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*Intelligent*  
**(5)**, 1965

No. **57**.....

Supreme Court of Ceylon,  
No. 194 (Final) of 1958.

District Court of Kurunegala,  
case No. 10868/Land.

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

BETWEEN

D. ROBOSINGHO MUDALALI *alias* GAMPAHA MUDALALI  
of Asgiriya, Gampaha.....*2nd Defendant-Appellant.*  
**APPELLANT.**

AND

1. L. D. P. JAYAWARDENA,
2. GALPOTTAGE HENDRICK PERERA, both of Katuwa-  
wala, Boralesgamuwa.....*Plaintiffs-Respondents.*
3. B. W. PATHIRANA of Rajapihilla Road, Kurunegala.  
.....*1st Defendant-Respondent.*
4. DR. M. G. PERERA of No. 72, New Bullers Road,  
Colombo 7.....*3rd Defendant-Respondent.*  
**RESPONDENTS.**

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RECORD  
OF PROCEEDINGS

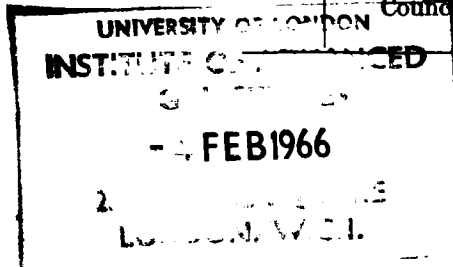
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No. ....

Supreme Court of Ceylon,  
No. 194 (Final) of 1958.

District Court of Kurunegala,  
case No. 10868/Land.

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

BETWEEN

D. ROBOSINGHO MUDALALI *alias* GAMPAHA MUDALALI  
of Asgiriya, Gampaha. .... *2nd Defendant-Appellant*  
*APPELLANT.*

AND

1. L. D. P. JAYAWARDENA,
2. GALPOTTAGE HENDRICK PERERA, both of Katuwa-  
wala, Boralessgamuwa. .... *Plaintiffs-Respondents.*
3. B. W. PATHIRANA of Rajapihilla Road, Kurunegala.  
..... *1st Defendant-Respondent.*
4. DR. M. G. PERERA of No. 72, New Bullers Road,  
Colombo 7. .... *3rd Defendant-Respondent.*  
*RESPONDENTS.*

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RECORD  
OF PROCEEDINGS

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**Journal Entries****IN THE DISTRICT COURT OF KURUNEGALA**

1. L. D. P. JAYAWARDENA

2. GALPOTTAGE HENDRICK PERERA, both of  
Katuwawala in the Pallepattu in Salpiti Korale.  
.....*Plaintiffs.**Vs.*

No. 10868.

10 Class :

Amount Rs. 20,000/-

Nature : Land and damages.

Procedure : Regular.

1. B. W. PATHIRANA of Rajapihilla Road,  
Kurunegala.2. D. ROBOSINGHO MUDALALI *alias*  
GAMPAHA MUDALALI of Asgiriya in  
Gampaha.3. DR. M. G. PERERA of No. 171,  
New Bullers Road,  
Colombo.....*Defendants.***JOURNAL**

The day of April 1954.

20 (1) Mr. D. A. S. Ranaweera files appointment and Complaint together with the  
Pedigree and move that the same be accepted and that summons on the  
defendants be allowed.

Plaint accepted and Summons ordered for 7-7-54.

(Sgd.) P. R. GUNASEKERA,  
*District Judge.*

No. 1  
Journal  
Entries  
-4-54 to  
16-10-59  
—continued.

- (2) 31-5-54. Summonses issued N. W. P. Gampaha and Colombo. Mr. D. A. S. Ranaweera for Plaintiff.
- (3) 7-7-54. (1) Summons served on 1 and 3 defendants. Present (3rd pointed out) Answer 3-9-54. Messrs. Perera & Perera file proxy of 3rd defendant.
- Statement for 3-9-54.
- (2) Summons on 2nd defendant (no return). Call for and re-issue for 18-8-54. Not necessary. Proxy filed by A. E. O. de Silva. Answer for 3-9-54.
- (Intd.)..... 10
- (4) 3-9-54. Answer of 3rd defendant (Messrs. Perera & Perera) for 8-10-54. Answer of 2nd defendant (Mr. A. E. O. de Silva). Filed.
- (Intd.).....
- (5) 8-10-54. Answer of 3rd defendant due (Messrs. Perera & Perera) for 1-12-54.
- (Intd.).....
- (6) 1-12-54. Answer of 3rd defendant due — filed. Trial 1-8-55.
- (Intd.).....
- (7) 23-7-55. 4 S/S on 2nd defendant issued.
- (Intd.)..... 20
- (8) 27-7-55. Proctor for 3rd defendant files list of witnesses.
- (Intd.).....
- (9) 1-8-55. Trial.  
Acting D. J. is on sick leave. Trial is refixed for 11-1-56.
- (Intd.).....  
A. D. J.
- (10) 20-12-55. Mr. A. E. O. de Silva files 2nd defendant's additional list of witnesses with notice to Proctor for Plaintiff and takes out one Summons to witness in hand.
- (Intd.)..... 30
- Eo die.* Mr. D. A. S. Ranawerra, Proctor, files Plaintiffs' list of witnesses with notice to Proctors for 2 & 3 defendants and one Summons issued in hand one Summons to Fiscal Panadura & one to Fiscal W. P. Colombo. K. R. S/12 No. O26156 for Rs. 20/- being batta filed.
- (Intd.).....
- (11) 10-1-56. One Summons on 2nd defendant's witness issued, in hand.
- (Intd.).....

- (12) 11-1-56. Trial.  
Mr. D. A. S. Ranaweera for Plaintiff, instructing Mr. Gooneratne.  
Mr. A. E. O. de Silva for 2nd defendant, instructing Mr. Jayakody.  
Messrs. Perera and Perera for 3rd defendant instructing  
Mr. Seneviratne.

*Vide* proceedings filed.  
Trial postponed to 5/9/56.

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

- (13)  
10 31-1-56. Requisition for Rs. 15/- issued to Dr. Perera.  
Mr. Ranaweera for plaintiff.

(Intd.).....

- (14) 10-2-56. One Summons on plaintiff's witness issued to Fiscal W. P. Colombo.

(Intd.).....

- (15) 3-9-56. Proctor for 2nd defendant files addl. list of witnesses and takes  
out one Summons in hand for service 'thro' Fiscal N.W.P.  
Deficiency of stamp duty Rs. 2/60.

(Intd.).....  
3/9.

- (16)  
20 4-9-56. As the 3rd defendant who is a material witness for the Plaintiffs  
on whom notice of the action is given to warrant and defend  
title and who is also served with Summons to appear on the  
date of trial to give evidence on behalf of the plaintiffs has  
gone to England and is not attending Court on the date of trial;  
Mr. D. A. S. Ranaweera Proctor for Plaintiffs move that this  
case be postponed and be refixed for hearing for some other  
date down the roll convenient to Court.

Mr. A. E. O. de Silva, Proctor for 1 and 2 defendants consent on  
payment of costs.

- 30 Messrs. Perera and Perera, Proctors for 3rd defendant, consent.

*Vide* proceedings filed.  
Trial postponed to 21-2-57.  
Plaintiff to pay taxed costs of today.

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

- (17) 7-2-57. Summons on 3 of 2nd defendant's witnesses issued to Fiscal  
N.W.P. and 1 to Deputy Fiscal, Gampaha.

(Intd.) .....

- 40 Mr. D. A. S. Ranaweera for Plaintiff.  
Mr. A. E. O. de Silva for 2nd Defendant.  
Mr. Perera and Perera for 3rd Defendant.

No. 1  
Journal  
Entries  
-4-54 to  
16-10-59  
—continued.

- (18) 21-2-57. Trial.  
*Vide* proceedings filed.  
Of consent trial postponed to 14-6-57.  
Plaintiffs to pay 2nd Defendant Rs. 100/- as costs of today.  
(Sgd.) .....  
D.J.
- (19) 4-3-57. On the instructions of the Plaintiffs, Proctor for Plaintiffs, moves that the Court be pleased to allow and permit the Plaintiffs to cause the Summons to witness in this case on the person of Mr. M. G. Perera, Doctor, the 3rd defendant in this case to be served by the Police as he evades the service of summons.  
Allowed on deposit of batta for Police.  
(Sgd.) .....  
D.J.
- Mr. Ranawerra for Plaintiff.  
Mr. A. E. O. de Silva for 2nd defendant.
- (20) 8-3-57. Proctor for 2nd defendant files bill of costs due to him on 4-9-56 payable by the plaintiff with notice to Proctor for Plaintiff as per order of court dated 5th September, 1956 and move that the same be taxed to enable the 2nd defendant to file application for writ. Supply stamps Rs. 15/- on bill and move.  
(Sgd.) .....  
D.J.
- (21) 7-5-57. As the witness Dr. M. G. Perera is living only a quarter mile away from the Bambalapitiya Police, Mr. D. A. S. Ranaweera moves that service of summons by Police be allowed without Batta to Police.  
Allowed.  
(Sgd.) .....  
D.J. 30
- (22) 8-5-57. Summons issued on witness Dr. M. G. Perera to officer in charge, Bambalapitiya Police Station.  
(Intd.).....
- (23) 1-6-57. One Summons on 2nd defendant's witness issued in hand and one Summons issued to Fiscal, N.W.P.  
(Intd.).....  
Mr. Ranaweera for Plaintiff.  
Mr. A. E. O. de Silva for the 2nd defendant.  
Messrs. Perera and Perera for 3rd defendant.
- (24) 13-6-57. Since having supplied the stamps for the bill, Mr. A. E. O. de Silva, Proctor 2nd defendant moves that the Court be pleased to tax the said bill filed of record.  
*Eo die.* 2nd defendant's additional list of witnesses filed.  
(Intd.) .....



(25) 14-6-57. Trial.

Mr. Adv. Gunaratne instructed for Plaintiff.

Mr. Adv. Fernando instructed for 2nd Defendant.

Mr. A. C. Amarasinghe tenders a Medical Certificate to excuse absence of 3rd defendant who had undertaken to give evidence on behalf of Plaintiff, in support of the latter's title.

This is a heavy case, which I cannot finish before I leave Station on transfer.

Trial postponed to 17-12-57.

10 M.C. to be filed.....

(Sgd.).....

*D.J.*

7-11-57. One Summons on plaintiffs' witnesses issued in hand.

(Intd.).....

22-11-57. Return to Summons on witnesses filed.

(Intd.).....

10-12-57. The summons issued to witness in the above case for service through Bambalapitiya Police having been returned un-executed early as witness could not be found and has left to Hatton, Mr. Ranaweera for Plaintiff moves to reissue summons for service to Bambalapitiya Police as the witness has now come back.

20

Allowed.

(Intd.).....

*D.J.*

10-12-57. Summons extended and re-issued to Inspector of Police Bambalapitiya.

(Intd.).....

14-12-57. Two Summonses on 2nd defendant's witnesses re-issued, in hand.

30

(Intd.).....

Mr. Ranaweera for Plaintiff.

Mr. A. E. O. de Silva for 2nd Defendant.

Messrs. Perera and Perera for 3rd Defendant.

17-12-57. Trial.

Mr. Christie Gunaratne instructed by Mr. Ranaweera for Plaintiff.

Mr. Shelton Fernando instructed by Mr. A. E. O. de Silva for 2nd defendant.

The 3rd Defendant is absent and I have other work.

40

Trial on 30-4-58.

(Intd.).....

*D.J.*

14-2-58. One Summons on plaintiffs' witnesses issued to officer-in-charge, Bambalapitiya Police,

(Intd.).....

No. 1  
Journal  
Entries  
-4-54 to  
16-10-59  
—continued.

- 26-4-58 One Summons on 2nd defendant's witness issued to Fiscal N.W.P.
- 30-4-58 Trial. (Intd.).....  
*Vide* proceedings.  
Judgment on 16-5-58. (Intd.).....  
D.J.
- 7-5-58. Proceedings typed. (Intd.).....  
D.J.
- 8-5-58. P1—P4 only filed. (Intd.)..... 10  
(Intd.).....
- 9-5-58. 2D1—2D9 filed. (Intd.).....
- 16-5-58. Judgment delivered in open Court in the presence of lawyers. (Intd.).....  
D.J.
- Eo die.* Decree entered. (Intd.).....
- Eo die.* Mr. D. A. S. Ranaweera, Proctor for Plaintiffs applies for execution of Decree by issue of writ of possession against the 1st and 2nd defendants. 20  
Allowed. (Intd.).....  
D.J.
- 19-5-58. Mr. A. E. O. de Silva, Proctor for 2nd Defendant files petition of appeal of the 2nd defendant, together with the following :—  
Secretary's certificate with stamps for Rs. 15/-.  
Stamps for S. C. Judgment Rs. 30/-.  
Application for typewritten briefs with Kachcheri Receipt No. 1280 of 19-5-58 for Rs. 25/-.  
Notices of Security. 30  
Notice of Appeal.  
Kachcheri Receipt No. 1278 of 19-5-58 for Rs. 250/- being security.  
Kachcheri Receipt No. 1279 of 19-5-58 Rs. 250/- being security,  
and also tenders a minute of consent from the 1st defendant taking notice of petition of appeal and waiving off security for costs in appeal and all notices of security and other notices contemplated under section 756 of the Civil Procedure Code and further moves that the notice of security be issued forthwith and the notice of appeal and thereafter the appeal be forwarded for hearing and determination. 40
1. Accept petition of appeal.
  2. Notice of security and notice of appeal on 1st defendant respondent dispensed with.
  3. Issue notice of security on plaintiffs-respondents and 3rd defendant-respondent for 4-6-58.
- (Intd.).....  
D.J.

20-5-58. Notice of security issued on plaintiffs-respondents and 3rd  
defendant-respondent to Fiscal N.W.P.

(Intd.) .....

