

In the Privy Council.

ON APPEAL
FROM THE SUPREME COURT OF CEYLON.

BETWEEN

NAGAMMAI ACHI, widow of A. T. K. P. L. MUTTIAH
CHETTIAR and PALANIAPPA CHETTIAR son of
V. R. M. T. ARUNACHALAN CHETTIAR both of
Sirukoodalpatti in Ramnad District South India
(Plaintiffs) substituted in place of the late A. T. K. P. L.
MUTTIAH CHETTIAR pursuant to Order in Council
dated the 17th March 1955 *Appellants*

AND

A. R. L. LAKSHAMANAN CHETTIAR of No. 42,
Kaluwella Street, Galle (Defendant) *Respondent.*

RECORD OF PROCEEDINGS

DARLEY CUMBERLAND & CO.,
36 JOHN STREET,
BEDFORD ROW, W.C.1,
Solicitors for the Appellant.

HY. S. L. POLAK & CO.,
20/21 TOOKS COURT,
CURSITOR STREET, E.C.4,
Solicitors for the Respondent.

In the Privy Council.

ON APPEAL
FROM THE SUPREME COURT OF CEYLON.

BETWEEN

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dated the 17th March 1955 *Appellants*

AND

A. R. L. LAKSHAMANAN CHETTIAR of No. 42,
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In the Privy Council.

ON APPEAL FROM THE SUPREME COURT OF CEYLON

BETWEEN

NAGAMMAI ACHI, widow of A. T. K. P. L. MUTTIAH
CHETTIAR and PALANIAPPA CHETTIAR son of
V. R. M. T. ARUNACHALAN CHETTIAR both of
Sirukoodalpatti in Ramnad District South India
(Plaintiffs) substituted in place of the late A. T. K. P. L.
MUTTIAH CHETTIAR pursuant to Order in Council
dated the 17th March 1955 *Appellants*

AND

A. R. L. LAKSHAMANAN CHETTIAR of No. 42,
Kaluwella Street, Galle (Defendant) *Respondent.*

RECORD OF PROCEEDINGS

*In the
District
Court of
Galle.*

No. 1.
PLAINT.

No. 1.
Plaint,
29th July
1942.

IN THE DISTRICT COURT OF GALLE.

A. T. K. P. L. M. MUTTIAH CHETTIAR . . . Plaintiff

Vs.

A. R. L. LAKSHAMANAN CHETTIAR . . . Defendant.

See amended *Plaint* filed on 25.1.43.

20 No. X56.

Nature : Money.

Class :

Amount Rs.20278/42.

On this 29th day of July 1942.

The *plaint* of the Plaintiff abovenamed appearing by D. V. A. Gunasekera his Proctor states as follows :—

1. The Defendant resides and carries on business at Galle and the causes of action hereinafter set out accrued to the Plaintiff within the jurisdiction of this Court.

*In the
District
Court of
Galle.*

No. 1.
Plaint,
29th July
1942,
continued.

2. From about the year 1927 the Plaintiff was carrying on money lending business at No. 164, Sea Street, Colombo under the vilasam of A. T. K. P. L. M. The said business was wound up in or about the year 1933.

3. The Defendant abovenamed was the agent of the Plaintiff in Ceylon from 1927 till the Plaintiff's business was wound up in 1933. As Plaintiff's Agent the Defendant was in full charge and control of the Plaintiff's business during the said period.

FOR A FIRST CAUSE OF ACTION

4. One I. M. S. Alles of Galle had borrowed from the Plaintiff's firm 10 a sum of Rs.7,000/- on a promissory note dated 1st January 1931. Thereafter the said Alles paid to the Plaintiff's firm a sum of Rs.500/- out of the said sum of Rs.7,000/- on the 27th June 1931 and there was a balance of Rs.6,500/- due to the Plaintiff from the said Alles.

5. The Defendant on the 1st of September 1932 wrote off the said sum of Rs.6,500/- in the books of the Plaintiff's firm as an irrecoverable debt. The Defendant ceased to be the agent of the Plaintiff in Ceylon as from the 31st January 1933.

6. Thereafter the Defendant at Galle within the jurisdiction of this Court wrongfully, unlawfully and fraudulently and without the knowledge 20 of the Plaintiff received in October 1934 from the executor of the estate of the said Alles a sum of Rs.8,500/- in settlement of the debt due to the Plaintiff from the estate of the said Alles and misappropriated the said amount to himself. In receiving the said money the Defendant fraudulently represented himself as the agent of the Plaintiff. This fraud of the Defendant in receiving this sum of Rs.8,500/- was discovered by the Plaintiff only in February 1942.

7. A cause of action has now accrued to the Plaintiff to sue the Defendant for the recovery of a sum of Rs.12,495/- to wit :—Rs.8,500/- being the principal amount and Rs.3,995/- being interest thereon at six 30 per centum per annum from October 1934 up to date, which amount or any part thereof the Defendant has failed and neglected to pay though thereto often demanded.

FOR A SECOND CAUSE OF ACTION

8. In January 1933 there was due to the Plaintiff's firm on the decree in case No. 27002 of this Court a sum of Rs.5,918/29 from the estate of one C. D. A. Samaranayake of Galle.

9. On the 10th February 1933 at Galle within the jurisdiction of this Court, the Defendant after he had ceased to be the agent of the Plaintiff wrongfully unlawfully and without the knowledge of the Plaintiff 40 assigned the balance due on the said decree to one A. L. A. S. M. Alagappa Chettiar who was a partner of the Defendant at that time for a sum of Rs.3,000/-.

