Gunawardene ..	..	No. 10, Pendennis Avenue, Colombo
	Dr. D. A. Ranasinghe ..	..	No. 83, Rosemead Place, Colombo.
	Mr. K. A. Ariyawansa ..	..	No. 219, Silversmith Street, Colombo
	Mr. Edwin Jayakody ..	..	Vajira Road, Colombo 5
	Mr. P. K. W. Siriwardene ..	..	No. 520, Maradana Road, Maradana, Colombo

<i>Membership</i>	<i>Date of Admission</i>	<i>Addresses</i>	<i>Y2</i> List of Members— <i>Continued</i>
Mr. Migara Ratnatunga ..	..	.. No. 32, Chappel Lane Road, Colombo 6	
Mr. Tissa Ratnatunga ..	..	.. No. 3, Queen Lane, Colombo 3	
Mr. Piyasoma Hewavitarane ..	..	.. No. 3, Queen Lane, Colombo 3	
Mr. Raja Hewavitarne ..	..	.. Rampart, Albert Crescent, Colombo 7	
Mudaliyar D. A. E. Pallawala ..	..	.. No. 4, 27th Lane, Inner Flower Road, Colombo	
Mr. M. D. Sirisena ..	..	.. C/o. Messrs. M. D. Gunasena, Ltd., Norris Road,	
Dr. D. E. Hettiarachchi ..	..	.. "Sridhara", Hendala, Wattala	
Mr. J. Godewitana ..	.. 17.7.52	.. 504, Maradana Road, Colombo 10	
Mr. M. C. Jinadasa ..	.. 17.7.52	.. No. 10, Charles Place, Kotahena, Colombo	
Mr. Gamini Jayasooriya ..	..	.. No. 445, Colpetty Road, Colombo 3	
Mr. P. Weeraman ..	.. 19.8.52	.. No. 15/2, Gower Street, Colombo 5	
Mr. Wimaladharma Hewavitarne ..	.. 19.8.52	.. "Srinagar", Kollupitiya Road, Colombo 3	
Mr. S. Sellaheewa ..	.. 19.8.52	.. Parakrama Stores, 20, Deans Road, Maradana	
Mr. W. P. Wickremaaratchy ..	.. 30.10.52	.. No. 42, Clifton Lane, Maradana	
1. Mr. Dudley Senanayake ..	..	.. "Woodlands", Kanatta Road	
2. Mr. D. L. F. Pedris ..	..	.. "Pedris Villa", Alfred Place	
3. Mudaliyar P. D. Ratnatunga ..	..	..
4. Mr. Raja Hewavitarne ..	..	..
5. Mr. Nalin Munasinghe ..	..	.. Jeyas Road, Havelock Town	
6. Mudaliyar E. A. Abayasekara ..	..	.. Hill Street, Dehiwela	
7. Dr. A. M. Samarasinghe ..	..	..
8. Mr. H. W. Amarasuriya ..	..	..
9. Mr. W. D. Hewavitarne ..	..	.. "Srinagar", Kollupitiya	
10. Mr. Daya Hewavitarne ..	..	.. Guildford Crescent, Colombo 7	
11. Mr. W. H. W. Perera ..	..	..
12. Mr. C. W. W. Kannangara ..	..	.. McCarthy Road, Colombo 7	
13. G. P. Malalasekera ..	..	.. "Samanala", Longden Terrace, Colombo	

Y4
Vidyodaya Dayaka Sabha Rules*Translation*

Vidyodaya Dayaka Sabha

RULES

1. *The Name.*—This Sabhawa will be known by the name of "Vidyodaya Dayaka Sabhawa". Hereinafter the word "Sabha" should be considered to mean the Vidyodaya Dayaka Sabha.

Y4Vidyodaya
Dayaka
Sabha
Rules

2. *Office.*—The Office of this Sabha can be in the Colombo Vidyodaya Pirivena or in any other place in Colombo.

3. *Highest Object.*—The highest object of this Sabha is to strive according to the conditions prevailing at the time for the long continuance and improvement of the Colombo Maligakande Vidyodaya Pirivena. All work being done by this Sabha for the realization of this main object shall be done only with the consent and permission of the Principal of the Vidyodaya Pirivena and the Vidyadhara Sabha which was appointed as an executive body as Vidya Dayaka Sabha for the purpose of ensuing of the long continuance of the said 10 Pirivena.

4. *Members :* (1) Honorary members, life members, working members will be the categories.

Those who pay to the Sabha a sum of money not less than Rupees One thousand on any one occasion as Honorary members ; those who pay to the Sabha on any one occasion a sum of Rupees less than one thousand and above Rs. 250/- as life members as those who pay to the Sabha not less than Rs. 10/- for a year or Rs. 6/- for six months or not less than One rupee every month as working members, are admitted to the Sabha. 20

(2) In joining as a working member an admission fee of Rs. 5/- should be paid.

(3) Admission as a member will be at the discretion of the Executive Committee.

(4) The members who have not paid the membership fees for six months and those who act contrary to the object of Sabha can be expelled by a majority decision of a meeting of the Executive Committee.

(5) All members have the right to vote.

(6) All Buddhists irrespective of their sex can be members. 30

(7) All members should be Buddhists.

5. *Office-bearers :*—(1) This Sabha should constitute the following office-bearers.

Patron, Chairman, Three Vice-Chairmen, Two Secretaries, an Assistant Secretary, Treasurer, a Manager, the Principal of Vidyodaya Pirivena by virtue of his post will be the Patron.

(2) The Executive Committee has the authority to fill the vacancies of office-bearers. The office-bearers and the Executive Committee should do their duties till the next annual General Meeting.

6. *Executive Committee.*—(1) The Executive Committee constitutes of the office-bearers, 12 other members of the Sabha and the Sabhapathies of the Vidyadhara Sabha. 40

(2) The Executive Committee should generally meet once a month.

(3) The Executive Committee can be held if 5 members of the executive committee are present.

(4) When necessary, the Chairman has the power to summon a special meeting of the Executive Committee.

7. *General Meeting.*—(1) A General Meeting should be summoned at least once a year.

(2) The Annual General Meeting should be held before the 30th November of every year. The Agenda should be provided to the 10 members 14 days before such a meeting and the meeting held at the notified place.

(3) The Secretary should forward a report to the ensuing year and the Auditors' certified income and expenditure statement should be presented by the Treasurer at the Annual General Meeting.

(4) The Financial Year of the Sabha shall be from 1st October to 30th September.

(5) The other business at the Annual General Meeting will be as follows :—

(a) The election of office-bearers with the exclusion of the patron, 20 the other committee members and auditors.

(b) The discussion on other matters earlier decided.

(6) A special general meeting may be held with 14 days notice at the request of 25 or more members or on a special occasion.

(7) The quorum of a general meeting shall be 15 members.

8. The funds of the Sabha shall be deposited at one or more banks decided by the Executive Committee. The cheque shall be signed by the Treasurer and any one of the following :—President or any of the Secretaries.

9. No member has the right of extracting profits from the 30 Sabha. No Secretary member has the right of obtaining any remuneration for any service rendered to the Sabha.

10. This constitution can be amended only at a meeting convened for this purpose with two-third majority of those present.

11. All matters not provided for in these rules, the Executive Committee has the authority to act.

Translated by me.

(Sgd.) Illegible.

S.T., D.C., Colombo.

Notice to the Dayakayas of Vidyodaya Pirivena

Translation

Vidyadhara Sabha

Notice to the Dayakayas of the Vidyodaya Pirivena

It is specified in clause 6 of the deed No. 925 attested on December 6th 1873, by W. P. Ranasinghe, N.P., the procedure of electing a new member for the Vidyadhara Sabha in place of a member who died. The said clause is as follows :—

“ It is also agreed that on the death of a member of the Sabha, 10 within one month of such death and before the lapse of eight days proper notice of such event shall be published in the Newspaper, etc., and the Dayakayas (supporters) shall convene a general meeting consisting also of the remaining members of the Sabha and elect a Sabhathy with the consent of the majority of them.”

None of the gentlemen of those now forming the Vidyadhara Sabha was elected at a meeting which was duly published according to the above rule. Due to this the majority of the Dayakayas could not attend those meetings and exercise their votes.

Mr. W. H. W. Perera who was appearing as a Sabhathy of the 20 Vidyadhara Sabha died on the 7th of last month. As in the past without due notice to the Dayakayas is it not possible to put somebody in his place.

Therefore the Dayakayas of the Vidyodaya Pirivena do consider this matter and safeguard their rights.

Sgd. for this,

Dayakayas of Vidyodaya Pirivena,

D. S. WIJESINGHE	A. A. PETER SINGHO	
J. A. ALBERT PERERA	Y. N. EDMUND PERERA	
U. AMARADASA PERERA	W. M. PERERA	30
B. S. de SILVA	N. W. ROMIEL PERERA	
A. M. EDWIN PERERA	P. A. P. PERERA	

WILFRED GUNASEKERA

Z1A**Translation of " Z1 " - Notice re the Meeting of the Dayakayas**

Z1(A)
 Translation of
 " Z1 ". Notice
 re the Meeting
 of the
 Dayakayas

NOTICE

A meeting of the dayakayas and the remaining Sabhpathies of the Vidyadhara Sabha which manages the Vidyodaya Pirivena of Maligakanda, Colombo, will be held at 5 p.m. on the 11th instant at the Vidyodaya Pirivena for the purpose of electing a member for the Vidyadhara Sabha in place of the late Mr. Daya Hewavitarne who was a member of the said Vidyadhara Sabha.