22-5-58. Mr. A. E. O. de Silva files the Security Bond in the above case.  
File — mention 4-6-58.

(Intd.) .....

*D.J.*

4-6-58. Notice of security served (personally).

*Vide* Journal Entry of 22-5-58.

10 Security accepted. Issue notice of appeal for 25-6-58.

(Intd.) .....

*D.J.*

4-6-58. Notice of appeal issued to Fiscal N.W.P.

(Intd.) .....

21/6. Return filed.

(Intd.) .....

25-6-58. Notice of appeal served (personally).

Forward to S.C. in due course.

(Intd.) .....

*D.J.*

20

18-2-59. Messrs. Perera and Perera, proctors file an application for type-  
written copies.

Kachcheri Receipt No. 108 of 3-2-59 for Rs. 40/-, filed.

Note and file.

(Intd.) .....

*D.J.*

16-10-59. Messrs. Perera and Perera, Proctors for Respondent file 2  
copies of Plan and Kachcheri Receipt 700/10-10-59 being  
balance fees for typewritten copy.

(Intd.) .....

30

## No. 2

### Plaint of the Plaintiffs

#### IN THE DISTRICT COURT OF KURUNEGALA

1. L. D. P. JAYAWARDENA

2. GALPOTTAGE HENDRICK PERERA, both of Katuwawala in  
the Pallepattu in Salpiti Korale.....*Plaintiffs.*

No. 1  
Journal  
Entries  
-4-54 to  
16-10-59.  
—continued.

No. 2  
Plaint of the  
Plaintiffs.  
23-4-54.

No. 2  
Plaint of the  
Plaintiffs.  
28-4-54.  
—continued.

No. 10868

Vs.

1. B. W. PATHIRANA of Rajapihilla Road, Kurunegala.
2. D. ROBOSINGHO MUDALALI *alias* GAMPAHA MUDALALI of  
Asgiriya in Gampaha.
3. DR. M. G. PERERA of No. 171, New Bullers Road,  
Colombo..... *Defendants.*

This 23rd day of April, 1954.

The plaint of the plaintiffs abovenamed appearing by D. A. S. Rana-weera, their Proctor states as follows :—

1. The defendants reside at the respective places aforesaid and the 10 cause of action hereinafter set out arose and the land which is the subject matter of this action is situated within the jurisdiction of this court.

2. Singappulige Rana Fernando was by long and prescriptive possession the lawful owner of the premises morefully described in the schedule hereto situate within the jurisdiction of this Court and of the value of Rs. 15,000/-.

3. By deed No. 406 dated 11th September, 1941 the said Rana Fernando sold and transferred the said premises to Dr. M. G. Perera the 3rd defendant abovenamed who entered into possession thereof.

4. The said Dr. M. G. Perera by deed No. 3098 dated 5th May 1953 20 sold and transferred the said premises to the plaintiffs abovenamed who entered into possession thereof and made improvements to the value of Rs. 10,000/-.

5. The plaintiffs and their predecessors in title have been in the undisturbed and uninterrupted possession of the said premises by a title adverse to and independent to all others and have acquired a prescriptive title thereto.

6. The 1st and 2nd defendants who have no manner of right or title to the said premises on or about 22nd November, 1953 wrongfully and unlawfully entered the said premises and continue to be in wrongful 30 possession of the same disputing the Plaintiff's title to the Plaintiffs' loss and damage of Rs. 5,000/- and continuing damages at Rs. 1,000/- a month.

7. The 2nd plaintiff prosecuted the 1st and 2nd defendants in M. C. Kurunegala case No. 6128 on the 26th November, 1953 and the 2nd plaintiff was directed to file a Civil action on the 1st and 2nd defendants depositing a sum of Rs. 2,000/- as security in the case. The said security was deposited on the 27th February, 1954.

8. A cause of action has accrued to the Plaintiffs to sue the 1st and 2nd defendants for a declaration of title ejectment and damages.

9. The 3rd defendant is made a party necessary to give him notice of this action to enable him to appear and warrant and defend the title conveyed by him to the plaintiffs and no other relief is claimed against him in this action.

No. 2  
Plaint of the  
Plaintiffs.  
23-4-54.  
—continued.

Wherefore the plaintiffs pray :—

1. That plaintiffs be declared entitled to the land and premises morefully described in the schedule hereto.

2. That 1st and 2nd defendants and those holding under them be ejected from the said premises.

10 3. That the said defendants be ordered to pay the plaintiffs the said sum of Rs. 5,000/- being damages up to date hereof and further damages at Rs. 1,000/- a month from date hereof until the plaintiffs are restored to possession.

4. For costs and for such other and further relief as to this court shall seem meet.

(Sgd.) D. A. S. RANAWEERA,  
*Proctor for Plaintiff.*

#### SCHEDULE

All those two contiguous allotments of land called Elabodahenyaya  
20 and Medakumburahenyaya marked L114A and O114 appearing in P. P. 4516  
situated at Chandrayagama in Divigandahaya Korale of the Hiriya  
Hatpattu in the District of Kurunegala North Western Province and  
bounded on the North by Elabodahenyaya (reservation for Road) to be  
declared the property of the Crown under the Waste Lands Ordinance,  
Ambagahamulawatte claimed by Mudiyanse and others, Medakumbura  
claimed by Mudiyanse and others, on the East by Medakumbura (reserv-  
ation for Road) claimed by the Crown road to be declared the property of  
the Crown under the Waste Lands Ordinance, Medakumbura (reservation  
for a Road) to be declared the property of the Crown under the Waste Lands  
30 Ordinance road to be declared the property of the Crown under the Waste  
Lands Ordinance, Alutwewahenayaya (reservation for a Road) to be de-  
clared the property of the Crown under the Waste Lands Ordinance, Diga-  
nawatte claimed by Kiri Banda and others, on the South by Digamakum-  
bura Pillewa claimed by Kiri Banda and others, Elabodahenyaya (reser-  
vation for Road) to be declared the property of the Crown under the Waste  
Lands Ordinance, on the West by Elabodahenyaya to be declared the pro-  
perty of the Crown under the Waste Lands Ordinance, containing in extent  
fifty acres and Twenty seven perches (A50 R0 P27).

(Sgd.) D. A. S. RANAWEERA,  
*Proctor for Plaintiff.*

40  
*Settled by*  
S. P. WIJEWICKREMA,  
*Advocate.*

No. 2  
 Plaint of the  
 Plaintiffs.  
 23-4-54.  
*continued :*  
 ———  
 Pedigree.

IN THE DISTRICT COURT OF KURUNEGALA.

Plaintiff's Pedigree,

Original Owner

S. Rana Fernando.

$\frac{406}{11-9-41}$	}	Sold
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Dr. M. G. Perera.

$\frac{3098}{5-5-53}$	}	Sold
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L. D. P. Jayawardana

G. Hendrick Perera

Plaintiffs.

Kurunegala, 23-4-1954.

(Sgd.) D. A. S. Ranaweera,  
*Proctor for Plaintiff.*

## Answer of the 2nd Defendant

## IN THE DISTRICT COURT OF KURUNEGALA

1. L. D. P. JAYAWARDENA

2. GALPOTTAGE HENDRICK PERERA both of Katuwawala.....*Plaintiffs*.....

No. 10868.

Vs.

1. B. W. PATHIRANA of Rajapihilla Road, Kurunegala.

10 2. D. ROBOSINGHO MUDALALY *alias* GAMPAHA MUDALALI of  
Asgiriya, Gampaha.3. DR. M. G. PERERA of No. 171, New Bullers Road,  
Colombo..... *Defendants*.

On this 3rd day of August, 1954.

The answer of the 2nd defendant abovenamed appearing by Aloysius Eric Oswald de Silva, his Proctor states as follows :—

1. This defendant admits the averments in paras 1 and 7 of the plaint and denies the rest which are not consistent with this answer.

2. Further answering this defendant states that the land described in the schedule to the plaint was waste land situated in the Kandyan Pro-  
20 vinces and as such was land at the disposal of the Crown.

3. The Crown by its Order under Waste Lands Ordinances of 1897, 1899, 1900 and 1903 published in *Government Gazette* No. 6927 of 1st March, 1918 declared Henry Fernando and Albert Cyril Fernando the owners of the said land.

4. The said Henry Fernando being seized and possessed of a half share died leaving as his heirs his five children Albert Cyril, Henry Lionel, Clouda, Stella and Olga.

5. The said Albert Cyril Fernando being seized and possessed of 6/10 share died leaving as his heirs his children Leila Godvia and Bede.

80 6. Henry Lionel, Clouda, Stella, Olga, Leila Godvia and Bede being seised and possessed of the said land by deed No. 35 dated 7th October, 1953 sold the same to this defendant.

7. This defendant by deed No. 4498 of 3-11-1953 sold 1/10th share to the 1st defendant who by deed No. 4701 of 8-2-1954 resold the same to this defendant.

No. 8  
Answer of  
the 2nd  
Defendant  
8-8-54.  
—continued.

8. This defendant and his predecessors in title have been in the undisturbed and uninterrupted possession of the said land adverse to and independent of all others for a period of over 10 years for which possession they plead the benefit of Prescriptive Ordinance.

9. This defendant has made improvements in the land which he assessed at Rs. 10,000/- which sum he claims by way of a claim in reconvention in the event of the plaintiffs being declared entitled to the said land.

Wherefore this defendant prays :—

- (a) That the plaintiffs' action be dismissed with costs or,
- (b) In the alternative if the plaintiffs are declared entitled to the<sup>10</sup> land that he be declared entitled to compensation for the improvements affected by him,
- (c) For costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) A. E. O. DE SILVA,  
*Proctor for 2nd Defendant.*

No. 4  
Answer of  
the 3rd  
Defendant.  
1-12-54.

#### No. 4

#### Answer of the 3rd Defendant

#### IN THE DISTRICT COURT OF KURUNEGALA

1. L. D. P. JAYAWARDENA,

20

2. GALPOTTEGE HENDRICK PERERA, both of Katuwawala.....*Plaintiffs.*

No. 10868

*Vs.*

1. B. W. PATHIRANA of Rajapihilla Road, Kurunegala Town.

2. D. ROBOSINGHO MUDALALI *alias* GAMPAHA MUDALALI of  
Asgiriya Gampaha.

3. DR. M. G. PERERA of No. 171, New Bullers Road,  
Colombo.....*Defendants.*

On this 1st day of December, 1954.

The answer of the 3rd defendant abovenamed appearing by C. L. W.<sup>30</sup> Perera, K. A. C. Amerasinghe and K. I. G. L. W. Perera proctors practising in partnership under the name style and firm of Perera and Perera states as follows :—



1. This defendant denies all and singular the averments in the plaint save as hereinafter specifically admitted.

2. Answering to paragraph 1 of the plaint this defendant admits only the averments regarding jurisdiction.

3. This defendant admits the averments in paragraph 2, 3, 4, and 5 and 9 of the plaint.

4. Answering to paragraphs 6, 7, 8 and 9 of the plaint this defendant states that the 1st and 2nd defendants have no manner of right title or interests in the said land and if the said defendants have disturbed the possession of the plaintiffs this defendant admits that a cause of action has accrued to the plaintiffs to sue the 1st and 2nd defendants.

5. By way of further answer to the plaint this defendant states that if the defendants have taken any steps to acquire title to the said premises they have acted in fraud of the plaintiffs and of this defendant and if any title has vested in them the 1st and 2nd defendants have acquired the said title for the benefit of these plaintiffs and or subject to a trust in their favour.

6. This defendant prays for no relief in this action as no relief has been asked for against him.

20 Wherefore this defendant prays that the Court be pleased to grant him his costs and such other and further as to the Court shall seem meet and discharge this defendant from these proceedings.

(Sgd.) PERERA & PERERA,  
*Proctors for 3rd Defendant.*

*Settled by*  
H. WANIGATUNGA,  
*Advocate.*

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## No. 5

### Issues Framed

No. 4  
Answer of  
the 3rd  
Defendant.  
1-12-54.  
—continued.

No. 5  
Issues  
Framed.

30 D. C. 10868 L.

30-4-58.

Mr. Adv. T. B. Dissanayake instructed by Mr. D. A. B. Ratnayake for the plaintiffs.

Mr. Adv. C. Fernando instructed by Mr. A. E. O. de Silva for the 2nd defendant.

Messrs. Perera and Perera for the 3rd defendant.

Mr. Fernando objects to the participating in the trial of the 3rd defendant.

ORDER

No order has been made in the case that the case should proceed against him *ex-parte*. As such he can take part in the proceedings.

(Intd.).....  
D.J.  
30-4-58.

ISSUES

Mr. Dissanayake suggests :—

1. Are the plaintiffs entitled to the land and premises described in the schedule to the plaint upon the title pleaded in the plaint ? 10
2. Are the 1st and 2nd defendants in wrongful and unlawful occupation of the said premises from about 22nd November, 1953 ?
3. If so, what damages is the plaintiffs entitled to.
4. Prescriptive rights of parties ?  
(Of consent damages are agreed upon at Rs. 100/- a month claimed by the plaintiff from date of ouster).

Mr Fernando suggests :—

5. Is the 2nd defendant entitled to the land described in the schedule to the plaint upon the title pleaded in the 2nd defendant's answer ?
6. Is the 2nd defendant entitled to compensation for improvements 20 to the land ?
7. What is the value of the improvements.

Mr. Amerasinghe raises no issues.

I accept these issues.

(Intd.).....  
D.J.  
30-4-58.

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No. 6

Judgment of the District Court

JUDGMENT

The plaintiff seeks to have a declaration of title to two allotments of land called Elabodahenyaya and Medakumburahenyaya marked L114A and O114 appearing in P. P. 4516.

According to the plaintiff the 3rd defendant Dr. M. G. Perera purchased this property on deed P1 of 11th September, 1941 from one Rana Fernando. The transferor on P1 states that she is entitled to this land by right of inheritance from her son and grandson Singapullige Henry Fernando and Singappulige Albert Cyril Fernando. Thereafter Dr. M. G. Perera planted this land. With the deed are attached —, a copy of the Final Order No. 1991 of 1st March, 1918 showing that Henry Fernando and Albert Cyril Fernando purchased the land from the Government; a plan dated 15th May, 1953, an extract from the *Ceylon Government Gazette* No. 6927 of 1st March, 1918. Thereafter the 2 plaintiffs purchased the land on deed P2 of 5th May, 1953.

No. 6  
Judgment  
of the  
District  
Court.  
16-5-58.  
—continued.

According to the story of the 1st plaintiff, he was in possession of this land and he and the 2nd plaintiff put up a house and the 2nd plaintiff occupied that house. On 11-8-53 the 2nd plaintiff left the land as he had fallen ill. In November, 1953 the watcher he had placed was ousted by the defendants and he made a complaint to the D. R. O., to the police and to the headman. Later he found that the coconut plants which were there when he purchased the land had been removed by the defendants. According to him there were 9 or 10 coconut trees of about 9 years of age which had been removed.

Wickremasinghe, the Assistant Superintendent of Clovasana Estate, belonging to Dr. M. G. Perera gave evidence. He said that on the date of the purchase by Dr. Perera he planted this land till the sale in 1953. Evidently the crops and the coconut plants planted by him failed because of the drought. He frankly admitted that he was not a cultivator of coconut but he merely carried out the instructions of the visiting agent, and that the plantation was more or less a failure because only a few trees were planted. He said that he put up a house for him to stay and that his watcher stayed there. The 1st plaintiff who gave evidence contradicted this by saying that there was no house when he went there. Mr. Wickremasinghe said that there was a house in a dilapidated condition more or less. Mr. Wickremasinghe too stated that he was aware that the government had made an allocation of a portion of this land to some person and he was aware of the fact that the Government Agent wrote to that person to leave the land as it was private property.

The defence called Mr. Claude Stanley Fernando an advocate practising at Colombo. His father was one Henry Fernando and his brother was Dr. Albert Cyril Fernando. These two names tally with the names of the purchasers from the crown in 1917. But Mr. Claude Fernando definitely states that he was not aware of this land. I therefore do not know whether it is really his father and his brother who were the purchasers. There may have been 2 other persons by the name of Henry Fernando and Albert Cyril Fernando who may have purchased this. These names are fairly common in Ceylon. Claude Fernando became aware of this land only when one Pathirana told him about the existence of these lands.

Claude Fernando and Chandra Bede signed deed No. 35 of 1953 (marked 2D1) in favour of the 2nd defendant, and very advisedly Mr. Claude

Fernando had got it inserted that he would not warrant and defend title as he was not aware of the existence of the land.

The other heirs of Henry Fernando and Dr. Albert Cyril Fernando had given powers of attorney to Mr. Claude Fernando to transfer the land. Thereafter the defendants had taken possession of this land from the plaintiffs.

None of the defendants gave evidence. They merely called one Kulatunga to whom the Government had given permit in 1945 to possess this land. Thereafter that permit was withdrawn from him as it was proved to be private land. It is clear that this withdrawal of the permit<sup>10</sup> was not at the instance of Mr. Claude Fernando or the other heirs of Henry Fernando and Dr. Cyril Fernando alleged by the defence. If it had been at their instance Claude Fernando would have been aware of the existence of the land. His lack of knowledge shows that it was not at their instance but Wickremasinghe the Superintendent under Dr. M. G. Perera speaks about this. Hence it is clear that it is at their instance that this had been done or on some complaint made to the Government Agent on their behalf.

Kulatunga admitted in evidence that the boundaries were given to him by the 2nd defendant Robo Singho. I do not know how he would otherwise have got the boundaries. During his possession he was not<sup>20</sup> aware of Wickremasinghe being in occupation. This witness did not impress me as a truthful witness. He appears to be very partial to the defence and I do not accept his evidence as true.

The other witness called by the defence was the village headman. How this village headman came to remember the number of the plan and its extent I do not know. In his official capacity he would have looked into a number of plans, and he had seen this plan somewhere in 1953, at the latest, and I do not know how he would have kept this information in mind. I inquired from him whether he refreshed his mind after that and he answered in the negative. This clearly shows how partial he is to the defence. I<sup>30</sup> am sure he must have been given this information by the 2nd defendant. He said that on a reference by the D. R. O. he went to the land and according to the information given by the D. R. O. one Jayawardena, that is the 1st plaintiff, had purchased the land and that the 2nd defendant was trying to get possession of it. He also said that when he went there he found the 2nd defendant and several others there and that he also saw several young coconut plants. According to him they were 1 year to 6 months old, most probably plants planted by Jayawardena or immediately before Jayawardena purchased it, because Jayawardena was ousted 5 months after his purchase. That was when he went to the land on 11th November, 1953 for the<sup>40</sup> first time. When he visited this land for the 2nd time on 24th November he did not find a single coconut plant. This clearly shows that the 2nd defendant had tried to eradicate that someone had been in possession of this land, merely to avoid prescriptive title. If it has been jungle land then prescription would not take place. The removal of such evidence clearly shows that the defendant was aware that the land was in possession of someone and he wanted to remove it. As I said, the headman being a partial

witness, he does not want to say whether any plants were removed. But he definitely stated that there were no trees of 10 years of age. I do not accept this evidence.

No. 6  
Judgment  
of the  
District  
Court.  
16-5-58.  
—continued.

Further Mr. Claude Fernando stated that Rana Fernando is no relation of theirs. If Henry Fernando and Cyril Fernando did not belong to the relationship of Rana Fernando and that the true purchasers were the ancestors, or her brother — Claude Fernando were the true owners, Dr. M. G. Perera would have prescribed to the land from the date that he came into possession I see no reason not to accept the evidence of Wickremasinghe.

10 Hence it is clear that this had been in the possession of Dr. M. G. Perera since 1941 and that the ouster was only in 1953. Thus the plaintiffs have prescribed to the title even if title was in the defendants.

On the evidence there is nothing to hold that Rana Fernando too had a son and grandson and their names were Henry Fernando and Cyril Fernando and who had obtained a transfer from the crown. The Crown Grant unfortunately had not been produced. But whatever the paper title of the parties were the plaintiffs have prescribed to this land.

Therefore it must be taken into account that Mr. Claude Fernando, being an advocate, a member of the legal profession, would have known if  
20 this land belonged to them and would not wait for information to be given by others about this land and only for the sake of the transfer.

I therefore hold that it is more probable that the deed in favour of Dr. Perera were made by the real owners of the land.

I therefore answer the issues as follows :—

1. Yes.
2. Yes.
3. Damages agreed upon.
4. Plaintiffs have prescribed to the land.
5. No.
- 30 6. No.
7. Does not arise and was not proved.

I therefore give judgment to the plaintiff as prayed for but restrict the damages to the amount agreed upon, and costs.

The 1st and 2nd defendants to pay the costs of 3rd defendant as well.

(Sgd.) PERCY A. SENERATNE,  
District Judge.

Decree of the District Court

DECREE

IN THE DISTRICT COURT OF KURUNEGALA

1. L. D. P. JAYAWARDENA

2. GALPOTTAGE HENDRICK PERERA, both of Katuwawala in  
Pallepattu in Salpiti Korale.....*Plaintiffs.*

No. 10868.

*Vs.*

1. B. W. PATHIRANA of Rajapihilla Road, Kurunegala Town.

10

2. D. ROBOSINGHO MUDALALI *alias* MUDALALI of Asgiriya,  
Gampaha.

3. DOCTOR M. G. PERERA of No. 171, New Bullers Road,  
Colombo.....*Defendants.*

This action coming on for disposal before P. A. de S. Senaratne, Esquire, District Judge of Kurunegala on the 30th day of April, 1958, in the presence of Mr. Advocate T. B. Dissanayake instructed by Mr. D. A. S. Ranaweera, Proctor on the part of the Plaintiffs, and of Mr. C. Fernando instructed by Mr. A. E. O. de Silva, Proctor on the part of the 2nd defendant.

It is ordered and decreed that the plaintiffs be and they are hereby 20  
declared entitled to the premises described in the schedule hereto annexed.

It is further ordered and decreed that the 1st and 2nd defendants and those holding under them be ejected from the said premises and the plaintiffs be put placed and quieted in possession thereof.

It is further ordered and decreed that the 1st and 2nd defendants do pay to the plaintiffs damages at the rate of Rs. 100/- per mensem to be computed from the 22nd day of November, 1953 till plaintiffs are restored to possession.

It is further ordered and decreed that the 1st and 2nd defendants do pay to the plaintiffs their taxed costs of this action. It is further decreed 30  
that the defendants do also pay costs to the 3rd defendant.

(Sgd.) PERCY A. SENERATNE  
*District Judge.*

## THE SCHEDULE

No. 7  
Decree of  
the District  
Court.  
16-5-58.  
—continued.

All those the two contiguous allotments of land called Elabodahenyaya and Medakumburehenyaya marked L114A and O114 appearing in P. P. 4516 situated at Chandrayagama in Divigandahaya Korale of the Hiriyala Hatpattu in the District of Kurunegala North Western Province and bounded on the North by Elabodahenyaya (reservation for Road) to be declared the property of the Crown under the Waste Lands Ordinance, Ambagahamulawatte claimed by Mudiyanse and others, Medakumbura claimed by Mudiyanse and others, on the East by Medakumbura (reser-  
10 vation for Road) claimed by the Crown Road to be declared the property of the Crown under the Waste Lands Ordinance, Medakumbura, (reser- vation for Road) to be declared the property of the Crown under the Waste Lands Ordinance, road to be declared the property of the Crown under the Waste Lands Ordinance, Alutwewahenaya (reservation for Road) to be declared the property of the Crown under the Waste Lands Ordinance, Digamawatte claimed by Kiribanda and others, on the South by Digama Kumbura Pillewa claimed by Kiri Banda and others, Elabodahenyaya (reservation for Road) to be declared the property of the Crown under the Waste Lands Ordinance on the West by Elabodahenyaya to be declared the  
20 property of the Crown under the Waste Lands Ordinance, containing in extent fifty acres and twenty seven perches (A50 R0 P37).

(Sgd.) PERCY A. SENERATNE,  
*District Judge.*  
16-5-1958.

*Drawn by,*  
(Sgd.) D. A. S. RANAWEERA,  
*Proctor for Plaintiff.*

## No. 8

## Petition of Appeal to the Supreme Court

No. 8  
Petition of  
Appeal to  
the Supreme  
Court.  
19-5-58.

30 IN THE SUPREME COURT OF THE ISLAND OF CEYLON

1. L. D. P. JAYAWARDENE
2. GALPOTTAGE HENDRICK PERERA, both of Katuwawala in  
Palle Pattu in Salpiti Korale.....*Plaintiffs.*

D. C. Kurunegala  
Case No. 10868/L.

*Vs.*

1. B. W. PATHIRANA of Rajapihilla Road, Kurunegala Town.
2. D. ROBOSINGHO MUDALALI *alias* GAMPAHA MUDALALI, of  
Asgiriya, Gampaha.
- 40 3. DR. M. G. PERERA of No. 171, New Bullers Road,  
Colom bo.....*Defendants.*

No. 8  
Petition of  
Appeal to  
the Supreme  
Court.  
19-5-58.  
—continued.

S. C. 194 (F).

1958.

2. D. ROBOSINGHO MUDALALI *alias* GAMPAHA MUDALALI of  
Asgiriya, Gampaha.....2nd Defendant-Appellant.

*Vs.*

1. L. D. P. JAYAWARDENA,  
2. GALPOTTAGE HENDRICK PERERA both of Katuwawala.  
*Plaintiffs-Respondents.*

*And*

1. B. W. PATHIRANA of Rajapihilla Road, Kurunegala 10  
Town.  
3. DR. M. G. PERERA of No. 171, New Bullers Road,  
Colombo.....1 & 3 Defendants-Respondents.

*To :*

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

On this 19th day of May, 1958.

The petition of appeal of the 2nd defendant-appellant abovenamed  
appearing by A. E. O. de Silva, his proctor states as follows :—

1. The plaintiffs filed this action against the 3 defendants above-20  
named for a declaration of title to a land 50 acres and 27 perches in extent  
described in the schedule to the plaint.

2. The 2nd defendant-appellant filed answer setting out his title and  
pointed out that the plaintiffs had no title whatsoever. The 1st defendant  
did not file answer and took no part in the action.

3. The 3rd defendant Dr. M. G. Perera was made a party to enable  
him to appear and warrant and defend his title which passed to the  
plaintiffs.

4. The case went to trial on the 30th day of April, 1958 and the  
learned District Judge by his order dated 16th May, 1958 gave judgment 30  
for the plaintiffs and damages as agreed upon.

5. Being aggrieved and dissatisfied with the said judgment the 2nd  
defendant-appellant begs to appeal therefrom to Your Lordships' Court on  
the following among other grounds that may be urged by Counsel at the  
hearing of this appeal.



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

(b) On the question of title the learned District Judge has misdirected himself in holding that he does not know, "whether it is really Claude Fernando's father and his brother who were the purchasers" from the Crown. The learned Judge further holds that "there may have been two other persons by the name of Henry Fernando and Albert Cyril Fernando." The identity of these two persons and the land purchsaed by them from the Crown is conclusively established by the Schedule to the plaint which admits  
10 the Crown Grant and the title set out by the Appellant reinforced the evidence of Advocate Claude Fernando.

(c) Rana Fernando from whom Dr. M. G. Perera traces his title could not have inherited this land from Henry Fernando and Albert Cyril Fernando, her son and grandson, as they both died leaving as heirs several children who sold their rights to the 2nd defendant-appellant.