10

(Sgd.) G. P. MALALASEKERA,
Secretary,
 Vidyadhara Sabha.

(Sgd.) R. M. ATTANAYAKE,
Secretary,
 Vidyodaya Dayaka Sabha.

Mr. K. W. Gonakumbura Attapattu Lekam, Registrar, spoke in this connection. Mr. Neil Hewavitarne, Dr. D. B. Perera and Mr. M. Piyadasa speaking stated the matter should be amicably settled without an inquiry.

P38
Minutes of the
Sabha Meeting
24.1.30—
Continued

Since it was the opinion of the majority the charges in the complaint were read by the Hony. Secretary. Mr. Neil Hewavitarne speaking said that it was advisable to hand over the matter to the Nayaka Thero, Principal of the Pirivena. Rev. Nayaka Thero and Rev. Pemananda speaking said that on previous occasions similar
10 inquiries were made by the Vidyadhara Sabha.

Then the Chairman said that a short inquiry would be made. Evidence was taken from Rev. Kukulnape Devarakkhita and Rev. Morontuduwe Sri Dhammananda Nayaka Thero. Mr. W. A. Samarassekera, Rev. Kalukondayawe Pannasekera, and Rev. Palannoruwe Wimaladhamma were called as witnesses. The Chairman, Messrs. Neil Hewavitarne, M. Piyadasa, W. H. W. Perera, Proctor, Raja Hewavitarne, Dr. D. B. Perera, Hony. Secretary, Rev. Principal of the Pirivena and Rev. Baddegama Piyaratana, Vice-Principal of the
20 the matter in peace since what has happened is only a trifle. They also appealed to those concerned the matter must be settled without leaving room for any repetitions of this nature. The members of the Sabha stating that, the accused monk is guilty asked that he be pardoned. The complainant monk said that he was prepared to pardon the other. Since both parties agreed to settle the matter amicably without further inquiry, the work of the meeting terminated at this stage, those present happily departed.

Minutes adopted.

30 (Sgd.) D. P. A. WIJEWARDENE,
Hony. President.

(Sgd.) J. MOONESINGHE,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

4.7.50.

2D32A
 Notice of the
 Sabha in the
 Sinhala
 Bauddhaya
 5.9.31

2D32A**Notice of the Sabha in the Sinhala Bauddhaya**

The Sinhala Bauddhaya
 Colombo, September 5th Saturday, 1931

Translation of Notice appearing on page 6

Vidyadhara Sabha.

A special public meeting of the above Sabhawa will be held on Saturday the 12th instant at 5.30 p.m. at the Viyodaya Pirivena, Maligakanda. As the Agenda of this meeting will consist of the appointment of a Sabhapathi Member to fill the vacancy created by 10 the death of Mr. D. C. Senanayake who was a Sabhapathi Member of the Sabhawa and consideration of several other important matters, all are specially invited to be present.

(Sgd.) J. MOONESINGHE,
Hony. Secretary,
 Vidyadhara Sabha.

2D12I
 Minutes of the
 Sabha Meeting
 3.10.31

2D12I**Minutes of the Sabha Meeting**

Minutes of the General Meeting of the Vidyadhara
 Sabha held at the Viyodaya Pirivena on
 October 3, 2475/1931.

20

At this meeting there were present the Ven'ble Nayake Thero, Principal of the Pirivena, Rev. Baddegama Piyaratana Thero, Vice-Principal, Rev. Acharya Panditha Palannoruwe Wimaladhamma Thero, Rev. Acharya Pandita Weragoda Amaramoli Thero, Messrs. G. A. Jayaweera, S. M. Silva, B. A. D. Gunapala, E. P. Tillekeratne, A. G. W. R. de Silva, J. Moonesinghe, Proctor, Honorary Secretary, Dr. D. B. Perera, Messrs. N. Piyadasa, Wilson de Alwis, Proctor, R. N. Jinendradasa, E. S. Jayasinghe, N. Hewavitarne, Pandita M. S. P. Samarasinghe, Vedamuhandiram, Registrar K. W. Gona-30 kumbure, Attapattu Lekam, Messrs. J. N. Jinendradasa, D. N. Hapugalle and U. B. Dolapihille.

After the preliminaries, proposed by Mr. E. S. Jayasinghe and seconded by Mr. R. N. Jinendradasa, Proctor, Mr. M. S. P. Samarasinghe, Muhandiram, was voted to the Chair.

A number of letters and a telegram sent by those unable to attend this meeting were read.

A vote of condolence on the death of Mr. D. C. Senanayake having been first proposed by the Chairman, the whole gathering expressed condolence accordingly.

40

1. Following the agenda, minutes of the previous general meeting held at the Vidyodaya Pirivena on the 8th June, 1929, was read. Mr. E. S. Jayasinghe, proposed its adoption and Registrar K. W. Gonakumbura, Atapattu Lekam, seconded.

2D12I
Minutes of the
Sabha Meeting
3.10.31—
Continued

2. The death of Mr. D. C. Senanayake who was for some time a very helpful Sabhapathi of our Sabha was referred to as a great loss and it was proposed that Mr. D. S. Senanayake should be appointed instead and further it was mentioned that he had communicated by letter his willingness to accept the appointment. Dr. D. B. Perera
10 seconded the motion.

Mr. Jinendradasa said that assistance was required in the work of the English School whereupon the Hony. Secretary replied that the Sabha was short of funds ; that unless assistance was forthcoming the school could not be continued and that owing to the existing difficulties of the time even Members' subscription of the Sabha was not received in time. Therefore Mr. J. N. Jinendradasa proposed that Messrs. M. Piyadasa, E. S. Jayasinghe and N. Hewavitarne should be appointed to collect immediately the necessary funds, but, Mr. Piyadasa not agreeing the proposal fell through.

20 After the expression of various opinions with respect to increasing the number of members and work of the Sabha, Mr. E. S. Jayasinghe said that he himself had rendered only a small assistance in connection with the work of the Sabha, that although the members themselves said that its work was not free from blemishes, the services being rendered by the Vidyadhara Sabha both in secular and religious affairs were innumerable, that there was no other old Sabha which spent annually so much of money as this Sabha did, that this was the only Sabha which worked without making any noise, that although
30 much of good as this Sabha did, and that he was at one with the idea of enrolling assisting members.

The Ven'ble Nayake Thero, Principal of the Pirivena, gave some advice based on the Dhamma and thereafter the gathering dispersed joyously.

Minutes were approved.

(Sgd.) W. A. de SILVA,
Hony. Chairman.

Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

40 *Sworn Translator, D.C., Colombo.*

6.10.44.

2D20A

Statement of Income and Expenditure
Pages 67 and 68 of 2D122D20A
Statement of
Income and
Expenditure,
pages 67 and 68
of 2D12
1.1.32 to
30.6.32

Pages 67 and 68 of Minute Book

Statement of Income and Expenditure of Vidyadhara Sabha from 1st January, 2475 B.E./1932 A.D. to 30th June, 2476 B.E./1932 A.D.

	Rs.	c.	Rs.	c.	EXPENDITURE	Rs.	c.	Rs.	c.	
INCOME										
To Membership fees ..	432	75	By Deficit balance brought forward as per last statement ..			253	37			
" Donor Membership fees ..	200	55	633	30	" Alms and other requirements for the Pirivena monks..	903	00			
" Government grant ..	356	89	2,000	00	" Electricity ..	698	92			
" Charity box collections ..	30	00	60	00	" Municipal taxes ..	200	00			
" Interest on 'Siam Fund' ..	708	00	" M. V. C. Perera in connection with the work of the lavatory ..			600	00			
" Advance payment for alms returned	23	00	731	00	" Lavatory repairs, etc. ..	6	00			
" Electricity ..	30	00	" Bringing down of 'Karada' tree ..			5	00			
" Contributions for above by other societies ..	71	50	" Living quarters of Rev. Devarakkhitha			9	40			
" Board fixed in preaching hall ..	51	00	152	50	" A Board in preaching hall ..	60	00			
" Daily collections for lights at Bana preaching ..	8	00	" Repairs to roof of the preaching hall to prevent leakage ..			1	50			
" Collections for bricks and slabs from pilgrims ..	20	00	" White-washing of walls for Wesak ..			7	00			
" Festives and Celebrations :—	50	00	" Painting of Gaslamp post ..			1	00			
" Sri Sumangala celebrations ..	8	00	78	00	" 3,500 bricks for the wall ..	57	75	147 65		
" Land at Kotte Gargoda ..				" Stamps, envelopes, etc. ..			11	66		
" Donations from a society to purchase a cement barrel..				" Sri Sumangala celebrations ..			32	65		
				" Sinhalese New Year celebrations ..			3	50	47 81	
				" Printing machine for Pirivena (H.E.B.) ..			100	00		
				" Registers, etc. ..			10	60	110 60	
				" Wages of employees ..			356	50		
				" Settlement of loan to M/s. H. D. & Co. ..			150	00	506 50	
				" Balance ..			3,467	85	3,467 85	
							573	84	573 84	
							Rs. ..	4,041	4,041 69	

(Sgd.) J. MOONESINGHE,
Hony. Secretary.(Sgd.) D. D. PEDRIS,
Hony. Treasurer.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo,

8.6.50.

1D63

Amended Declaration of Venerable D. Siri Jinaratana
 Declaration Regarding Upasampada Bhikkhu Under
 Section 41 of the Buddhist Temporalities Ordinance
 No. 19 of 1951

1D63
 Amended
 Declaration of
 Venerable
 D. Siri
 Jinaratana
 21.1.32

1. Place of birth, Province, District, etc.	Angahawatta, Southern Province, Matara District, Wellaboda Pattu, North of Devinuwara (Dondra).
2. Lay name in full	Don Jandiris Mahanama Abeyawardena.
3. Date of birth.	At 10 p.m. 22nd December, 1855.
4. Name of father in full	Don Pransikku Mahanama Abeyewardena Gurunnanse Mahatmaya.
5. Date of robing	June, 1879.
6. Samanera name	Devinuwara Jinaratana.
7. Name of Robing Tutor or names of Robing Tutors and residence	Venerable Sipkaduwe Sri Sumangala Chief Nayake Thero of Sri Padasthana and of the two Southern and Western Provinces. Vidyodaya Pirivena Viharaya, Maligakanda.
8. Temple where Robing took place	Vidyodaya Pirivena-Viharaya, Maligakanda, Colombo.
9. Place of ordination	Pushparamaya Viharaya, Kandy.
10. Date of ordination	June, 1879.
11. Name of Karmacharya	Tibbotuwawe Sri Siddhartha Sumangalabhidana Anu Nayaka Thero and Wewgonne Vipassi Nayaka Thero Viharadhipathi of Walgampaye Vihare.
12. Name of Upadhyaya at Ordination.	Hippola Sri Dhammarakshita Sobitabhidhana Maha Nayaka Thero of Syamopali Mahanikaya
13. Name of Nikaya	Upalivansika Siyam Mahanikaya.
14. Name of Maha Nayaka Thera or Nayaka Thera of the Nikaya and his full Postal address	Pahamune Dharmakirti Sri Saranankara Sumangalabhidhana Maha Nayaka Thero of Siyam Maha Nikaya, Pushparama Vihara, Kandy.
15. Name assumed at Ordination	Devinuwara Ratanajothi Jinaratana.

1D63
Amended
Declaration of
Venerable
D. Siri
Jinaratana
21.1.32—
Continued

16. Residence at time of Ordination ..	Vidyodaya Pirievna-Viharaya, Maligakanda, Colombo.
17. Permanent residence	Gangarama Viharaya. Hunupitiya, Slave Island, Colombo.
18. Residence at time of declaration and full Postal address	Gangarama Viharaya, Hunupitiya, Slave Island, Colombo.
19. Name of Tutor or names of Tutors presenting for ordination ..	Sipkaduwe Sri Sumangalabhidhana. Chief Nayake Thero of Sri Padasthanaya and Southern and Western Provinces.
20. Name of Bhikshu presiding at ordination	Hippola Sri Dhammarakshitha Sobitabhidhana Maha Nayaka Thero of Syamopali Mahanikaya.
21. Serial Number in Samanera Register, if any	No.
22. Date of making the Declaration ..	21st January, 1932.
23. Remarks	Mahopadhayaya Kirti Sri Sumangalabhidhana Devinuwara Jinaratana, Deputy Sangha Nayaka Thero of Nine Korales.

Signatures to correctness of above particulars :—

1. Signature of Upasampada Bhikshu ..	(Sgd.) D. JINARATANA.
2. Signature of Tutor presenting of Ordination	Nil.
3. Signature of Mahanayake Thera or Nayake Thera or of District Nayaka of the Nikaya	(Sgd.) PAHAMUNE SRI SUMANGALA. Pahamune Dharma Kirti Sri Saranankara Sumangalabhidana Maha Nayaka Thero of Malwatta Vihara Branch of the Syamopali Vansika Maha Nikaya, Vihardhipathi of Uposatha Pushparamaya, Two Viharas, Kandy.
Date of Registration	23.1.1932.

Translated by :
(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.

**Declaration of Venerable Dewinuwara Jinaratna under
the Buddhist Temporalities Ordinance**

Declaration Regarding Upasampada Bhikshu under
Section 41 of the Buddhist Temporalities
Ordinance No. 19 of 1931

P25
Declaration of
Venerable
Dewinuwara
Jinaratna
under the
Buddhist
Temporalities
Ordinance
23.1.32

1. Place of birth, Province, etc.	..	Angahawatta, Southern Province, Wellaboda Pattu, Dewinuwara North.
2. Lay name in full	..	Don Jandiris Mahanama Abhayawardana.
3. Date of birth.	..	At 10 p.m. on December 22, 1855.
4. Name of father in full	..	Don Pranseckku Mahanama Abhayawardana Gurunnanse Mahatmaya.
5. Date of Robing	..	May, 1878.
6. Samanera name	..	Dewinuwara Jinaratana.
7. Name of Robing Tutor	..	Sipkaduwe Sri Sumangala, High Priest of Adam's Peak, Southern and Western Provinces, Vidyodaya Pirivena Viharaya, Maligakanda.
8. Place where Robing took place	..	Vidyodaya Pirivena Viharaya. Maligakanda, Colombo.
9. Place of Ordination	..	Pusparama Viharaya, Kandy.
10. Date of Ordination	..	May, 1878.
11. Name of Karmachariya	..	Tibbotuwawe Sri Siddhartha Sumangala Anunayaka Thero and Wewagonne Wipassi Nayake Thero who held the Viharapadavi of Walgampaya.
12. Name of Upadyaya at Ordination	..	Hippola Sri Dharmarakshita Sobhita. Mahanayaka of Syamopali Maha Nikaya.
13. Name of Nikaya	..	Upaliwanshika Siyam Maha Nikaya.
14. Name of Maha Nayaka Thera	..	Pahamune Sri Dharmakeerti Sri Sumangala, Mahanayaka of Syamopali Wansika Maha Nikaya, Pusparama Viharaya, Kandy.
15. Name assumed at Ordination	..	Dewinuwara Ratnajoti Jinaratana.
16. Residence at time of Ordination	..	Vidyodaya Pirivena Viharaya. Maligakanda, Colombo.

P25
Declaration of
Venerable
Dewinuwara
Jinaratna
under the
Buddhist
Temporalities
Ordinance
23.1.32—
Continued

17. Permanent Residence	Gangarama Viharaya, Hunupitiya, Colombo.
18. Residence at time of declaration and full Postal Address	Gangarama Viharaya, Hunupitiya, Slave Island, Colombo.
19. Name of Tutor	Sipkaduwe Sri Sumangala, Chief High Priest, Adam's Peak and Southern and Western Provinces.
20. Name of Bhikshu presiding at Ordination	Hippola Sri Dharmarakshita Sobhita Maha Nayaka Thero of Syamopali Nikaya.
21. Serial Number in Samanera Register, if any	—
22. Date of making the Declaration ..	January 21, 1932.
23. Remarks	Mahopadhyaya Kirtisri Sumangalabhidhana Dewinuwara Jinaratana, Upa Pradhana Sangha Nayaka Thero of Colombo Nawa Korle.

Signature to correctness of above particulars :—

1. Signature of Upasampada Bhikshu ..	(Sgd.) D. Jinaratana. (In Sinhalese)
2. Signature of Tutor presenting for ordination	
3. Signature of Maha Nayaka Thero ..	(Sgd.) PAHAMUNE Sri SUMANGALA. (In Sinhalese) Pahamune Dharmakirti Sri Saranankara Sumangala, Mahanayaka of Malwatu Vihare Section of Syamopali Wansika Nikaya and Viharadhipathi of the two Viharas, Uposatha and Pushparama, Kandy.
Date of Registration	23rd January, 1932.

True copy of the Upasampada Declaration No. 1 filed under Section 41 of the Buddhist Temporalities Ordinance.

Horetuduwa, Moratuwa.

28th September, 1944.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

6.11.44.

(Sgd.) Illegibly.
for Registrar-General.

1D46**Declaration of Venerable Lelwala Ratanajoti**

Declaration Regarding Upasampada Bhikshu under
Section 41 of the Buddhist Temporalities
Ordinance No. 19 of 1931.

1D46
Declaration
of Venerable
Lelwala
Ratanajoti
28.3.32

1. Place of birth etc.	..	..	Aracchhiwatta situated in Lelwala village in Gangaboda Pattu of Galle Korale.
2. Lay name in full	..	..	Lelwala Gurugamage Cyril Gunawardena.
3. Date of birth..	..	..	The 10th day of the waxing moon, Friday in the month of Wesak in the Saka Year 1790.
4. Name of father	..	..	Lelwala Gurugamage Lewis Appuhamy residing at Arachchigewatta, Lelwala.
5. Date of Robing	..	..	The Saka Year 1803.
6. Samanera name	..	..	Lelwala Ratanajoti.
7. Name of Robing Tutor, etc.	..	..	Udalamatte Ananda Maha Thera, Anandaramadhipati, Kitulampitiya, Galle.
8. Temple where Robing took place	..	..	Anandaramaya, Kitulampitiya.
9. Place of Ordination	..	..	In the Poya Sima situated at Malwatta Vihara, Kandy.
10. Date of Ordination	..	..	12th Wednesday of Mithuna Ravi in the Saka Year 1818.
11. Name of Karmacharya	..	..	The two theras—Telwatte Silananda and Naramwala Ratanapala.
12. Name of Upadhyaya at Ordination..	..	..	Tibbotuwave Sri Sumangalabhidhana Maha Nayaka Thera.
13. Name of Nikaya	..	..	Syamopali Maha Nikaya.