(d) The learned District Judge further holds that the plaintiffs and Dr. M. G. Perera have acquired prescriptive title to the land in dispute. It is respectfully submitted that evidence of prescriptive possession adduced in this case is inadequate and insufficient inasmuch as Dr. M. G. Perera  
20 failed to give evidence although he was present in Court and the plaintiffs have had only 5 months possession, and Kiribanda, the Watcher was not called.

(e) The only evidence in support of prescriptive possession was that of Wickremasinghe, the Private Secretary of Dr. M. G. Perera who is supposed to have possessed this land as the Agent of Dr. M. G. Perera from 1941 to 1953 without interruption and obstruction. His evidence should not have been accepted in view of the very material contradiction of his evidence of the plaintiffs regarding the existence of a house in the land at the time of the purchase by the plaintiffs from Dr. M. G. Perera. If Wickremasinghe  
30 really visited this land at the time of the purchase he would have discovered that there was no house.

(f) Wickremasinghe's evidence of continued possession should not be accepted in view of the evidence given by Kulatunga that he cultivated 15 acres of this land from 1945 till 1949. This evidence is supported by the evidence of the Village Headman.

(g) The learned District Judge states that Kulatunga did not impress him as a truthful witness but does not give any reason for rejecting his evidence. Kulatunga's evidence is supported by documents written to him by the Government Agent of North Western Province, Kurunegala.

40 (h) The Village Headman's evidence is rejected because he remembered the number of the Plan relating to this land and holds, "this clearly shows how partial he is to the Defence. I am sure he must have been given this information by the 2nd Defendant". Fortunately for the Village Headman he has failed to remember correctly the number of the Plan. He mentions

No. 8  
Petition of  
Appeal to  
the Supreme  
Court.  
19-5-58.  
—continued.

the number as 1849 whereas in fact the correct number is 1848. If the information was given by the 2nd defendant he would have received the correct number.

(i) It is respectfully submitted that there were no coconut trees in bearing in the jungle of 50 acres and there is no evidence that the 2nd defendant destroyed any plantations or took forcible possession from the plaintiffs and therefore no damages should have been awarded.

(j) Although the plaintiffs claim Rs. 10,000/- as damages there was no proof of any improvements made to the land.

(k) In view of the established title of the 2nd defendant and the absence<sup>10</sup> of satisfactory proof of prescriptive possession by the plaintiffs or their predecessor Dr. M. G. Perera it is submitted that the plaintiffs' action should have been dismissed.

Wherefore the 2nd defendant-appellant prays that the judgment and order of the learned District Judge be set aside, that judgment be entered in favour of the 2nd defendant-appellant, for costs and for such other and further relief as to Your Lordships' Court may seem meet.

(Sgd.) A. E. O. DE SILVA,  
*Proctor for 2nd Defendant-Appellant.*

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## No. 9

20

No. 9  
Decree of  
the Supreme  
Court  
Dismissing  
the Appeal.  
26-1-61.

### Decree of the Supreme Court Dismissing the Appeal

S.C.194/'58 (F).

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

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

L. D. P. JAYAWARDENA of Katuwawala in the Pallepattu in  
Salpiti Korale and another.....*Plaintiffs.*

*Vs.*

B. W. PATHIRANA of Rajapihilla Road, Kurunegala and two  
others.....*Defendants.* 30

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D. ROBOSINGHO MUDALALI *alias* GAMPAHA MUDALALI of  
Asgiriya in Gampaha.....*2nd Defendant-Appellant.*

*Against*

L. D. P. JAYAWARDENA of Katuwawala in the Pallepattu in  
Salpiti Korale and another.....*Plaintiffs-Respondents.*

B. W. PATHIRANA of Rajapihilla Road, Kurunegala and  
another.....*1st and 3rd Defendants-Respondents.*

Action No. 10868/Land.

District Court of Kurunegala

No. 9  
Decree of  
the Supreme  
Court  
Dismissing  
the Appeal.  
26-1-61.  
—continued.

This cause coming on for hearing and determination on the 26th day of January, 1961 and on this day, upon an appeal preferred by the 2nd defendant-appellant before the Hon. Hema Henry Basnayake, Q.C., Chief Justice and the Hon. Nadaraja Sinnnetamby, Puisne Justice of this Court, in the presence of Counsel for the 2nd defendant-appellant, Plaintiffs-respondents  
10 and 3rd defendant-respondent.

It is considered and adjudged that this appeal be and the same is hereby dismissed.

It is ordered and decreed that the 2nd defendant-appellant do pay to the plaintiffs-respondents and 3rd defendant-respondent the taxed costs of this appeal.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the 31st day of January in the year One thousand Nine Hundred and sixty-one and of Our Reign the Ninth.

20

(Sgd.) B. F. PERERA,  
*Deputy Registrar, S. C.*

## No. 10

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

### IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application under Rule 2 of the Schedule to the Appeals (Privy Council) Ordinance (Chapter 85) for Conditional leave to appeal to Her Majesty in Council.

No. 10  
Application  
for  
Conditional  
Leave to  
Appeal to  
the Privy  
Council.  
20-2-61.

D. C. Kurunegala  
80 Action No. 10868-L.  
S. C. No. 194 (Final) of 1958.

D. ROBOSINGHO MUDALALI *alias* GAMPAAH MUDALALI of  
Asgiriya, Gampaha.....*2nd Defendant-Appellant-Petitioner.*

*Vs.*

1. L. D. P. JAYAWARDENA

2. GALPOTTAGE HENDRICK PERERA both of Katuwawala,  
Boralesgamuwa.....*Plaintiffs-Respondents.*

No. 10  
Application  
for  
Conditional  
Leave to  
Appeal to  
the Privy  
Council,  
20-2-61  
—continued.

3. B. W. PATHIRANA of Rajapihilla Road, Kurunegala  
*1st Defendant-Respondent.*
4. DR. M. G. PERERA of 72, New Bullers Road, Colombo 7.  
*3rd Defendant-Respondent.*

To :

THE HONOURABLE THE CHIEF JUSTICE AND THE PUISNE JUSTICES OF  
THE HONOURABLE THE SUPREME COURT OF THE ISLAND OF CEYLON

On this 20th day of February, 1961.

The humble Petition of D. Robosingho Mudalali *alias* Gampaha Mudalali, the 2nd Defendant-Appellant-Petitioner above-named, appearing<sup>10</sup> by his Proctor Ben Samarasinghe states as follows :—

1. That feeling aggrieved by the judgment and decree of this Honourable Court pronounced on the 26th day of January, 1961 the 2nd Defendant-Appellant-Petitioner is desirous of appealing to Her Majesty the Queen in Council.
2. That the said judgment is a final judgment and the matter in dispute on the Appeal is of the value of over Rupees Five Thousand (Rs. 5,000/-).
3. That notice of the 2nd Defendant-Appellant-Petitioner's intended Application to the Honourable Supreme Court for leave to Appeal to Her Majesty the Queen in Council was given to each of the above-named Res-<sup>20</sup>pondents at their respective addresses abovenamed within 14 days from the date of the Judgment of the Honourable Supreme Court.

WHEREFORE THE 2nd Defendant-Appellant-Petitioner prays :—

- (a) for Conditional Leave to Appeal to Her Majesty the Queen in Council against the said judgment and decree of this Court pronounced on the 26th day of January, 1961.
- (b) for costs, and
- (c) for such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) BEN SAMARASINGHE, <sup>30</sup>  
*Proctor for 2nd Defendant-Appellant-Petitioner,*

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

S.C. Application No. 68/'61.

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

**IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

In the matter of an application by the 2nd Defendant-Appellant dated  
20th February, 1961 for Conditional Leave to Appeal to Her Majesty  
10 the Queen in Council against the judgment and decree of this Court  
dated 26th January, 1961, in *S.C. 194/'58 (Final) — D.C. Kurunegala  
Case No. 10868/L.*

**D. ROBOSINGHO MUDALALI alias GAMPAHA MUDALALI of  
Asgiriya, Gapaha.....2nd Defendant-Appellant, Petitioner.**

*Against*

**L. D. P. JAYAWARDENA and another, both of Katuwawala  
Boralesgamuwa.....Plaintiffs-Respondents, Respondents.**

**B. W. PATHIRANA of Rajapihilla Road, Kurunegala.  
.....1st Defendant-Respondent, Respondent.**

20 **DR. M. G. PERERA of No. 72, New Bullers Road, Colombo 7.  
.....3rd Defendant-Respondent, Respondent.**

Action No. 10868/Land.

District Court of Kurunegala

This cause coming on for hearing and determination on the 28th day  
of April, 1961 before the Hon. Miliani Claude Sansoni, and the Hon. Hugh  
Norman Gregory Fernando, Puisne Justices of this Court, in the presence  
of Counsel for the 2nd Defendant-Appellant-Petitioner and no appearance  
for Plaintiffs-Respondents, 1st and 3rd Defendants-Respondents.

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

No. 11  
Decree  
granting  
Conditional  
Leave to  
Appeal to  
the Privy  
Council.  
28-4-61.  
—continued.

1. Deposit with the Registrar of the Supreme Court a sum of Rs. 3,000/- and hypothecate the same by bond or such other security as the Court in terms of Section 7 (1) of the Appellate Procedure (Privy Council) Order, 1921, 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, 1921, with the Registrar a sum of Rs. 300/- in respect of fees mentioned in Section 4 (b) and (c) of the Appeals (Privy Council) Ordinance (Chapter 85).

Provided that the applicant may apply in writing to the said Registrar<sup>10</sup> 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 12th day of May, in the year One thousand Nine hundred and Sixty-One and of Our Reign the Tenth.

(Sgd.) B. F. PERERA,  
*Deputy Registrar, S.C.*

No. 12  
Application  
for Final  
Leave to  
Appeal to  
the Privy  
Council.  
28-5-61.

## No. 12

### Application for Final Leave to Appeal to the Privy Council

20

#### IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Final Leave to Appeal to Her Majesty the Queen in Council under the Appeals (Privy Council) Ordinance (Cap. 85).

D.C. Kurunegala.  
Action No. 10868/L.  
S. C. No. 194 (Final) of 1958.

D. ROBOSINGHO MUDALALI *alias* GAMPAHA MUDALALI of  
Asgiriya, Gampaha.....*2nd Defendant-Appellant-Petitioner.*<sup>30</sup>

*Vs.*

1. L. D. P. JAYAWARDENA,
2. GALPOTTAGE HENDRICK PERERA both of Katuwawala,  
Boralesgamuwa.....*Plaintiffs-Respondents.*
3. B. W. PATHIRANA of Rajapihilla Road, Kurunegala.  
.....*1st Defendant-Respondent.*

4. DR. M. G. PERERA of 72, New Bullers Road, Colombo 7.  
 .....3rd Defendant-Respondent.

No. 12  
 Application  
 for Final  
 Leave to  
 Appeal to  
 the Privy  
 Council  
 23-5-61.

—continued.

To :

THE HONOURABLE THE CHIEF JUSTICE AND THE PUISNE JUSTICES OF  
 THE HONOURABLE THE SUPREME COURT OF THE ISLAND OF CEYLON.

On this 23rd day of May, 1961.

The humble Petition of D. Robosingho Mudalali *alias* Gampaha Mudalali, the 2nd Defendant-Appellant-Petitioner above-named appearing by his Proctor Ben Samarasinghe states as follows :—

10     1. That the 2nd Defendant-Appellant-Petitioner on the 28th day of April, 1961 obtained conditional leave from this Honourable Court to appeal to Her Majesty the Queen in Council against the judgment and decree of this Court pronounced on the 26th day of January, 1961.

2. That the 2nd Defendant-Appellant-Petitioner has in compliance with the conditions on which such leave was granted and in pursuance of Rule 3 (a) of the Schedule to The Appeals (Privy Council) Ordinance deposited with the Registrar of this Court a sum of Rs. 3,000/- on the 19th day of May, 1961, and by his bond dated the same day hypothecated the said sum with the Registrar of this Court.

20     3. The 2nd Defendant-Appellant-Petitioner has on the 19th day of May, 1961 lodged stamps with the Registrar for the duty payable in respect of the Registrar's Certificate in Appeal to Her Majesty in Council.

4. The 2nd Defendant-Appellant-Petitioner has also deposited with the said Registrar a sum of Rs. 300/- in respect of the amounts and fees mentioned in Section 4(2) (b) and (c) of the Appeals (Privy Council) Ordinance (Cap. 85).

WHEREFORE the 2nd Defendant-Appellant-Petitioner prays that he be granted Final Leave to appeal against the said judgment and decree of this Court dated the 26th day of January, 1961, to Her Majesty the Queen in  
 30 Council, costs and such other and further relief in the premises, though herein not specially prayed for, as to Your Lordships' Court shall seem meet.

(Sgd.) BEN SAMARASINGHE,  
*Proctor for 2nd Defendant-Appellant-Petitioner.*

No. 18  
Decree  
granting  
Final Leave  
to Appeal to  
the Privy  
Council.  
9-6-61.

## No. 13

# Decree Granting Final Leave to Appeal to the Privy Council

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

S. C. Application No. 241/'61.

## IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an Application dated 23rd May, 1961 for Final Leave to  
Appeal to Her Majesty the Queen in Council by the 2nd Defendant-Appellant-Petitioner against the decree dated 26th January, 1961. 10

D. ROBOSINGHO MUDALALI *alias* GAMPAHA MUDALALI, of  
Asgiriya, Gampaha.....*2nd Defendant-Appellant, Petitioner.*

*Vs.*

L. D. P. JAYAWARDENA and another, both of Katuwawala,  
Boralesgamuwa.....*Plaintiffs-Respondents, Respondents.*

B. W. PATHIRANA of Rajapihilla Road, Kurunegala.  
.....*1st Defendant-Respondent, Respondent.*

DR. M. G. PERERA of No. 72, New Bullers Road Colombo 7.  
.....*3rd Defendant-Respondent, Respondent.*

Action No. 10868/L(S.C. No. 194/'58 (Final). 20

District Court of Kurunegala.