1D46
Declaration
of Venerable
Lelwala
Ratnajoti
28.3.32—
Continued

14. Name of Maha Nayaka Thera and etc.	Pahamune Dharmakirithi Sri Saranankara Sumangalabhidhana Maha Nayaka Thera of the Maha Viharavansika Syamopali Maha Nikaya, Viharadhipathi of Uposatha, Pushparama, two Viharas, Kandy.
15. Name assumed at Ordination ..	Lelwala Sri Niwasa.
16. Residence at time of Ordination ..	Vidyodaya Pirivena and Anandaramaya, Kitulampitiya, Galle.
17. Permanent residence	Maligakande Viharasthanaya and Anandaramaya, Kitulampitiya.
18. Residence at time of declaration, etc.	Vidyodaya Pirivena, Maligakanda, Colombo.
19. Name of Tutor or Names of Tutors presenting for Ordination ..	Sipkaduwe Sri Sumangala Maha Swamipada who was the Vidyodaya Parivenadhipathi and Udalamatte Ananda Maha Therapada who was the Anandaramadhipathi of Kitulampitiya.
20. Name of Bhikshu presiding at Ordination	Tibbotuwave Sri Siddhartha Sumangalabhidhana Maha Nayaka Thera.
21. Serial Number in Samanera Register, if any	Nil.
22. Date of making the declaration ..	A.D. 1932—3—28.
23. Remarks	I do not agree to this.
1. Signature of Upasampada Bhikshu ..	(Sgd.) Lelwala Sri Niwasa Thera. (Sgd.) K. Ratanasara Sri Sumangala. Ratanasarahidhana, Chief Nayaka Thera, Colombo, and Nine Korales and Principal, Vidyodaya Pirivena.
Date of Registration	3rd March, 1932.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

2D4
 Letter from
 the 1st
 Defendant-
 Appellant
 11.5.33

2D4

Letter from the 1st Defendant-Appellant

Notification written out of love for religion and submitted to members of the Vidyadhara Sabha through the Hony. Secretary thereof.

Gentlemen,

That the gentlemen who established the Vidyadhara Sabha in 1873 (C.E.) also established the Vidyodaya Pirivena (seat of learning) keeping at the head of affairs the Ven'ble Sipkaduwe Sri Sumangala 10 Mahaswami, our grand preceptor, for the progress of religion, is to be seen from the Deed concerning the said Sabha and Pirivena.

That the growth of Bhikkhus learned in the doctrine and discipline (Dharma Vinaya) and adhering to the practice thereof is the chief cause of religious progress, is not necessary to be said. That as a result of the proper administration, supported by the Buddhist public headed by members of the Vidyadhara Sabha and aided by the Government, there grew up a large number of Bhikkhus capable of shouldering the burden of religion in Ceylon and what amount of good emanating from the Buddha's doctrine followed thereby not 20 only to Ceylon but to the whole world, the intelligent people know. If any amount of benefit accrued to the world from the spread of Buddhism during the last fifty years or more both in Ceylon and foreign countries, to all the honour and merit resulting therefrom the Buddhist public headed by the Vidyadhara Sabha become entitled. Because as true Buddhist supporters they supplied what was necessary for the administration of a Pirivena. Although such was the state of affairs in the past, now for a period exceeding one year the Vidyadhara Sabha has been collecting a sum of money from the resident pupils of the Pirivena stating that such money was required 30 for the payment of the Municipal rates, etc., in connection with the buildings occupied by such resident pupils and issuing receipts signed by the Secretary of the Sabha ; this action is most ugly.

If it appears to the Vidyadhara Sabha that there is a dearth of funds for the administration of the Pirivena what it should do is to issue a statement of receipts and expenses and inform the Buddhist general public about such deficiencies. Without doing so, it is not an action compatible with Buddhist disposition to trouble the resident Bhikkhus about it.

When the Vidyadhara Sabha which appears as the party that gives support levied a tax from the pupils, the party of recipients, for the buildings occupied by them while they study the doctrine, saying that such tax was wanted to meet the Municipal taxes, etc., and issued receipts in the name of such pupils, would the honour of the Sabha as Buddhists be sustained? Would the pupils who paid such charges and obtained receipts be guided by religious discipline and be respectful and obedient? When they have studied the doctrine and discipline and grown up would their minds be urged by good motives to undertake religious work? Would there be room either for the dayakayas, the givers of support, or for the teachers in the Pirivena to point out any wrong conduct on the part of such pupils? Would the Buddhists including the Vidyadhara Sabha have room to claim, " We were working for the progress of religion through the Vidyodaya Pirivena " ?

This action on the part of the Sabha is most mean and does not even agree in the least with the intention of noble souls both lay and cleric who originally worked for the establishment of the Vidyodaya Pirivena. If during the past fifty years there existed such action as this in connection with this Pirivena it is most certain that this Pirivena would not have existed in its present character till now. And there is no doubt that because of this conduct not only the honour of the Vidyadhara Sabha would completely disappear but this Pirivena would in the future tend to become an undertaking fully divorced from religion. I know that, owing to this disagreeable rule, to what extent of inconvenience some of the poor pupils who reside within the Pirivena have fallen.

In these circumstances I most earnestly give notice to discontinue altogether the levying of a tax from the resident pupils of this Pirivena for paying the Municipal taxes and the issue of receipts signed by the Secretary of the Sabha stating, " received from such a pupil for such and such a purpose so much money " .

If the Vidyadhara Sabha is unable to pay the Municipal Tax payable on account of the building occupied by the pupils, if also the Buddhist public do not care to do so, the correct procedure would be to collect such charges from, and issue receipts to, the Kapakaruwas

2D4
Letter from
the 1st
Defendant-
Appellant
11.5.33—
Continued

2D4
Letter from
the 1st
Defendant-
Appellant
11.5.33—
Continued

(lay sureties) of the clerical (Bhikku) pupils, and please understand that I express my opposition to this both for the purpose of safeguarding from disgrace the honour of the Vidyadhara Sabha which has undertaken to work for the progress of religion by maintaining this seat of learning, and for the purpose of saving some of the poor pupils from the trouble which befall them.

I wish definitely to make you understand that I expect to receive before the 20th instant the decision of the Vidyadhara Sabha about this matter and that I consider the preservation of the Vidyadhara Sabha from this disgraceful action to be worthier than my living. 10

(Sgd.) M. DHAMMANANDA.
(Morontuduwe Nayaka Unnanse)

Vidyodaya Pirivena,
11th May, 2477/1933.

Translated by :
(Sgd.) Illegibly.
Sworn Translator, D. C., Colombo.
3.9.44.

1D49
Receipt by
the Secretary
of the
Vidyadhara
Sabha
5.6.33

1D49
Receipt by the Secretary of the Vidyadhara Sabha 20
Vidyadhara Sabha
Colombo, 5.6.1933.

No. 822.

Vidyodaya Oriental College, Maligakanda.

Received from Revd. Gelanigama Dhammalankara the sum of Rupees Ten only, on account of the Vidyadhara Society.
Rs. 10/-.

(Sgd.) J. MOONESINGHE,
Hony. Secretary.

1D23**Letter from Dr. W. A. de Silva to the 1st Defendant-Appellant***Translation*

" Sravasti ",

Edinburgh Crescent,

Colombo, 13th June, 1933.

To Ven. Morontuduwe Dhammananda Nayaka Thera,
Vidyodaya Pirivena,
Maligakanda.

10 To the Nayaka Thera with due respect.

Ven. Sir,

I am in receipt of the letter of the 11th instant sent to me by you and note its contents. The matter mentioned therein is an important one. I also feel that the Vidyadhara Sabha should come to any immediate decision in connection with it. That a meeting of the Vidyadhara Sabha was decided to be held on the 14th instant is conveyed to me too. I have sent a letter requesting to postpone the meeting of the Sabha for Sunday the 18th or for Monday the 19th as the meeting of the State Council is to be held on the 14th instant.

20

I am,

Wishing you well,

(Sgd.) W. A. de SILVA.

1D24**Letter from the Secretary of the Vidyadhara Sabha to the 1st Defendant-Appellant***Translation*

Colombo,

14.6.33.

To Venerable Morontuduwe Nayaka Thera.

30 As the letter sent by you is connected with the internal affairs of the Pirivena it should be sent through its Nayaka Thera. The letter is therefore returned to you to be forwarded in that manner.

Yours obediently,

(Sgd.) J. MOONESINGHE,

Secretary,

Vidyadhara Sabha.

1D23

Letter from
Dr. W. A. de
Silva
to the 1st
Defendant-
Appellant
13.6.33

1D24

Letter from
the Secretary
of the
Vidyadhara
Sabha to the
1st Defendant-
Appellant
14.6.33

2D12J

Minutes of the Sabha Meeting

Reference Page 71.

Minutes of the Vidyadhara Sabha held at Vidyodaya
Pirivena on 14th June, 2477 B.E./1933 A.D.

Those Present : Mudaliyar E. A. Abayasekara, Muhandiram D. P. A. Wijewardene, Messrs. W. H. W. Perera, Proctor, Neil Hewavitarne, Raja Hewavtiarne, M. Piyadasa, T. G. C. Perera and J. Munasinghe, Proctor, Hony. Secretary.

After the preliminaries were over, Mr. W. H. W. Perera, Proctor, 10 was instructed to take necessary action with regard to failure to pay interest on the mortgage deed of Mr. D. D. Pedris.

It was stated that when the front wall collapsed owing to the rains, the high priest reported the matter and it was inspected by a Municipal Engineer, who agreed to put up the foundation of the wall up to road level in granite.

The High Priest speaking explained the levy on student Bhikkhus to meet the expenses connected with electricity, taxes and telephone. He also made clear the differences that have arisen between Rev. Morontuduwe and some students who are not supporters (dayakayas) 20 of the Pirivena.

A committee consisting of Mudaliyar E. A. Abayasekara, Muhandiram D. P. A. Wijewardene, Messrs. Neil Hewavitarne, W. H. W. Perera, Proctor, M. Piyadasa and J. Munasinghe, Proctor, Hony. Secretary, were appointed to inquire into the matter and the gathering dispersed.

(Sgd.) J. MOONASINGHE.

Hony. Secretary.

Minutes adopted.

(Sgd.) W. A. de SILVA,

Hony. President.

30

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

12.6.50

1D25**Letter from the Secretary, Vidyadhara Sabha to the 1st
Defendant-Appellant***Translation*Colombo,
16.6.33.

To Venerable Morontuduwe Nayaka Thera.

Investigations are being made into the matter mentioned in your letter. I shall inform you again any decision arrived in the 10 matter.

To this effect,

(Sgd.) J. MOONESINGHE,
Secretary,
Vidyadhara Sabha.

1D25

Letter from
the Secretary,
Vidyadhara
Sabha to the
1st Defendant-
Appellant
16.6.33

1D22**Letter to the Secretary of the Sabha***Translation*Vidyodaya Pirivena,
18.6.32.

20 With gratitude to the Hony. Secretary,
Vidyadhara Sabha.

Dear Sir,

The portion in my dwelling house which I used as my room here was divided and constructed into two separate small rooms when in recent times its adjoining rooms were dismantled.

Not long after my appointment as the Chief High Priest of Sabaragamuwa Province, requiring the necessity of an attendant to attend on me I got down the samanera Heenatiyangala Jinarama of Alutgama Kande Vihare from his teacher and made him to stay in 30 the other room. After that time it is this priest who attends on me.

On the installation of electricity to the rooms of the Pirivena used by the students I obtained for him electricity to that room also on the promise to pay the charges as charged from the other pupils. One day the Kapakaruwa (attendant) of the Pirivena came and

1D22

Letter to the
Secretary of
the Sabha
18.6.32

1D22
Letter to the
Secretary of
the Sabha
18.6.32—
Continued

informed me that I should pay Rs. 20/- on behalf of that Samanera. On my investigation into its cause I came to know that Rs. 12/- should be paid on account of electricity consumed and Rs. 8/- on account of the room. I asked him to charge Rs. 12/- on account of electricity and leave out Rs. 8/- on my behalf. But it was not agreed to.

From the 15th of this month the studies of that Samanera were forbidden the cause being attributed for the non-payment of that amount. As the maintenance of this Pirivena belongs to the Vidyadhara Sabha I had to write to you on this matter. 10

Therefore please inform me whether the studies of that Samanera were forbidden under the orders of the Vidyadhara Sabha due to my disagreeing to pay Rs. 8/- on account of the room.

To this effect,

M. DHAMMANANDA,

Chief High Priest of Sabaragamuwa Province.

You are aware that the full power in the work of the Pirivena lies with the Nayaka Thero. Therefore it is good to act according to him.

J. MOONESINGHE. 20

2D12K
Minutes of the
Sabha Meeting
20.6.33

2D12K

Minutes of the Sabha Meeting

Reference P75.

Page 75.

Minutes of the Committee Meeting held on 20th June,
2477 B.E./1933 A.D. at Vidyodaya Pirivena.

Those Present : Nayaka Thero (High Priest), the Principal of the Pirivena, Muhandiram D. P. A. Wijewardene, Mudaliyar E. A. Abayasekara, Messrs. M. Piyadasa, W. H. W. Perera, Proctor, and J. Munasinghe, Proctor, Honorary Secretary. Muhandiram D. P. A. Wijewardena was elected to the chair. 30

Copies of deeds asked for at the last meeting were produced by the Secretary. A statement of accounts for 1932 was read.

The Secretary informed that in the year 1922 there were 400 students in the Pirivena and in the year 1932 there were 814 students in the Pirivena, and in the year 1922 there were 5 Bhikku teachers and in the year 1932 there were 10 Bhikku teachers.

He also stated that there were 29 rooms, 77 hostellers and 814 lay and monk students. He stated the number of acolites would be obtained for the next meeting. Subsequently Mudaliyar Abayasekara read the letters sent by Messrs. Gunasinghe and Nissanka on the 40

one hand and Rev. Morontuduwe on the other hand. A letter as to how levies (if any) from students should be charged by the Sabha was read. It was decided to terminate the day's proceedings at that stage and to call a meeting for the 23rd at 5 p.m. It was decided to send letters to Mr. Goonasinha and others and Rev. Morontuduwe Nayaka Thero requesting them to attend the meeting.

The house terminated its proceedings after deciding to inform the monks who protested against a levy to send a representative on their behalf to state the case.

10

(Sgd.) J. MOONESINGHE,
Hony. Secretary.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

12.6.50.

1D26

**Letter from the Secretary of the Sabha to the 1st
Defendant-Appellant**

Translation

20

Colombo,
21.6.33.

To Venerable Morontuduwe Dhammananda Nayaka Thera.

I request you to be present at the office of Vidyadhara Sabha on next Friday (23rd instant), at 5 p.m. in order to investigate into your plaint.

To this effect.

Obediently,

(Sgd.) J. MOONESINGHE,
Secretary.
Vidyadhara Sabha.

30

2D12L

Minutes of the Sabha Meeting

Reference Page 76.

Minutes of the Committee Meeting held on 23rd June, 2477 B.E./1933 A.D. at the Vidyodaya Pirivena.

Those Present : Mudaliyar E. A. Abayasekara (Chairman), Muhandiram D. P. A. Wijewardana, Messrs. Neil Hewavitarne, M. Piya-dasa, W. H. W. Perera, Proctor, J. Munasinghe, Proctor. Rev. M. Dhammananda was present on an invitation by the Sabha.

2D12K
Minutes of the
Sabha
Meeting
20.6.33 -
Continued

1D26
Letter from
the Secretary
of the Sabha
to the 1st
Defendant-
Appellant
21.6.33

2D12L
Minutes of the
Sabha
Meeting
23.6.33

2D12L
Minutes of the
Sabha
Meeting
23.6.33—
Continued

Mudaliyar Abayasekara stated that the receipts issued by the Secretary were not properly written. He reminded that he told Rev. Dhammananda about this. Mr. M. Piyadasa stated that the Secretary had no power to collect such monies. Rev. Morontuduwe Nayaka Thero questioned whether the Secretary was authorised to collect such monies. He was asked not to raise questions, but if he wants he could make a statement which would be recorded. Mudaliyar Abayasekara stated that the following was there in Page 2 of Rev. Morontuduwe's letter of 11th May :—“ If the Vidyadhara Sabha finds it difficult to raise the monies to meet the expenses of the Pirivena it 10 should charge the deficit amount from the guarantor—supporters (dayakayas) of the students.” This monk and the members of the House stated that it was right.

Rev. Heenatiyangala Jinarama, who was attending to the work of Rev. Morontuduwe Nayaka Thero, stated that a grave mistake has been committed arising from the levy because his education has been suspended and because the teacher-monk who was conducting the class has stopped teaching.

Rev. Morontuduwe Nayaka Thero said that Rs. 12/- a year should be charged instead of Rs. 20/- a year. He also stated that 20 there are a number of monks who have not paid this levy for this year. He stated that some have not paid in protest while others had no money. Further by introducing levies of this nature student bhikkus get into the habit of using money and thus there is room for a spoilt character.

In view of the fact that the present income is more than that of the past he stated that he considers it unnecessary to have this levy. In support of his contention he pointed out the increased grant received from the Government. Questioned by Mr. W. H. W. Perera, Proctor, as to how much money was spent for rent and lights of 30 students living in other places he (Rev. Morontuduwe) said “ Do not know.”