This cause coming on for hearing and determination on the 9th day of  
June, 1961 before the Hon. Thusew Samuel Fernando, Q.C., and the Hon.  
Henry Wijayakone Tambiah, Q.C., Puisne Justices of this Court, in the  
presence of Counsel for the 2nd Defendant-Appellant-Petitioner.

It is considered and adjudged that the Application for Final Leave to  
Appeal to Her Majesty the Queen in Council be and same is hereby allowed.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at  
Colombo, the 14th day of June, in the year One Thousand Nine Hundred  
and Sixty-One and of Our Reign the Tenth. 30

(Sgd.) B. F. PERERA,  
*Deputy Registrar, S.C.*



## PART II

2 D 4

Extract from the Ceylon Government Gazette, No. 6,927—  
Friday, March 1, 1918

Part III — Lands ; Page 357 & 358

Kurunegala S.O. 1,991

Order under section 4, Sub-section (1), of “The Waste Lands Ordinance of 1897, 1899, 1900, and 1903.”

In the matter of the lands commonly called or known as Elabodahenyaya and Medakumburapillewa, situate in the village of Chandarayagama, in the  
10 Divigandahe Korale of the Hiriya hatpattu of the Kurunegala District, in the North-Western Province, and of “The Waste Lands Ordinance of 1897, 1899, 1900, and 1903.”

WHEREAS in pursuance of section 1 of the said Ordinances it was duly declared and notified on the 17th day of March, 1916, that if no claims to the lands commonly called or known as Elabodahenyaya and Medakumburepillewa situate in the village of Chandarayagama, in the Divigandahe korale of the Hiriya hatpattu, of the Kurunegala District, in the North-Western Province, containing in extent 50 acres and 27 perches, and shown as lots L 114A and O 114 in preliminary plan 4,516 and in the annexed  
20 diagrams, was made to John Murray Davies, Special Officer appointed under section 28 of the said Ordinances within the period of three months from the date specified in the said notice, such lands would be declared the property of the Crown, and dealt with on account of the Crown (*vide* Notice No. 5,790):

And whereas (1) Henry Fernando, (2) Albert Cyril Fernando made claim thereto, and Howard Orme Fox, Special Officer appointed under section 28 of the said Ordinances, made due inquiry into such claim, and whereas the said claimants and I, with the consent of His Excellency the Governor, came to an agreement in writing dated the 4th day of October,  
30 1916, concerning the said lands, under section 4, sub-section (1), of the said Ordinances, whereby it was agreed that the said claimants should be declared the purchasers of the said lands upon payment on or before the 4th day of January, 1917, to the Settlement Officer of a sum of Rupees One thousand Five hundred only (Rs. 1,500), as the purchase amount of the said lands, and whereas the said amount has been duly paid by the claimants, they are hereby, in pursuance of the agreement aforementioned declared to be the purchasers of the said lands, as more fully described herein below.

2 D 4  
Extract  
from the  
Ceylon  
Government  
Gazette  
No. 6,927  
of Friday,  
March 1,  
1918.  
4-9-1917.

2 D 4  
Extract  
from the  
Ceylon  
Government  
Gazette  
No. 6,927  
of Friday,  
March 1,  
1918.  
4-9-1917.  
—continued.

### Description of the Lands referred to :—

The following lots situated in the village Chandarayagama, in the Divigandahe korale of the Hiriya hatpattu of the Kurunegala District, in the North-Western Province, as described in the annexed diagram :—

#### Preliminary plan 4,516

<i>Lot</i>		<i>Name of Land</i>		<i>Extent, A.</i>	<i>R.</i>	<i>P.</i>
L 114A	...	Elabodahenyaya	...	47	2	0
O 114	...	Medakumburepillewa	...	2	2	27
				50	0	27

(Exclusive of the road passing through the land) 10  
and bounded as follows : on the north by Elabodahenyaya, (reservation for road) to be declared the property of the Crown under the Waste Lands Ordinances, Ambagahawatta claimed by Mudiyanse and others, Medakumbura claimed by ditto ; on the east by Medakumbura (reservation for road) claimed by the Crown, road to be declared the property of the Crown under the Waste Lands Ordinances, Medakumbura (reservation for road) to be declared the property of the Crown under the Waste Lands Ordinances, road to be declared the property of the Crown under the Waste Lands Ordinances, Alutwewehenyaya (reservation for road) to be declared the property of the Crown under the Waste Lands Ordinances, Digamawatta <sup>20</sup> claimed by Kiribanda and others ; on the south by Digamakumburepillewa claimed by Kiribanda and others, Elabodahenyaya (reservation for road) to be declared the property of the Crown under the Waste Lands Ordinances ; on the West by Elabodahenyaya to be declared the property of the Crown under the Waste Lands Ordinances.

Survey General's Office,  
Colombo, September 4, 1917.

(Sgd.) A. H. G. DAWSON,  
*for Surveyor General.*

(For diagram see page 358)

**Diagram Omitted.**

Scale of 4 Chains to an Inch.

30

J. M. DAVIES,  
Special Officer.

November, 5, 1917.

Government Record Office,  
Colombo, December 1, 1953.

TRUE COPY  
(Sgd.) Illegibly,  
*Govt. Record Keeper.*

## Deed of Transfer, No. 406

PRIOR REGISTRATION (Kurunegala) B 120/293.

Search dispensed with.

P 1  
Deed of  
Transfer,  
No. 406—  
11-9-41.

AUSTIN FERNANDO,  
Proctor & Notary,  
Colombo.

Regd. B 120/293, Kurunegala 13 Sep. 1941.

SEAL of Land Registry, Kurunegala.  
No. 18422, dated 13 Sep. 1941.

10

(Sgd.).....  
R.L.

No. 406.

KNOW ALL MEN BY THESE PRESENTS THAT I Singappulige Rana Fernando of Old Road, Kalutara South in the Island of Ceylon (hereinafter sometimes referred to as the said Vendor) for and in consideration of the sum of RUPEES ONE THOUSAND (Rs. 1,000/-) of lawful money of Ceylon well and truly paid to me by Mahamarakkalage Gregory Perera of Colombo in the Island of Ceylon (the receipt whereof I do hereby admit and acknowledge) have granted bargained sold assigned transferred and set over and do by  
20 these presents grant bargain sell assign transfer and set over unto the said Mahamarakkalage Gregory Perera (hereinafter sometimes referred to as the said Vendee) his heirs, executors administrators and assigns the premises fully described in the Schedule hereunder written together with all and singular the rights ways easements advantages servitudes and appurtenances whatsoever to the said premises belonging or in any wise appertaining or usually held occupied used or enjoyed therewith or reputed or known as part or parcel thereof, and together with all the estate right title interest property claim and demand whatsoever of the said Vendor in to upon or out of the said premises and every part thereof and together with all the  
30 title deeds vouchers and other writings therewith held or relating thereto which said premises have been held and possessed by me the said Vendor.

TO HAVE AND TO HOLD the said premises hereby sold and conveyed with the right and appurtenances unto the said Vendee his heirs executors administrators and assigns absolutely for ever.

AND I the said vendor do hereby for myself and my heirs executors and administrators covenant promise and declare with and to the said vendee his heirs executors administrators and assigns that I have good right and full power to sell and convey the said premises as aforesaid and that the said premises hereby sold and conveyed are free from any encumbrance whatsoever and that I the said Vendor have not at any time heretofore made done  
40 or committed or been party or privy to any act deed matter or thing whatsoever whereby or by means whereof the said premises or any part thereof are is can shall or may be impeached or encumbered in title charge estate are otherwise howsoever and that I the said Vendor and my aforewritten shall

P 1  
Deed of  
Transfer,  
No. 406—  
11-9-41.  
—continued.

and will at all times hereafter warrant and defend the same and every part thereof unto the said Vendee and my aforewritten against any person or persons whomsoever and further also shall and will at all times hereafter at the request and cost of the said Vendee or his aforewritten do and execute or cause to be done and executed all such further and other acts deeds assurances matters and things whatsoever for the further and more perfectly assuring the said premises hereby sold and conveyed and every part thereof unto the said Vendee and his aforewritten as by the said Vendee or his aforewritten may be reasonably required.

IN WITNESS WHEREOF I the said Singappulige Rana Fernando do hereunto<sup>10</sup> and two others of the same tenor and date as these presents set my hand at Colombo on this Eleventh day of September, One Thousand Nine Hundred and Forty-One.

The Schedule above referred to :—

All those two contiguous allotments called Elabodahenyaya and Medakumburahenyaya marked L 114 A and O 114 appearing in P.P. 4516 situated at Chandarayagama in Divigandahe Korale of the Hiriyale Hath Pattu of the District of Kurunegala North-Western Province and bounded on the North by Elabodahenyaya (reservation for road) to be declared the property of the Crown under the Waste Lands Ordinance, Ambagahamulawatte<sup>20</sup> claimed by Mudiyanse and others, Medakumbura claimed by Mudiyanse and others, on the East by Medakumbura, (reservation for road) claimed by the Crown, road to be declared the property of the Crown under the Waste Lands Ordinance, Medakumbura (reservation for road) to be declared the property of the Crown under the Waste Lands Ordinance, road to be declared the property of the Crown under the Waste Lands Ordinance, Alutwewahenyaya (reservation for road) to be declared the property of the Crown under the Waste Lands Ordinance, Digamawatte claimed by Kiribanda and others on the South by Digamakumburapillewa claimed by Kiribanda and others, Elabodahenyaya (reservation for road) to be de-<sup>30</sup>clared the property of the Crown under the Waste Lands Ordinance on the West by Elabodahenyaya to be declared the property of the Crown under the Waste Lands Ordinance containing in extent Fifty Acres and Twenty-Seven Perches (50A-0R-27P), held and possessed by right of inheritance from my son and grandson Singappulige Henry Fernando and Singappulige Albert Cyril Fernando deceased.

(Sgd.) RANA FERNANDO (in Sinhala.)

This is the Signature of

SINGAPPULIGE RANA FERNANDO.

WITNESS :—

40

1. (Sgd.) E. GOONESEKERA.

2. (Sgd.) O. M. SAMEEN.

(Sgd.) M. AUSTIN FERNANDO,  
*Notary Public.*

I Manuel Austin Fernando of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the said Vendor Singappulige Rana Fernando who has signed in Sinhalese in the presence of Edwin Vanroyen Goonesekere of the Kachcheri, Kurunegala and Pakeer Omer Mohamed Sameen of Maligawatte, Colombo who have signed as "E. Goonesekera" and "O. M. Sameen" respectively, the subscribing witnesses hereto and all of whom are known to me the same was signed by the said Vendor and also by the said witnesses in my presence and in the presence of one  
10 another all being present at the same time at Colombo on this Eleventh day of September, One Thousand Nine Hundred and Forty-One.

And further certify and attest that in the Original in line 41 of page 2 "and" was interpolated and in line 2 of page 3 the words "of the" were deleted before the foregoing Instrument was read over and explained as aforesaid and that out of the consideration hereinmentioned a sum of Rs. 700/- was set off in settlement and discharge of Promissory Note dated 20th June, 1941 granted by the said Vendor in favour of the Vendee and the balance Rs. 300 was paid in my presence and that the Duplicate hereof bears two stamps of the value of Rs. 15/- and the Original a stamp of Re. 1/-.

20

(Sgd.) M. AUSTIN FERNANDO,  
*Notary Public.*

Date of Attestation }  
11th Sept. 1941. } S E A L

---

2 D7

Receipt No. W/5 48562

2 D7  
Receipt No.  
W/5, 48562  
14-2-45.

W/5, No. 48562.

Date 14-2-1945.

Received from: K. M. Dingiri Banda Kulatunga the sum of Rupees fifty and cents Nil, being rent for 50 acres of land in F.V.P. 1848 Chandrayagama.

30

(Sgd.) Illegibly,  
*Shroff, Kurunegala Kachcheri.*

Rs. 50/-.

2 D8

2 D8  
Letter sent  
to K. M.  
Dingiri  
Banda  
Kulatunga  
by  
Government  
Agent,  
N. W. P.  
17-5-48.

Letter sent to K. M. Dingiri Banda Kulatunga  
by Government Agent, N.W.P.

No. LDC/MCC/FVP 1848.

To :

MR. K. M. DINGIRI BANDA KULATUNGA,  
Waraddana, Weuda.

M. C. Lands — FVP 1848 Chandrayagama.

With reference to the Land Kachcheri which was held at the Kachcheri on 28-4-48 in connexion with above, I find that the land allotted to you<sup>10</sup> from lot L. 114A is private land. You must therefore vacate the clearings in this lot. Instead you are allotted 25 acres from lot L. 114. This is mapped out "Chena" and action will be taken to vary the mapping out results for this lot. The actual conversion will be held up until remapped out and a fresh Land Kachcheri will be advertised after variation of mapping out result.

(Sgd.) Illegibly,  
for Govt. Agent, N.W.P.

The Kachcheri,  
Kurunegala, 17th May, 1948.

20

P2  
Deed of  
Transfer  
No. 3098—  
5-5-53.

P2

Deed of Transfer No. 3098

PRIOR REGISTRATION : B 120/298 Kurunegala.

Registered — B. 120/298.  
Kurunegala — 12 May, 1953.

(Sgd.).....  
Registrar of Lands.

SEAL of the Land Registry.  
No. 14792 dated 12 May, 1953.

No. 3098.

30

KNOW ALL MEN BY THESE PRESENTS THAT I Dr. Mahamarakkalage Gregory Perera of New Bullers Road in Colombo (hereinafter sometimes called and referred to as the Vendor) for and in consideration of the sum of Rupees Five Thousand (Rs. 5,000/-) of lawful money of Ceylon well and truly paid to me by Lennie Dixon Perera Jayawardena and Galpottage

Hendrick Perera both of Katuwawala in the Palle Pattu of Salpiti Korale (hereinafter called and referred to as the Vendees) (the receipt whereof I do hereby admit and acknowledge) have, granted, bargained, sold, assigned, transferred, and set over, and do by these Presents, grant, bargain, sell, assign, transfer and set over unto the said Vendees their heirs, executors, administrators and assigns the premises fully described in the schedule hereto together with all and singular the rights, ways, easements, advantages, servitudes and appurtenances whatsoever thereto belonging or in anywise appertaining or usually held used occupied  
10 or enjoyed therewith, or reputed or known as part or parcel thereof and together with all the estate right, title interest, claim and demand, whatsoever of me the said Vendor, of, in, to, upon, or out of, the said premises and every part thereof and together with all the title deeds, vouchers, and other writings therewith held or relating thereto, which said premises have been held and possessed by me the said Vendor under and by virtue of Deed No. 406 dated the 11th day of September, 1941 attested by M. A. Fernando of Colombo, Notary Public.

To HAVE and To HOLD the said premises hereby sold and conveyed with the rights and appurtenances unto them the said Vendees their heirs,  
20 executors, administrators, and assigns absolutely and for ever.

AND I the said Vendor for myself my heirs, executors, and administrators do hereby covenant promise and declare with and to the said Vendees their heirs, executors, administrators, and assigns that the said premises hereby sold and conveyed are free from any encumbrance whatsoever and that I have not at any time heretofore made done or committed or been party or privy to any act deed matter or thing whatsoever whereby or by means whereof the said premises or any part thereof are is can shall or may be impeached or encumbered in title charge estate or otherwise howsoever and that I and my aforewritten shall and will at all times hereafter warrant  
30 and defend the title to the said premises and every part thereof unto them and their aforewritten against any person or persons whomsoever and further also shall and will at all times hereafter at the request and cost of the said Vendees or their aforewritten do and execute or cause to be done and executed all such further and other acts deeds assurances matters and things whatsoever for the further and more perfectly assuring the said premises hereby sold and conveyed and every part thereof unto them and their aforewritten as by them or their aforewritten may be reasonably required.

IN WITNESS WHEREOF I the said Dr. Mahamarakkalage Gregory  
40 Perera do hereunto and unto two others of the same tenor and date as these presents set my hand at Hulftsdorf in Colombo on this Fifth day of May One Thousand Nine Hundred and Fifty Three.

### The Schedule above referred to

All those two contiguous allotments of land called Elabodahenyaya and Meda Kumburahenyaya marked L 114 A and O 114 appearing in P.P. 4516 situated at Chandrayagama in Divigandahe Korale of the Hiriya Hat

P2  
Deed of  
Transfer  
No. 3098—  
5-5-53.  
—continued.

Pattu in the District of Kurunegala, North-Western Province and bounded on the North by Elabodahenyaya (reservation for road) to be declared the property of the Crown under the Waste Lands Ordinance, Ambagahamulawatta claimed by Mudiyanse and others, Medakumbura claimed by Mudiyanse and others on the East by Medakumbura (reservation for a road) claimed by the Crown road to be declared the property of the Crown Land under the Waste Lands Ordinance, Medakumbura (reservation for a road) to be declared the property of the Crown under the Waste Lands Ordinance road to be declared the property of the Crown under the Waste Lands Ordinance, Alutwewahenyaya (reservation for a road) to be declared the<sup>10</sup> property of the Crown under the Waste Lands Ordinance, Digamawatta claimed by Kiribanda and others on the South by Digamakumburapillewa claimed by Kiribanda and others Elabodahenyaya (reservation for a road) to be declared the property of the Crown under the Waste Lands Ordinance on the West by Elabodahenyaya to be declared the property of the Crown under the Waste Lands Ordinance containing in extent Fifty acres and twenty seven perches (A50-R0-P27).

(Sgd.) M. G. PERERA.

WITNESSES :—

(Sgd.) C. W. WICKREMASINGHE.

20

(Sgd.) U. L. R. DE SILVA.

(Sgd.) H. A. ABEYEWARDENE,  
*Notary Public.*

I, HENRICUS ABRAHAM ABEYEWARDENE of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing Instrument having been duly read over by Dr. Mahamarakkalage Gregory Perera the Vendor therein named who signed as "M. G. Perera" and who is known to me in the presence of Charles Valentine Wickremasinghe who signed as "C. V. Wickremasinghe" of 199, Katuwawala Road, Boralesgamuwa and Uswatteliyanage Robert de Silva who signed as U. L. R. de<sup>30</sup> Silva of Katuwawala in the Palle Pattu of Salpiti Korale the subscribing witnesses thereto both of whom are not known to me the same was signed by the said Vendor by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present together at the same time at Hultsdorf in Colombo aforesaid on this Fifth day of May in the year One Thousand Nine Hundred and Fifty Three.

And I further certify and attest that out of the consideration Rs. 5,000/- within named a sum of Rs. 4,500/- was paid in my presence and the balance



sum of Rs. 500/- was acknowledged by the Vendor to have been received prior to the execution of These Presents that the Original of this Instrument bears a stamp of the value of one Rupee, and the duplicate of this instrument bears five stamps to the value of Rupees Seventy nine.

P 2  
Deed of  
Transfer  
No. 3098—  
5-5-53.  
—continued.

Date of attestation :  
5th May, 1953.

(Sgd.) H. A. ABEYEWARDENE,  
*Notary Public.*

## 2 D3

### Power of Attorney granted to Claude Stanley Fernando by Stella Agnes Letitia de Silva and 2 others

2 D3  
Power of  
Attorney  
granted to  
Claude  
Stanley  
Fernando  
by Stella  
Agnes  
Letitia de  
Silva & 2  
others—  
21-9-53.

10 To All To Whom These Presents Shall Come We, Stella Agnes Letitia de Silva *Nee* Fernando, Lily Olga Talalla *Nee* Fernando and Harry Lionel Fernando all of Kuala Lumpur in the State of Selangor in the Federation of Malaya.

#### SEND GREETINGS :

Whereas We Stella Agnes, Letitia de Silva, Lily Olga Talalla and Harry Lionel Fernando are entitled by paternal inheritance from Henry Fernando deceased to certain undivided shares in the property called and known as "Elabodahenyaya" "Medakumburapillewa" which lots are also called "Chandragama" situated in the village Chandrayagama in Hiriyala Hat  
20 Patu Divigandahe Korale in the Kurunegala District North-Western Province in the Island of Ceylon Containing in extent Fifty Acres and twenty seven perches (A50 R0 P27) more or less hereinafter called the said lands.

And whereas we, Stella Agnes Letitia de Silva *Nee* Fernando, Lily Olga Talalla *Nee* Fernando and Harry Lionel Fernando, desire to sell and dispose of all our shares rights and interests in the said land.

Now Know Ye and These Presents Witness that we the said Stella Agnes Letitia de Silva, Lily Olga Talalla and Harry Lionel Fernando do hereby nominate constitute and appoint our brother Claude Stanley Fernando of No. 25, School Lane, Bambalapitiya in Colombo in the Island of  
30 Ceylon to be our true and lawful attorney for us and on our behalf and in our names to do the following acts and things or any of them.

2 D8  
Power of  
Attorney  
granted to  
Claude  
Stanley  
Fernando  
by Stella  
Agnes  
Letitia de  
Silva & 2  
others—  
21-9-53.  
—continued.

1. To Sell and dispose of All our shares rights and interests in all the said lands or land called "Elabodahenyaya" and "Medakumburapillawa" also called "Chandragama" either together or in lots and either by public Auction or private Contract and with condition not to warrant and defend title and also to execute such deed or deeds for conveying the said premises to any purchaser or purchasers thereof.

2. To sign, seal execute and deliver in conformity with the laws and usages of the said Island of Ceylon a Deed or Deeds of Transfers at such time or times as our said attorney shall think fit.

3. To give effectual receipts for our shares of the purchase money of 10 the said land or lands as our said attorney shall think fit.

4. And we the said Stella Agnes Letitia de Silva, Lily Olga Talalla and Harry Lionel Fernando hereby declare that all and every the receipts deeds matters and things which shall be by our said attorney given made executed or done for the aforesaid purpose shall be as good valid and effectual to all intents and purposes whatsoever as if the same had been signed sealed delivered given or made or done by each of us in our own proper persons.

5. And we hereby undertake at all times to ratify whatsoever our said attorney shall lawfully do or cause to be done by Virtue of these presents.

In Witness whereof we have hereunto set our hands and seal this 21st<sup>20</sup> day of September in the year One thousand Nine hundred and fifty three (1953).

Signed, Sealed, and Delivered by the said Stella Agnes Letitia de Silva, Lily Olga Talalla and Harry Lionel Fernando in the presence of:—

(Sgd.) STELLA AGNES LETITIA.

(Sgd.) LILY OLGA TALALLA.

(Sgd.) HARRY LIONEL FERNANDO.

S E A L

Stamp

1. (Sgd.) Illegibly.

Seal.

2. (Sgd.) Illegibly.

80

*Bar-at-law, Advocate and  
Solicitor, Kuala Lumpur.*

I, Prakassam Samuel First Class Magistrate of the Federation of Malaya, Kuala Lumpur hereby certify that the signatures of the donors abovenamed were written in my presence on this day of September, 1953 and is according to information given to me by trustworthy and respectable persons namely Mr. Ajit Kumar Sen of 45, Mountbatten Road, Kuala Lumpur, and Chieu Kim Seng of 45, Mountbatten Road, Kuala Lumpur, which information I

verily believe the true signatures of Stella Agnes Letitia de Silva, Lily Olga Talalla and Harry Lionel Fernando who have acknowledged to me that they are of full age and that they have voluntarily executed this instrument.

# SEAL

*Witness my hand :*

(Sgd.) Illegibly.

1. (Sgd.) Illegibly,  
*Bar-at-law 45, Mountbatten Rd.,  
Kuala Lumpur.*

2. (Sgd.) S. CHIEU KIM SENG.  
*Clerk to M/S Benjamin & Sen,  
45, Mountbatten Rd.  
Kuala Lumpur.*

2 D8  
Power of  
Attorney  
granted to  
Claude  
Stanley  
Fernando  
by Stella  
Agnes  
Letitia de  
Silva & 2  
others—  
21-9-53.  
—continued.

10

## 2 D2

### Power of Attorney granted to Claude Stanley Fernando by Leila Godiva Fernando

TO ALL TO WHOM THESE PRESENTS SHALL COME I, Leila Godiva Fernando, Spinster of No. 8, Fort Canning Road, Singapore and in the Colony of Singapore,

2 D2  
Power of  
Attorney  
granted to  
Claude  
Stanley  
Fernando  
by Leila  
Godiva  
Fernando  
28-9-53

#### SEND GREETINGS :

Whereas I, Leila Godiva Fernando am entitled by paternal inheritance  
20 from Albert Cyril Fernando son of Henry Fernando deceased to certain undivided shares in the property called and known as "Elabodahenyaya" "Medakumburapillewa" which lots are also called "Chandragama" situated in the village Chandrayagama in Hiriyala Hat Pattu Divigandahe Korale in the Kurunegala District North-Western Province in the Island of Ceylon containing in extent Fifty acres and Twenty seven perches (A50 R0 P27) more or less hereinafter called the said lands.

AND WHEREAS I desire to sell and dispose of all my shares rights and interests in the said lands.

NOW KNOW YE AND THESE PRESENTS WITNESS THAT I,  
30 the said Leila Godiva Fernando do hereby nominate Constitute and appoint my Uncle Claude Stanley Fernando of No. 25, School Lane, Bambalapitiya in Colombo in the Island of Ceylon to be my true and lawful attorney for me and on my behalf and in my name to do the following acts and things or any of them.

1. To sell and dispose of all my shares rights and interests in all the said lands or land called "Elabodahenyaya" and "Medakumburapillewa" also called "Chandragama" either together or in lots and either by public auction or private contract and with condition not to warrant and defend title and also to execute such deed or deeds for Conveying the said premises  
40 to any purchaser or purchasers thereof.

2 D2  
Power of  
Attorney  
granted to  
Claude  
Stanley  
Fernando  
by Leila  
Godiva  
Fernando  
28-9-58.  
—continued.

2. To sign, seal, execute and deliver in conformity with the laws and usages of the said Island of Ceylon a Deed or Deeds of Transfers at such time or times as my said attorney shall think fit.

3. To give effectual receipts for my share of the purchase money of the said land or lands as my said attorney shall think fit.

4. And I the said Leila Godiva Fernando hereby declare that all and every the receipts deeds matters and things which shall be by my said attorney given made executed or done for the aforesaid purpose shall be as good valid and effectual to all intents and purposes whatsoever as if the same had been signed sealed delivered given or made or done by me in my own proper person.

5. And I hereby undertake at all times to ratify whatsoever my said attorney shall lawfully do or cause to be done by virtue of these presents.

In witness whereof, I have hereunto set my hand and seal this 28th day of September in the year One Thousand Nine Hundred and Fifty Three (1953). Signed, Sealed and Delivered by the said Leila Godiva Fernando in the presence of:—

1. (Sgd.) A. K. GILL.

(Sgd.) L. G. FERNANDO.

2. (Sgd.) K. SINNIAS.

On this 28th day of September A.D. 1953 before me Matthews Abraham and Advocate and Solicitor of the High Court of the Colony of Singapore, practising in the Island of Singapore, personally appeared Leila Godiva Fernando who from information given to me by trustworthy and respectable persons *Viz*:— Amar Kaur Gill of No. 8, Fort Canning Road, Singapore, Teacher and Kamala Devi Sinniah of No. 8, Fort Canning Road, Singapore, Teacher, I verily believe to be the identical person whose name "Leila Godiva Fernando" was subscribed to the above written instrument and acknowledged that she had voluntarily executed this instrument at Singapore.

Witness my hand:—

(Sgd.) M. ABRAHAM.