When the proceedings of the meeting terminated at this stage the following monks made the following statements :—

Bhikkhu Mellawa Silaratana :

I am from Mellawa temple. Rev. Gonawela Nandarama is the High Priest of the Mellawa temple. I have been receiving my education in this Pirivena from 1925. Recently I signed a sheet of paper brought by a student. I paid the Rs. 10/- due for the six months of the last year. I received a receipt for it, may be from 40 the Secretary. There were a number of things stated in it. I signed the sheet of paper in order to point out that monks are not in a position to make this payment. My expenses are met by a brother who is engaged in the coconut trade. It is my opinion that arrange-

ments should be made for my brother to pay this Re. 1·75. I wrote to the brother stating that he had delayed this payment. I have received no reply. I believe he will come early and settle the amount.

2D12L
Minutes of the
Sabha
Meeting
23.6.33—
Continued

Replies to questions of Mr. Piyadasa :—

“ I propose to have my education here for another two years. During this period I would be finishing my studies in oriental languages and English. If my brother does not meet my expenses I will be forced to leave. If there is no relief from here my brother will pay Rs. 2/- for my English education. I have not paid the fees for the
10 English classes for the last and this month. I am a student in one of the classes conducted by Rev. Baddegama Piyaratana.”

Keselhenawe Pannatissa :

My temple is near Horana. My teacher (guru) is Rev. Sri Sarananda. I have been receiving my education at this Pirivena from 1925. I started living here from 1927. I paid a sum of Rs. 10/- due for six months of the last year. When the teachers of English started charging a fee for English education I gave it up. My father and uncle (father's younger brother) spend for me. A brother-in-law of mine is a Village Headman. I have not paid the levy for this six
20 months as I have not yet received money from home. The delay in settlement is due to lack of money.

Hewavisse Wimalaratana :

I have come from Kande Vihare. I am living here from 1931. I paid Rs. 20/- last year. If I get money I am prepared to pay for this year too. I am studying in the 7th standard in English and I paid Rs. 2/- for it last month. I have not yet paid for this month. My expenses are met either by my mother or the priest of the temple. None here asked me not to pay money even if I am compelled to leave the Pirivena premises. I don't propose to give up my education here
30 so long as my relations meet my expenses.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

12.6.50.

2D22A
Statement of Income and Expenditure
Page 96 of 2D12

Page 96 of Minute Book

Statement of Income and Expenditure of Vidyodaya Pirivena for the Period 1st July to 31st December, 1933

	Rs.	c.	Rs.	c.
INCOME				
To Bank balance on 30th June, 1933			128	47
Memberships fees	242	50		
Donor membership fees	31	50	274	00
Electricity on behalf of students	415	00		
Contributions on above by other societies			65	00
Alms during Rainy (Vas) season	750	00	750	00
Charity box collections	78	50		
Collections at daily Bana preaching	12	50	91	00
House rent from mortgaged property in Anuradhapura	60	00	60	00
Loan from Sri Sumangala Memorial Society			350	00
Overpaid into bank by cheque			0	03
			128	47
			EXPENDITURE	
By Alms and other requirements for the teacher bhikkus and the monk in charge.. .. .			874	00
Electricity bills			732	52
Telephone			120	00
Stamps and other requirements for the Pirivena			10	03
Wages of employees			210	50
Municipal taxes			160	00
Cheque book charges deducted by bank			2	50
Balance in Bank			23	95
			128	47

	Rs.	c.	Rs.	c.
(Sgd.) D. D. PEDRIS, <i>Treasurer.</i>			2,133	50

Translated by :
(Sgd.) Illegibly.
Sworn Translator, D.C., Colombo.
12.6.50.

**Letter from the 1st Defendant to the Members of the
Vidyadhara Sabha**

2D5
Letter from
the 1st
Defendant to
the Members
of the Vidyadhara
Sabha
4.7.33

Out of love for the religion this is submitted to the
Honorary Members of the Vidyadhara Sabha.

Gentlemen,

While drawing your attention to my letter of the 11th ultimo, I wish to bring to your notice the following further facts on the same subject.

10 The levying of even one cent for paying the Municipal rates from the Bhikkhus who reside in the Avasas (houses) built on the premises of this Vihara, the property of the Bhikkhus in accordance with the deed, dedicated to the Bhikkhus and made over to the Sabha for management, is not at all compatible with religious canons. The two kinds of receipts issued till now in the name of the Secretary of the Sabha to the Bhikkhu Pupils are calculated to depreciate the prestige of the Sabha.

As this is a charge that never existed at any time inside of fifty years I kindly request you to consider also from a legal point of view
20 whether it will occasion a weakening of the control transferred to the Sabha by the Deed. What I understand is that the Vidyadhara Sabha is the board of trustees in connection with this Viharasthana and the trustee is the accredited attendant of the Sangha (the community of Bhikkhus).

If the Buddhists who strongly object to the levying of a commission from the income of Viharasthanas (temples) for implementing the new Buddhist Temporalities Ordinance, and to charging a small amount from the applicants to meet the expenses for conducting the examinations of the Oriental Studies Committee, pass rules for
30 collecting money for supplying residential accommodation to the Bhikkhus at the Vidyodaya Pirivena from or on account of such residential Bhikkhus, will the conducting of the Pirivena be a Buddhist work? Will it not be better to render a small service in keeping with principles than to render a big service against principles? I request you, gentlemen, to direct your attention to the last fifty years and think as high-minded Buddhists.

Out of the monies the Vidyadhara Sabha get on behalf of this Pirivena the amount collected in the "Pinketas" (tills) at the Viharasthana does especially belong to the Sthana (the place). And it is
40 just and proper that that amount should be utilized for the payment of Municipal rates payable for Avasas, the property of the Sangha, it is compatible with the ecclesiastical canon.

2D5
 Letter from
 the 1st
 Defendant to
 the Members
 of the Vidyā-
 dhara Sabha
 4.7.33—
Continued

If it is your idea that it cannot be done so at all, I request you to direct your minds to the following methods :—

1. To enquire from the pious Buddhists who put up Avasas within the premises of this Vihara whether they are willing to pay annually a sum of money sufficient to meet the Municipal rates payable for those Avasas.

2. To invite the staff of teachers to prepare a book by each of them specially suitable for the pupils in the Pirivena so that an income may be derived from such books for the maintenance of the Pirivena. 10

3. To get the consent of the Public Trustee to allot to this Pirivena a fair portion out of the income derived from the Buddhist Temporalities.

As the pious Buddhists who built Avasas belonging to the Sangha within the premises of the Pirivena do expect to gain undefiled merit therefrom they would not like the idea of charging a cent from the pupils occupying such Avasas. I therefore opine that they would wish to meet the Municipal rates payable for the respective avasas built by them.

As members of the teaching staff of this Pirivena have received 20 their education here itself and are teaching here, as they set a high value on altruistic work and as the preparation of suitable books is also not a heavy task, they would without doubt accept the Sabha's invitation.

As the most number of Viharasthanas in Ceylon are connected to this institution, as there is no other place superior to this in the matter of Oriental education and as the law allows the expenditure of moneys on education out of the income from the Buddhist Temporalities, the Public Trustee would most certainly agree to give a sum of money to this educational institution out of the income 30 derived from the Buddhist Temporalities.

If any of the foregoing methods cannot be applied, if the Sabha wants to pass a rule to collect money for supplying housing accommodation to the present as well as future Bhikku pupils, I shall therefore, in order to save the Bhikkhus from the necessary trouble of paying money and from non-ecclesiastical positions, the Bhikkhus shall have to face owing to such payment, in order to save the Sabha from the dishonour and evil that may arise from such act and in order to honour the names of those noble Bhikkhus and laymen who founded this educational insitute and managed it in a blameless 40 manner, undertake to cause somehow the collection of the sum of money sufficient to meet the annual Municipal rates payable for the pupil residences of this Viharasthana. And if at any time I failed to fulfil the undertaking I promise as a penalty for such failure to leave this place for good.

If you, gentlemen, without paying any heed to these beautiful sentiments of mine, decided that you need must collect money from the present and future resident Bhikkhu pupils in this Pirivena, and on account of that if you acted in such a way as to make it necessary to get some pupils suspended from learning and to prevent the admission of pupils who might not be able either to make the payments or to give a lay guarantor, then please think before long the deterioration of this noble edifice of learning would set in. If for some reason without paying heed to any of these you think of levying a charge through the lay guarantors of the Bhikkhu pupils it may be fitting to collect at least Rs. 3/- for a month. When a disgrace arises from a collection why should it be a useless tiny collection ?

Yours faithfully,
(Sgd.) M. DHAMMANANDA.

Vidyodaya Pirivena, 4.7.33.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

15.9.44.

2D6

20

**Letter from the 1st Defendant to the Members of the
Vidyadhara Sabha**

Received :

10.7.35.

8.7.1933.

Vidyodaya Pirivena.

To the Honourable Members of the Vidyadhara Sabha.

With love for the Sasana.

Gentlemen,

30

I trust you have received and perused the letter I sent to you dated the 4th day of this month. After further consideration I wish you to consider the following idea in place of the last sentence of that letter.