Know all men by these presents that I Eugene Horace d'Netts Magistrate and Justice of Peace for the Colony of Singapore Do hereby certify that on the 30th day of September, 1953 personally appeared Matthews Abraham and acknowledged to me that the within named Leila Godiva Fernando did voluntarily execute the within written instrument in his presence after the contents thereof had been made known to the said Leila Godiva Fernando. In Faith and Testimony whereof I have herunto subscribed my hand and Seal of Office at Singapore this 30th day of September, One Thousand Nine Hundred and Fifty Three (1953).

S E A L

(Sgd.) Illegibly.  
*Police Magistrate & Justice of Peace.*

## Deed of Transfer No. 35

2 D 1  
Deed of  
Transfer  
N.35—  
7-10-53.

Search for encumbrances  
dispensed with.  
Prior Registration :—  
B. 55/361-362 ; 88/330.

Regd. B 115/282-283 ;  
324/42-43.  
Kurunegala, 14 Oct. 1953.

No. 35.

(Sgd.).....  
*Registrar.*

Transfer, Rs. 4,500/-

TO ALL TO WHOM THESE PRESENTS SHALL COME WE,  
<sup>10</sup> Claude Stanley Fernando of No. 25, School Lane, Bambalapitiya, Stella  
 Agnes Letitia de Silva, Lily Olga Talalla and Harry Lionel Fernando all of  
 Kuala Lumpur in the State of Selangor in the Federation of Malaya by our  
 attorney Claude Stanley Fernando duly appointed thereto by right of the  
 power of attorney granted to the said Claude Stanley Fernando and dated  
 21st day of September, 1953 and certified by Prakasam Samuel, First Class  
 Magistrate of the Federation of Malaya, Kuala Lumpur and Leila Godiva  
 Fernando of No. 8, Fort Canning Road, Singapore and in the colony of  
 Singapore by my attorney the said Claude Stanley Fernando duly appointed  
 thereto by right of the power of attorney granted to the said Claude Stanley  
<sup>20</sup> Fernando and certified by E. H. d'Netts, Police Magistrate and Justice of the  
 Peace for the Colony of Singapore and dated the 30th September, 1953 and  
 Chandra Bede Fernando of the Young Men's Christian Association, Colombo  
 Fort (hereinafter sometimes called or referred to as the said Vendors)

Send Greeting.

Whereas I, the said Claude Stanley Fernando is the owner and proprietor  
 of the lands and premises more fully described in the Schedules 1 to 4 hereto  
 by right of paternal inheritance of my late father Henry Fernando of Bam-  
 balapitiya and the said Stella Agnes Letitia de Silva, Lily Olga Talalla,  
 Harry Lionel Fernando have authorised the said Claude Stanley Fernando  
<sup>30</sup> by the said Power of Attorney to sell or otherwise dispose of only the land  
 and premises more fully described in the Schedule 4 hereto and which said  
 land and premises described in the said Schedule 4 hereto is owned by them  
 by right and virtue of paternal inheritance of their late father Henry Fer-  
 nando of Bambalapitiya.

And whereas Dr. Albert Cyril Fernando of Dematagoda in Colombo was  
 entitled to the said lands and premises more fully described in the Schedule  
 4 hereto by right and virtue of paternal inheritance of his late father the said  
 Henry Fernando.

And whereas the said Leila Godiva Fernando has authorised the said  
<sup>40</sup> Claude Stanley Fernando by the said Power of Attorney to sell or otherwise  
 dispose of only the land and premises more fully described in the Schedule 4  
 hereto and which said land and premises is owned by her by right and virtue  
 of paternal inheritance of her late father the said Dr. Albert Cyril Fernando.

2 D 1  
Deed of  
Transfer  
No. 35—  
7-10-58.  
—continued.

And Whereas I the said Chandra Bede Fernando is the owner and proprietor of all the land and premises more fully described in the Schedule 4 hereto by right and virtue of paternal inheritance of my late father the said Dr. Albert Cyril Fernando.

And Whereas We the said Claude Stanley Fernando on my behalf and on behalf of the said Stella Agnes Letitia de Silva, Lily Olga Talalla, Harry Lionel Fernando and Leila Godiva Fernando and the said Chandra Bede Fernando are desirous of transferring the said lands and premises more fully described in the Schedules 1 to 4 hereto to Dolewattage Robo Singho of Asgiriya in Dasiya Pattu of Alut Kuru Korale (hereinafter sometimes called 10 or referred to as the said Vendee) for the absolute sale and assignment unto him of the said premises in the said Schedules 1 to 4 hereto fully and particularly described for the consideration hereinafter mentioned.

Now Know Ye and These Presents Witness that the said Vendors in pursuance of the said agreement and in consideration of the sum of Rupees Four Thousand Five Hundred (Rs. 4,500/-) lawful money of Ceylon well and truly paid to the said Vendors by the said Vendee (the receipt whereof the said Vendors do hereby admit and acknowledge) doth hereby grant sell convey assign transfer set over and assure unto the said Vendee and his heirs executors administrators and assigns the said premises in the said Schedules 20 1 to 4 hereto fully described together with all and singular the buildings and plantations thereon and the rights, ways, water courses privileges easements servitudes and appurtenances whatsoever thereof or thereunto in any wise belonging or used or enjoyed therewith or reputed to belong or appurtenant thereto as part or parcel thereof and all the estate right title interest claim and demand whatsoever of the said Vendors into upon or out of the same and all title deeds vouchers and other writings relating thereto.

To Have and To Hold the said premises hereby conveyed or expressed or intended so to be and every part thereof unto the said Vendee and his aforewritten absolutely for ever. 30

And the said Vendors for ourselves and our heirs executors and administrators covenant and declare with and to the said Vendee and his aforewritten that the said premises hereby sold and assigned and every part thereof are free from all encumbrances and that we have good right and full power to grant and convey the said premises in manner aforesaid and shall not warrant and defend the title to the said premises hereby sold and assigned or any part thereof against any person or persons whomsoever and the said Vendors shall and with and will at all times hereafter at the request and cost of the said Vendee and his aforewritten do and execute or cause to be done and executed all such further and other acts deeds matters and 40 things which shall or may be necessary for the better or more perfectly assuring the said premises hereby sold and assigned and every part thereof unto the said Vendee and his aforewritten as by him or his aforewritten shall or may be reasonably required.

### The Schedule 1 above Referred To

All that lands and fields called Gedaragawawewa containing in extent Three Roads and Thirty One Perches (A0 R3 P31), Ihalawewa in extent Two Acres Three Roods and Nineteen Perches (A2 R3 P19), Meda Kumbura in extent Ten Acres Three Roods and Thirty Two Perches (A10 R3 P32), Ambahagamulawatta *alias* Hitinawatta in extent Two Acres Three Roods and Two Perches (A2 R3 P2) adjoining one another and now forming one property situated at Chandrayagama in the Hiriya Hat Pattu of Divigandaha Korale in the District of Kurunegala North-Western Province  
 10 and bounded on the North by Gansabawa Road and Alutwewahenyaya, South and West by Thimbiriwela Henyaya and on the East by Alutwewahenyaya and Thimbiriwela Henyaya together containing in extent Seventeen Acres Two Roods and Four Perches (A17 R2 P4), according to the figure of Survey number 3328 by George G. Weeraratna Licensed Surveyor.

2 D 1  
 Deed of  
 Transfer  
 No. 35—  
 7-10-53  
 —continued.

### The Schedule 2 above referred To

The following two fields to wit : Chandrayagama Welyaya and Aswed-dumekumbura adjoining each other and situated in the village of Chandrayagama aforesaid bounded on the North by the boundary of Palugolla Mukalana East by the Boundary Digama South by Wagama Ela and on the West by  
 20 the Boundary of Kalawanagama containing in extent about Six (6) amunas of paddy sowing.

### The Schedule 3 above Referred To

All that field called Weboda Kumbura situated at Chandrayagama aforesaid and bounded on the North by Wekanda South by the liminary ridge of the field of Dingiri Appu, East by Pillewa, West by Pillewa containing in extent fifty (50) lahas paddy sowing.

### The Schedule 4 above Referred To

All those allotments of land shown as Lot L 114 A and O 114 in PP4516 and known as Elabodahenyaya in extent Forty Seven Acres and Two Roods  
 30 (A47 R2 P0) and Medakumbura Pillewa in extent Two Acres Two Roods and Twenty Seven Perches (A2 R2 P27) and containing in extent Fifty Acres and Twenty Seven Perches (A50 R0 P27) and which lots are now called and known as " Chandragama " situated in the village Chandrayagama aforesaid and bounded on the North by Elabodahenyaya (reservation for road) declared the property of the Crown under the Waste Lands Ordinance, Ambagahamulawatta claimed by Mudiyanse and others Medakumbura claimed by Mudiyanse and others East by Medakumbura (reservation for road) claimed by the Crown and declared the property of the Crown under the Waste Lands Ordinance Alutwewahenyaya (reservation for road)  
 40 declared the property of the Crown under the Waste Lands Ordinance, Digamawattta claimed by Kiri Banda and others, South by Digame Kumbura Pillewa claimed by Kiri Banda and others, Elabodahenyaya (reservation for road) declared the property of the Crown under the Waste Lands Ordinance, West by Elabodahenyaya declared the property of the Crown under the Waste Lands Ordinance.

2 D 1  
Deed of  
Transfer  
No. 85—  
7-10-53  
—continued.

In Witness whereof the said Vendors doth hereunto and to two others of the same tenor and date as these presents set their hands at Gampaha on this Seventh day of October One Thousand Nine Hundred and Fifty Three.

*Witnesses :—*

Signed and delivered in the  
presence of us and we declare  
that we are well acquainted with  
the executants above-named  
and know their proper names  
occupations and residences.

(Sgd.).....

(Sgd.).....

CLAUDE S. FERNANDO.  
STELLA AGNES LETITIA DE SILVA.  
LILY OLGA TALALLA.  
HARRY LIONEL FERNANDO.  
LEILA GODIVA FERNANDO.

10

by their attorney,  
CLAUDE S. FERNANDO.

(Sgd.) CLAUDE S. FERNANDO.

I, Sellappullige Leonard Christopher Rosa of Gampaha in the Island of<sup>20</sup> Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the said Claude Stanley Fernando and also to the said Claude Stanley Fernando the attorney of the said Stella Agnes Letitia de Silva, Lily Olga Talalla and Harry Lionel Fernando and Leila Godiva Fernando duly appointed thereto by Power of Attorney dated 21st day of September, 1953 and 30th September, 1953 respectively, certified copies whereof are annexed to the Duplicate and Protocol of these presents and the said Chandra Bede Fernando who are not known to me in the presence of Stanley Wijesekera of Gampaha and Hettipathirennelage Podi Singo Gunawardena of Gam-<sup>30</sup> paha, the subscribing witnesses hereto both of whom are known to me, the same was signed by the said Vendors and by the said witnesses and also by me the said Notary in the presence of one another all being present at the same time at Gampaha on the Seventh day of October One Thousand Nine Hundred and Fifty Three.

And I further certify and attest that in line 4 page 1 of the Original the words "On my behalf of" were deleted and in line 5 in page 1 of the said Original "and on behalf of" were deleted and in page 1 line 7 of the said Original the words "by our Attorney Claude Stanley Fernando duly appointed thereto" were interpolated and wherein "our" and "Claude Stanley"<sup>40</sup> were written over erasures and in page 1 line 11 of the said Original "the said Claude Stanley Fernando on behalf of" were deleted and in page 1 line



13 of the said Original " by my attorney the said Claude Stanley Fernando duly appointed thereto " were interpolated and wherein " my " was written over an erasure, and in the Duplicate of this Instrument in page 1 line 4, " on my behalf " was deleted and in line 5 of page 1 of the said Duplicate " and on behalf of " was deleted and in line 7 page 1 of the said Duplicate " by our attorney Claude Stanley Fernando duly appointed thereto " was interpolated, wherein " our " was written over an erasure and " sc " deleted and in line 11 page 1 of the Duplicate " the said Claude Stanley Fernando on behalf of " was deleted and in line 13 page 1 of the Duplicate " by my  
10 attorney the said Claude Stanley Fernando duly appointed thereto " was interpolated before the foregoing instrument was read over and explained as aforesaid by me the said Notary.

And I further certify and attest that in page 1 line 28 of the Original of this Instrument the words " described in the said Schedule 4 hereto " was interpolated and in line 33 of the page 1 of the said Original the " s " in the word " Schedules " and the figure " 1 " and also the word " to " were deleted. In page 2 line 6 of the said Original the letter " s " in the word " Schedules " and the figure " 1 " and also the word " to " were deleted and also in page 2 line 37 of the said Original the word " so " was interpolated ; in page 3  
20 line 1 the letters " fou " were deleted and in page 4 line 8 of the said Original the word " Six " was interpolated and in page 5 line 12 of the said Original the figures " 7th " and " 19 " were deleted and in line 22 of the said Original in page 3 the figures " 2 " and " 3 " were written over erasures and that the said deletions and interpolations and written over erasures were made before the foregoing Instrument was duly read over and explained as aforesaid by me the said Notary and also in page 4 line 20 of the said Original the words " and containing in extent Fifty Acres and Twenty Seven Perches (A50 R0 P27), and " were interpolated before the foregoing instrument was read over and explained as aforesaid by me the said Notary.

30 And I further certify and attest that in page 1 of line 4 of the Duplicate of this Instrument the word " and " was deleted and also in line 23 of page 1 of the said Original the word " late " was interpolated and also in line 33 page 1 of the said Original the letter " s " in the word " Schedules " and the figure " 1 " and the word " to " were deleted and in page 2 line 11 of the said Duplicate the figure " 1 " and word " to " were deleted and in line 41 of the said page 2 of the said Duplicate the word " so " was interpolated and in page 3 line 1 of the said Duplicate the letters " fou " were deleted and also in page 3 line 21 of the said Duplicate the figure " 3 " after the letter " R " has been written twice over and in line 23 of the said Dupli-  
40 cate in page 3 the figures " 2 " and " 3 " were written over erasures and in page 3 line 24 of the said Duplicate " mula " has been interpolated to form the word " Ambagahamulawatta " and in line 25 page 3 of the said Duplicate the letter " w " has been written twice over and in page 4 line 6 of the said Duplicate the letter " g " in the word " Wagama " has been written twice over and also in line 8 of page 4 of the said Duplicate the word " six " was interpolated and also in line 20 page 4 of the said Duplicate the words " and containing in extent Fifty Acres and Twenty Seven Perches (A50 R0 P27) and " was interpolated and also in page 5 line 1 of the said Duplicate the word " Lands " were deleted and that the said deletions

2 D1  
Deed of  
Transfer  
No. 35—  
7-10-58.  
—continued.

interpolations and written twice overs were made before the foregoing Instrument was duly read over and explained as aforesaid by me the said Notary.

And I further certify and attest that the consideration hereinmentioned namely the sum of Rupees Four Thousand Five Hundred (Rs. 4,500/-) was paid by cash in my presence.

And I further certify and attest that the Duplicate of the Instrument bears four stamps of the value of Rupees Seventy Four (Rs. 74/-) and that the Original of this Instrument bears a stamp of Rupee One (Re. 1/-) and that the said stamps were supplied by me the said Notary. 10

Date of Attestation :  
7th October, 1953.

(Sgd.) L. C. ROSA,  
Notary Public.

P 3  
Plaint in  
M.C.  
Kurunegala  
Case  
No. 6128—  
26-11-58.

### P 3 & P 4

### Plaint in M. C. Kurunegala Case No. 6128 and Order made by Magistrate Kurunegala

### IN THE MAGISTRATE'S COURT OF KURUNEGALA

CASE No. 6128.

GALPOTTAGE HENDRICK PERERA of Katuwawela in Salpiti Korale,  
Colombo.....*Complainant.*

*Vs.*

20

1. W. MARTHELIS APPUHAMY at Chandarayagama.
2. B. W. PATHIRANA of Kurunegala.
3. ROBO SINGHO MUDALALI *alias* GAMPAHA MUDALALI presently  
of Padeniya.....*Accused.*

This 26th day of November, 1953.

1. The Complainant abovenamed complains that the three accused abovenamed did on or about the 22nd November, 1953 enter the contiguous allotments of lands called Elabodahenyaya and Medakumburehenyaya, situated at Chandarayagama within the jurisdiction of this Court and in the occupation of the Complainant with intent to annoy the Complainant<sup>30</sup> and thereby committed an offence punishable under Section 433 of the Penal Code read with Section 32 of the penal Code.

2. That at the same time and place aforesaid the accused abovenamed did enter the house belonging to the Complainant and thereby committed

house trespass an offence punishable under Section 434 of the Penal Code read with Section 32 of the Penal Code.

(Sgd.) G. HENDRICK PERERA,  
*Complainant.*

P 3  
Plaint in  
M.C.  
Kurunegala  
Case  
No. 6128—  
26-11-53.  
—continued.

26-11-53. Compl't. G. Hendrick Perera, (Pt.).  
Issue S.S. for 12-12-53.

(Sgd.) C. V. UDALAGAMA,  
*Magistrate.*

10 12-12-53. Compl't. G. Hendrick Perera, (Pt.).  
Accd. 1. W. Marthelis Appuhamy, (Ab.).  
2. B. W. Pathirana, (Pt.).  
3. Robo Singho Mudalali, (Pt.).  
S.S. served on 2nd and 3rd accused and not served on 1st.  
accused.  
Re-issue on 1st. accused for 2/1/54.

(Sgd.) C. V. UDALAGAMA,  
*Magistrate.*

20 2-1-54. Compl't. G. Hendrick Perera, (Pt.).  
Accd. 1. W. Marthelis Appuhamy, (Pt.).  
2. B. W. Pathirana, (Pt.).  
3. Robo Singho Mudalali, (Pt.).  
S.S. served on 1st accused.  
Accused present. Charged from plaint.  
States I am not guilty. Trial 6/2/54.  
Accused warned.

(Sgd.) C. V. UDALAGAMA,  
*Magistrate.*

30 P4. 6-2-54. Compl't. G. Hendrick Perera, (Pt.).  
Accd. 1. W. Marthelis Appuhamy, (Pt.).  
2. B. W. Pathirana, (Pt.).  
3. Robo Singho Mudalali, (Pt.).  
Trial.

P 4.  
Order  
made by the  
Magistrate  
in M. C.  
Kurunegala  
Case  
No. 6128—  
6-2-54.

Mr. Ranaweera for Complainant.  
Mr A. E. O. de Silva for accused.

The 2nd and 3rd accused claim the lands Elabodahenyaya and Medakumbure Pillawe by right of purchase and undertake to give security in a sum of Rs. 2,000/- on or before 27-2-1954.

P 4  
Order  
made by the  
Magistrate  
in M. C.  
Kurunegala  
Case  
No. 8128—  
6-2-54.  
—continued.

The Complainant will thereafter bring a civil action to have his rights declared within 2 months of security being furnished.

Call case on 27-2-54 for security.

(Sgd.) C. V. UDALAGAMA,  
*Magistrate.*

(Sgd.) B. W. Pathirana.

(Sgd.) Robo Singho.

(Sgd.) G. Hendrick Perera.

27-2-54. Compl't. G. Hendrick Perera, (Pt.).  
Accd. 1. W. Marthelis Appuhamy, (Pt.).  
2. B. W. Pathirana, (Pt.).  
3. Robo Singho, (Pt.).

10

Case called for security.  
Security furnished. Accused discharged.

(Sgd.) C. V. UDALAGAMA,  
*Magistrate.*  
27/2/54.

## CHARGE SHEET

Summary Form No. 1A.

20

W. M. APPUHAMY.  
B. W. PATHIRANA.  
ROBO SINGHO MUDALALI.

Date 26th Nov. 1953.

The accused are charged as follows :—

You are hereby charged, that you did, within the jurisdiction of this Court, at Kurunegala on 22-11-53 enter the contiguous allotments of lands called Elabodahenyaya and Medakumburahenyaya situated at Chandrayagama within the jurisdiction of this Court and in the occupation of the Complainant and thereby committed an offence punishable under Section 433 of the Penal Code read with section 32 of P.C.

80

2. That at the same time and place aforesaid the accused abovenamed did enter the house belonging to the Complainant and thereby committed house trespass an offence punishable under Section 434 of the Penal Code read with section 32 of the Penal Code.

The charge having been read, and each accused having been asked if he has any cause to show why he should not be convicted he states as follows :—

Typed and compared by (Sgd.) .....

TRUE COPY

(Sgd.) .....  
*Chief Clerk,* 40

Magistrate's Court.  
Kurunegala, 2-4-54,

## Certificate of Birth of Claude Stanley

Application No. 19045.

No. 5859.

2 D6  
Certificate  
of Birth  
of Claude  
Stanley—  
11-12-57.

## CERTIFICATE OF BIRTH

Western *Province.* Colombo *District*Colombo Municipality *Division No. 4.*

Date and Place of Birth :	Twenty second — 22nd December, 1903. 5, Dias Place, St. Sebastian Ward.
10 Name :	Claude Stanley.
Sex :	Male.
Name and Surname of Father :	Henry Fernando Abeyaratna.
Name and Maiden Name of Mother, and Race :	Engeltina Fernando, Sinhalese.
Rank or Profession, and Race of Father :	Teacher, Sinhalese.
Were Parents married :	Yes.
Name and Residence of Informant, and in what capacity he gives 20 Information :	H. F. Abeyratna, 5, Dias Place, Father.
Informant's Signature :	Birth Registered on the Declaration of the abovenamed informant Under Section 12.
When Registered :	Thirty first — 31st January, 1903.
Signature of Registrar :	(Sgd.) C. Brito Babapulle.
Name if added or altered after Registration of Birth :	—
Date of Addition or Alteration :	—

I do hereby certify that the foregoing is a true copy of a birth registration  
80 entry filed of record in this office.

District Registrar's Office :  
Colombo, December 11, 1957.

(Sgd.) Illegibly.  
*Additional District Registrar.*

## 2 D9

**Extract from the Ceylon Government Gazette  
No. 9,850 of April, 2, 1948.**

**Notification of Land Kachcheri to Select Persons to Receive Permits—  
(Middle-Class Ceylonese).**

NOTICE is hereby given that the Government Agent, N.W.P., Kurunegala, will hold a Land Kachcheri, under the Land Development Ordinance, at 9-30 A.M. on Wednesday, April 28, 1948, at the Kurunegala Kachcheri to consider applications for the lands, particulars of which are given below, and to select persons to receive permits for portions thereof. 10

2. Allotments will be confined to Middle-Class Ceylonese.

3. All applications must reach the Government Agent at the Kurunegala Kachcheri, on or before April 12, 1948.

4. Every Applicant should attend the Land Kachcheri in person or depute someone to represent him. If neither the applicant nor any person deputed to represent him attends the Land Kachcheri, the Assistant Government Agent may presume that the applicant does not wish to pursue his application further.

5. Inquiries with regard to this Land Kachcheri should be addressed to the Government Agent, N.W.P., Kurunegala. 20

6. Preference will be given to persons who have already developed these lands under the Food Production Scheme.

7. Selected applicnats will be required to take up residence on the lands.

**A. R. RATNAVALE,**  
*for Government Agent, N.W.P.*

**Particulars of Land to be dealt with.**

**Final village plan No. 1,848.**

<i>Lot :</i>	<i>Village :</i>	<i>Approximate Extent :</i>			<i>Crops for which land is suited :</i>	
		A.	R.	P.		
M 114	Chandrayagama	87	0	0	Coconut and fruit trees.	30

**Final village plan No. 1,849.**

1, 4 & 5	Acharigama	62	0	0	do.
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**Final village plan No. 1,996.**

2, 5 & 10	Galawewa	51	1	17	do.
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**Final village plan No. 1,876.**

3	Ehetuwewa	20	0	0	do.
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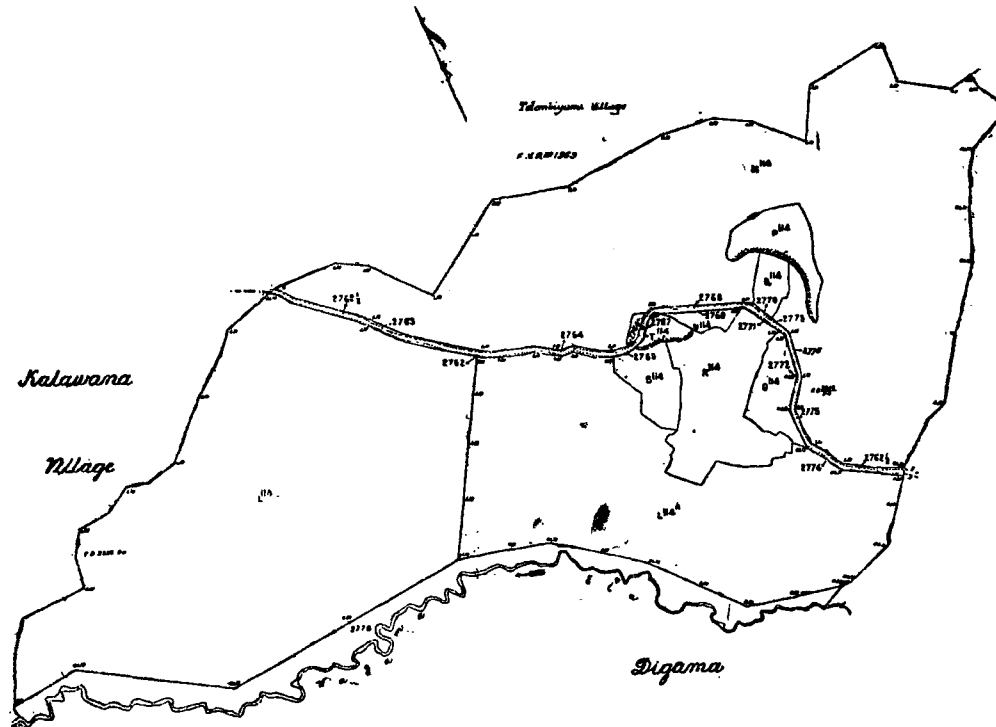
51

2 D5

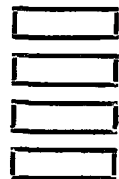
16 Chain Record Sheets  $\frac{1}{9}$  1<sup>A</sup> & 1<sup>B</sup>

# MAPPING OUT DIAGRAM

2 D5  
Mapping Out  
Diagram.



## REFERENCE



Crown  
Private High Lands  
Private Fields & Deniyas  
Economic Products

F.V.P. 1848

*Chandarayagama*  
In Divigandahe Korale Hiriyala Hat Pattu  
Kurunegala District  
NORTH-WESTERN PROVINCE

Scale of 16 Chains to an Inch

Surveyor General's Office

Colombo.....1934

Coloured by  
Examd: „

No. 55 1962

Supreme Court of Ceylon,  
No. 194 (Final) of 1958.

District Court of Kurunegala,  
case No. 10868/Land.

*In Her Majesty's Privy Council  
on an Appeal from  
The Supreme Court of Ceylon*

BETWEEN

D. ROBOSINGHO MUDALALI *alias* GAMPAHA  
MUDALALI of Asgiriya, Gampaha.  
*2nd Defendant-Appellant.*  
**APPELLANT.**

AND

1. L. D. P. JAYAWARDENA,
2. GALPOTTAGE HENDRICK PERERA, both of  
Katuwawala, Boralessgamuwa. *Plaintiffs-Respondents.*
3. B. W. PATHIRANA of Rajapihilla Road, Kurunegala.  
*1st Defendant-Respondent.*
4. DR. M. G. PERERA of No. 72, New Bullers Road,  
Colombo 7.....*3rd Defendant-Respondent..*  
**RESPONDENTS.**

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**RECORD  
OF PROCEEDING**

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