In accordance with what is contemplated in the Deed the Sabha has no scope to levy a charge from anyone for supplying beds to the priests living within the precincts of this Vihara which belong to the Sangha. If the Sabha wishes to do so, they can only levy fees in connection with the tuition imparted to the pupils. Even so, there is

2D25

Letter from
the 1st
Defendant to
the Members
of the Vidya-
dhara Sabha
4.7.33—
Continued

2D6

Letter from
the 1st
Defendant to
the Members
of the Vidya-
dhara Sabha
8.7.33

2D6
Letter form
the 1st
Defendant to
the Members
of the Vidya-
dhara Sabha
8.7.33—
Continued

no justification for levying any charges only from resident pupils. If such levy is made there is only one conclusion to be drawn, that is, that the charge is made for supplying beds for their use.

However, what I want is that there should be no room given by the Sabha for people to say that the Sabha without discharging its duty in strict accordance with the rules of the religion is acting outside the scope of such rules but that the Sabha should protect its honour and authority and that the duties connected with this noble seat of learning should be so performed as to enable this institution to progress without any stigma being attached to it. I therefore ask that **10** impartial and discreet consideration be given to these matters.

If you gentlemen, will peruse my letters dated 18.6.32, 21.6.32, 27.7.32, 11.8.32 they will prove that my intervention to place these questions before you is prompted by a really good motive. Please supply me with a reply to the following two matters about which I am essentially in need of information.

1. What is the reason for violating this year the usual practice of the Sabha to invite the teaching staff to observe the Vas season sojourn ?

2. Does the Sabha wish to have an annual Pinkama in com- **20** memoration of the late Venerable Sri Nanessara Nayaka Thero ? If not, is the Sabha of opinion that I should form a Sabha called the Sri Nanessara Commemoration Sabha for that purpose ?

I remain the well wishing and faithful.

(Sgd.) M. DHAMMANANDA.

The Revd. Morontuduwe Nayaka Thero

P.S.—I withdraw the terms “ භාරකාරයා සංඝයාටත් කැපකරුවායි ” from letter dated 4.7.33.

Translated by :

(Sgd.) Illegibly.

Sworn Translator, D.C., Colombo.

9.6.50.

1D27

**Letter from the Secretary of the Vidyadhara Sabha to
the 1st Defendant-Appellant**

Translation

Colombo, 14th July, 1933.

1D27

Letter from
the Secretary
of the Vidyadhara
Sabha
to the 1st
Defendant-
Appellant
14.7.33

M. Sri Dharmananda, H.P.,
Vidyodaya Pirivena,
Maligakanda.

Ven. Nayaka Thera,

10 Received the letters sent by you. It is a rule that if a letter is sent by a tutor or a residing bhikku pupil of the Pirivena regarding any internal matter of the Pirivena, it should be sent through the Parivenadhipathi. This is the system now carried out. Therefore I respectfully inform you that it will not be possible either to send replies to such letters or to place them before the Sabha.

(Sgd.) J. MOONESINGHE,
Hony. Secretary,
Vidyadhara Sabha.

P35

20 **Letter by the Secretary of the Vidyadhara Sabha which
appeared in the "Ceylon Daily News" of 24.7.33.**

The Ceylon Daily News, Monday, July 24, 1933.

THE VIDYODAYA PIRIVENA.

P35

Letter by the
Secretary of
the Vidyadhara
Sabha which
appeared in
the "Ceylon
Daily News"
of 24.7.33
20.7.33

To the Editor, "Ceylon Daily News".

Sir,

With reference to the proposed fasting unto death by a certain Buddhist priest at the Vidyodaya Pirivena, I shall be obliged if you will kindly give me a little space in the columns of your esteemed paper to explain the facts which have led to it.

30 Up to the end of the year, 1929, only the Dharmasala, Shrine Room, Library, High Priests' and Professors' quarters were served with electricity. The resident pupil priests numbering about 80 were using their own oil lamps, the maintenance of which cost them at least two rupees per mensem. Early in 1930 the resident Bhikkus requested that the electric installation be extended to them also,

P35
 Letter by the
 Secretary of
 the Vidyadhara
 Sabha which
 appeared in
 the "Ceylon
 Daily News"
 of 24.7.33
 20.7.33—
Continued

each agreeing to meet the bill for current supplied by paying one rupee per month. This was agreed to at a meeting of the Vidyadhara Sabha, the governing body of the Pirivena, held in February, 1931, and all the quarters of the pupil priests were supplied with electric light. Every priest paid up his dues regularly. No objection to this levy was made then by Rev. Morontuduwe Dhammananda Nayaka Thero. In fact he paid the rupee per month for a pupil priest who was residing in his own quarters.

The electrical work cost the Sabha nearly Rs. 1,500. The drainage service was extended in 1932 at a cost of Rs. 1,600. New 10 rooms were built and donated by the Buddhist public thereby increasing the assessment taxes. Owing to economic depression prevailing, the income depreciated a great deal and by general consent the members' subscription to the Vidyadhara Sabha was increased to Rs. 5 per mensem.

Unable to meet the ever increasing deficit the Principal requested the Secretary of the Sabha to increase the levy on the resident priests by 66 cents a month and payment was made accordingly up to June last when the Rev. Morontuduwe Dhammananda, one of the teachers of the Pirivena, objected to any levy being made. The Principal 20 referred the matter to the Vidyadhara Sabha who discussed it and appointed a Sub-Committee consisting of six members of the Sabha with Mudaliyar E. A. Abayasekara as its Chairman to enquire into the complaint and make a report. After obtaining the views of the parties concerned, the Committee submitted its report making the following recommendations among others :—

1. That the resident students should not be asked to contribute any money.
2. That the laymen who acted as guardians or Kepakaru Dayakayas of the students should pay annually a sum not less than Rs. 20 30 on behalf of each student towards the expenses of the Pirivena.
3. That a Sub-Committee of three members of the Sabha should be appointed to go into the matter of expenses of the Pirivena with a view to cutting them down if possible, or finding other avenues of income.

This report was brought before a meeting of the Sabha held early this month presided over by Mr. W. A. de Silva, M.S.C., and it was accepted by the Sabha practically unanimously, only one member

wishing further information, and it was further confirmed by the annual general meeting of the Vidyadhara Sabha held on the 12th instant, the voting being unanimous with the exception of the above mentioned member. The result was duly communicated to Rev. Morontuduwe Dhammananda and the dayakayas.

In view of the above facts which clearly show that no levy is now being made from any of the pupil priests which seems to be Rev. Morontuduwe Dhammananda's only grievance, it is difficult to understand the reason which prompt him to seek martyrdom.

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Yours etc.,
J. MOONESINGHE,
Hony. Secretary,
Vidyadhara Sabha.

Colombo, July 20.

 1D28

**Letter from the Secretary of the Vidyadhara Sabha to
the 1st Defendant-Appellant**

Translation

Colombo, 20th July, 1933

20 To Ven. Morontuduwe Dhammananda Nayaka Thera.

Ven. Sir,

Replies were sent informing that your letters had been received by the Vidyadhara Sabha. The matters mentioned in the said letters having been inquired into by the members of a Special Committee appointed by the Sabha for the purpose, a suitable report for the future welfare and maintenance of the place was submitted to the Sabha.

The said report was published in the Sinhala Bauddhaya Newspaper in its 1st and 12th pages on the 15th instant. I am sending
30 herewith a copy thereof for your information and observance according to it. I further inform you that the said report was accepted by all the members at a general meeting and at the anniversary general meeting of the Vidyadhara Sabha except one member. I inform you again that in future letters to the Vidyadhara Sabha regarding this place should be forwarded through the Principal of the Pirivena.

(Sgd.) J. MOONESINGHE,
Hony. Secretary,
Vidyadhara Sabha.

P35

Letter by the Secretary of the Vidyadhara Sabha which appeared in the "Ceylon Daily News" of 24.7.33
20.7.33--
Continued

1D28

Letter from the Secretary of the Vidyadhara Sabha to the 1st Defendant-Appellant
20.7.33.

1D29

Letter from
the Members
of the Sabha
to the 1st
Defendant-
Appellant
25.7.33

1D29

**Letter from the Members of the Sabha to the 1st
Defendant-Appellant**

Translation

Vidyodaya Pirivena,
Maligakanda,
Colombo, 25th July, 1933.

To Ven. Morontuduwe Dhammananda Nayaka Thera.

Ven. Sir,

We beg with deep respect not to observe the fast in the Vidyodaya Parivenasthana for which you have made preparations. Further we inform you that the Sabha which assembled today decided upon making this request.

To this effect the Presidents who consented.

(Sgd.) D. S. SENANAYAKE.

„ J. MUNASINGHE.

„ W. H. W. PERERA.

„ D. B. PERERA.

„ Illegibly.

„ R. HEWAVITARNE.

P34

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P34
Letter by the
1st Defendant
which
appeared in
the "Ceylon
Daily News"
of 29.7.33
25.7.33

**Letter by the 1st Defendant which appeared in the
"Ceylon Daily News" of 29.7.33.**

The Ceylon Daily News, Wednesday, July 29th, 1933.

VIDYODAYA PIRIVENA.

To the Editor, "Ceylon Daily News".

Sir,

With reference to the letter of the Honorary Secretary of the Vidyadhara Sabha appearing in yesterday's issue of your esteemed paper about my proposed fast I shall be obliged if you will extend to me the courtesy of your columns to explain the events leading to and the reasons for my decision.

There are at present about 30 rooms in the premises of the Vidyodaya Pirivena each of which is allotted to three or four resident pupil monks. When electric installation was extended to these rooms a flat rate of Re. 1 per mensem was charged on behalf of each resident monk, and, at that time I had no objection to the charge, as a monk had ordinarily to spend about 75 cents per month for oil lamps, which

however, were not altogether eliminated, for, any monk desirous of studying after 11 p.m. or early morning had to use his own lamp. In each one of these rooms allotted to three or four monks, as the case may be, there is only one light of about 40 candle power, so that in respect of each light the Sabha received 3 or 4 rupees per mensem as the case may be.

From the beginning of 1932 I noticed that a levy of Rs. 20 per annum payable in advance, yearly or half yearly, was imposed on each pupil monk and that receipts were issued by the Secretary to the
 10 monks in question. It would therefore appear that each of these small rooms yields Rs. 60 or Rs. 80 per annum as the case may be, in respect of 10 months of residence. This is perhaps even more than the economic rent of the rooms. When this enhanced levy was made some resident monks vacated the quarters seeking residence elsewhere and some others gave up their studies altogether. In June, 1932, one monk was suspended from the classes and he had eventually to give up his studies altogether. Some pupil monks who protested against the levy were made to undergo innumerable hardships.

On the 11th ultimo I addressed a letter to the Honorary Secretary
 20 of the Vidyadhara Sabha requesting them to withdraw the levy and he acknowledged my letter promising to inform me of the decision of the Sabha in the matter. In the meanwhile the Pirivena authorities obtained a written promise from the majority of the resident monks to pay up the levy and the guardians of those monks who refused to subscribe to this promise were asked to remove the pupils from the Pirivena. On the 4th instant I addressed a second letter to the Sabha showing four ways of obtaining the necessary funds without imposing this unprecedented levy, and in case none of these methods materialized, I promised to see that the deficit needed for the maintenance of
 30 the Pirivena was raised by the Buddhist public. Then contrary to the terms of his first letter the Secretary wrote to me stating that my letter could neither be submitted to the Sabha nor replied to.

On the 15th instant the Pirivena authorities are alleged to have ejected one of the resident monks on account of this levy and this action on their part led to litigation between the Sabha and the pupil monk on the one hand and between the teachers and the pupil on the other, a like of which was never heard of in the annals of this institution. This in my opinion is the forerunner of various other disputes likely to arise as a result of this levy which is calculated to bring
 40 disrepute to the Pirivena. I was convinced that this was due to the attempt on the part of the management to gradually commercialise this institution which had from its inception been conducted on a charitable basis with the support of the Public and the Government. I as a pupil of the Venerable Nayaka Theras who established this Pirivena could not but protest against this deviation from the ideal of its founders.

P34
 Letter by the
 1st Defendant
 which
 appeared in
 the "Ceylon
 Daily News"
 of 29.7.33
 25.7.33—
Continued

P34
 Letter by the
 1st Defendant
 which
 appeared in
 the "Ceylon
 Daily News"
 of 29.7.33
 25.7.33—
Continued

The facts enumerated above would convince you, Sir, that whether the levy is imposed on the guardians or on the monks themselves it is the latter who have to bear the burden of it, and, therefore, when a feasible alternative is available, there is no justification whatsoever for the levy, not to speak of the religious principles violated. Hence the statement of the Honorary Secretary of the Vidyadhara Sabha "that no levy is now being made from the pupil priests . . . it is difficult to understand the reasons which prompt him to seek martyrdom" is an attempt to evade the issues involved.

The Pirivena receives Rs. 3,000 per annum from the Government 10 and with the other sources of income such as donations, contributions in respect of lights, etc., by the Dayakayas who conduct Pinkamas and the subscription of the members of the Sabha, the total income would not be less than Rs. 6,000 per annum. If the Sabha was unable to maintain the institution with this income it was their obvious duty to raise the necessary funds by appealing to the Buddhist public. The enrolment of about 100 associate members paying one rupee a month, of whom there are at present only a negligible few, would have obviated the necessity for imposing this levy on the monks for residence in quarters donated to the Sangha by pious Buddhists for 20 free and untrammelled occupation. It is indeed difficult to understand the reluctance on the part of the Sabha to enlist the regular support of the public in matters pertaining to welfare of the Pirivena.

This levy is without a precedent in any institution of this type, and, therefore, it is not a matter affecting this Pirivena alone, for, other institutions of this type would find this a convenient excuse to follow the bad example and thereby vitiate the whole atmosphere of Pirivena education. Who would believe that the present levy which has been increased from Re. 1 per mensem to Rs. 20 per annum within the brief space of one year would not be the forerunner of other 30 similar levies in the future? According to the terms of the deed which confers certain powers on the Vidyadhara Sabha no authority appears to have been given either to the Sabha or to any other person to impose a levy which is neither supported by religion nor by custom, for any purpose whatsoever. On the other hand the Sabha is by duty bound to see to all comforts of the monks without imposing a levy on them.

My decision to observe a fast on this account was made after due consideration in order to save the Pirivena in particular and the Buddhist religious educational atmosphere from this tendency for 40 deterioration, which is gradually manifesting itself.

Yours etc.

MORONTUDUWE DHAMMANANDA NAYAKA THERO.

Vidyodaya Pirivena,
 Maligakanda.

Colombo, July 25.

PRIEST'S THREAT TO FAST

Protest Against Temple Regulation

As a protest against the recently introduced regulation which requires pupil priests of the Vidyodaya Pirivena to pay Rs. 20/- per annum as accommodation fee, the Rev. Morontuduwe Sri Dhammananda Nayaka Thero threatens to fast until the regulation is removed.

He is expected to begin his fast on the 27th instant at 6 a.m. unless the regulation is previously withdrawn.

P34

Letter by the
1st Defendant
which
appeared in
the "Ceylon
Daily News"
of 29.7.33
25.7.33—
Continued

10

CALLING OFF OF FAST

Statement Issued by High Priests

A statement has been issued to the Press by the Ven. Pahamune Sri Sumangala and the Ven. Mullegama Sri Gunaratana, the two Chief High Priests, of Malwatte and Asgiriya Chapters, regarding the abandonment of the fast which the Rev. Morontuduwe Sri Dhammananda of the Vidyodaya Pirivena was to have undertaken yesterday morning.

In the statement the two Chief High Priests state that the question of the proposed fast and the disagreements which had led to it formed the subject of discussion at a conference held at the Pirivena on Wednesday night between themselves and other members of the General Executive of the Maha Sangha Sabha, the Principal of the Pirivena and the Rev. Morontuduwe Dhammananda. As a result, the two Chief High Priests, it is stated, promised to invite to Kandy the members of the Vidyadhara Sabha and the tutorial staff of the Pirivena, including the Principal, and to settle all matters of dispute in accordance with religious principles, and in view of that promise the two Chief High Priests had requested the Rev. Dhammananda to desist from the fast, to which the latter had agreed.

30

1D31

Letter from the 1st Defendant-Appellant to the Secretary of the Vidyadhara Sabha

Translation

Vidyodaya Pirivena,
Maligakanda, Colombo, 26.7.33.

Through the Hony. Secretary, Vidyadhara Sabha to the signatories of the letter addressed to me on 25th instant.

1D31

Letter from
the 1st
Defendant-
Appellant to
the Secretary
of the Vidya-
dhara Sabha
26.7.33

1D31

Letter from
the 1st
Defendant-
Appellant to
the Secretary
of the Vidya-
dhara Sabha
26.7.33—
Continued

Gentlemen,

I am in receipt of the letter sent to me dated the 25th instant. My fast is to be made not in the Vidyodaya Parivenasthana but in the mind associated with my heart. The determination to live in a special good manner bereft of sinful contemplations and detached from all material things is with the mind.

Fulfilling duties as a Buddhist monk for more than 15 years I reside in the Vidyodaya Pirivena Vihara. In connection with the special effort that was decided to be commenced tomorrow it is good to consider kindly that there will not be any difference in this material 10 body from that standard which prevailed for more than 15 years.

To this effect,

Contrary to the opinion of the signatories of the letter sent to me,

(Sgd.) M. DHAMMANANDA,
Morontuduwe Sri Dhammananda,
*Chief High Priest of Sabaragamuwa
Province.*

1D32

1D32
Sangha Order
by the Maha
Nayaka Theras
of Malwatte
and Asgiriya
26.7.33

**Sangha Order by the Maha Nayaka Theras of Malwatte 20
and Asgiriya**

Translation

To the Chief High Priest of Sabaragamuwa.

We hereby declare that the fast, the Nayaka Thera has decided to commence tomorrow owing to the disputes that arose in connection with the regulation that the Vidyadhara Sabha passed to charge a rental from the pupil-priests for their lodgings, should be stopped as it will be settled according to religious principles and we further promise to settle those disputes in keeping with the religious customs.

To this effect. 30

(Sgd.) PAHAMUNE SRI SUMANGALA.
,, MULLEGAMA SRI GUNARATANA.
*Maha Nayaka Theras of the two Maha Viharas
of Malwatta and Asgiriya, Kandy.*

Vidyodaya Pirivena Viharasthana,
Wednesday the 26th July, 1933.