10. The Plaintiff has reasons to believe that the said assignment by the Defendant to the said A. L. A. S. M. Alagappa Chettiar was a merely colourable transaction and that the said A. L. A. S. M. Alagappa Chettiar was acting as Defendant's nominee and agent for collection of the amount due upon the said decree.

*In the
District
Court of
Galle.*

11. The Defendant collected the sum of Rs.5,706/81 from the Defendant in the said case No. 27002 of this Court through the said A. L. A. S. M. Alagappa Chetty.

No. 1.
Plaint,
29th July
1942,
continued.

12. The Defendant has failed and neglected to pay over the said sum of Rs.3,000/- or the full sum of Rs.5,706/81 to the Plaintiff and the Plaintiff became aware of this recovery in or about February 1942.

13. A cause of action has accrued to the Plaintiff to sue the Defendant for the recovery of the said sum of Rs.5,706/81 or in the alternative the sum of Rs.3,000/- together with interest thereon at six per centum per annum from the date of recovery, up to date.

FOR A CAUSE OF ACTION ALTERNATIVE TO THE ABOVE TWO
CAUSES OF ACTION.

14. The Plaintiff states that the Defendant in collecting the said two sums of Rs.8,500/- and Rs.5,706/81, constituted himself trustee for the Plaintiff and is liable to account for the said two sums together with interest thereon at six per centum per annum from the dates of recovery up to date to Plaintiff.

FOR A FURTHER CAUSE OF ACTION ALTERNATIVE TO THE FIRST
TWO CAUSES OF ACTION.

15. The Defendant wrongfully misrepresented to the Plaintiff that the said two debts were irrecoverable and thereafter recovered the said sums of Rs.8,500/- and from the estate of the said Alles and Rs.5,706/81 from the Defendant in case No. 27002 of this Court. The Defendant fraudently and wrongfully concealed the fact of collection of the said two sums by him.

16. The Plaintiff became aware of the said collections on or about the dates stated above.

17. By reason of the foregoing facts a cause of action has accrued to the Plaintiff to sue the Defendant for the damages.

18. The Plaintiff assesses the damages at Rs.20,278/42 to wit :— Rs.14,206/81 being the amounts received by the Defendant and Rs.6,071/61 being interest thereon at 6 per centum per annum from dates of recovery up to date.

19. There is now due and owing to the Plaintiff from the Defendant on the said two causes of action the sum of Rs.20,278/42 to wit :— Rs.14,206/81 being the principal amount and Rs.6,071/61 being interest

*In the
District
Court of
Galle.*

thereon at 6 per centum per annum from the dates of recovery stated above up to date. The Defendant has failed and neglected to pay this amount or any part thereof though thereto often demanded.

No. 1.
Plaint,
29th July
1942,
continued.

WHEREFORE THE PLAINTIFF PRAYS :—

(A) That judgment be entered for the Plaintiff for the sum of Rs.20,278/42 together with legal interest thereon from the date of action till payment in full.

(B) Or on the alternative judgment be entered for Plaintiff for Rs.12,495/- on the first cause of action and for such amount as the court holds due to the Plaintiff on the second cause of 10 action.

(C) For costs of suit and for such other and further relief as to this Court shall seem meet.

(Sgd.) D. V. A. GUNASEKERA,
Proctor for Plaintiff.

Settled by
(Sgd.) N. NADARAJAH.

29.7.42 Plaint accepted.
Issue ss. for 20.8.42.

(Sgd.) M. SOMASUNTHARAM,
Advocates.

(Intld.) M.A.S.
D.J.

No. 2.
Answer,
21st
September
1942.

**No. 2.
ANSWER.**

20

IN THE DISTRICT COURT OF GALLE.

A. T. K. P. L. M. MUTHIAH CHETTIAR . . . Plaintiff

vs.

A. R. L. LAKSHAMANAN CHETTIAR . . . Defendant.

No. X.56.

Nature : Money.

Class :

Amount : Rs.20,278/42.

This 21st day of September 1942.

30

The answer of the Defendant above-named appearing by Mohamed S. Marikar his Proctor states as follows :—

1. The Defendant denies the averments in para. 1 of the Plaint and denies the jurisdiction of this Court.

2. The Defendant admits the averments in paras. 2 and 3 of the Plaintiff and states further that :—

(A) Defendant was agent under Plaintiff in the business referred to from the year 1919, and

(B) Defendant's charge and control of Plaintiff's business was subject to the orders and directions of Plaintiff given very frequently.

3. The Defendant admits the averments in paras. 4 and 8 of the Plaintiff.

10 4. Answering para. 5 of the Plaintiff the Defendant admits having written off the sum of Rs.6,500/- at the request and orders of the Plaintiff. Defendant is unable at this distance of time to speak to the exact date on which that item was written off.

5. The Defendant denies the averments in paras. 6, 7, 10, 11, 13, 14, 15, 16, 17, 18 and 19 of the Plaintiff.

6. Answering paragraph 9 of the Plaintiff the Defendant states :—

(A) That he assigned at the request and orders of Plaintiff the decree in case No. 27002 of this Court to the Alagappa Chettiar referred to therein.

20 (B) That the said assignment was made on 25th January 1933 before Defendant ceased to be agent of Plaintiff.

(C) That the said Alagappa Chettiar was not a partner of Defendant, but was Plaintiff's nominee.

(D) Defendant received no money or benefit by the said assignment.

7. The Defendant denied the averments in para. 12 of the Plaintiff and states further that there was no liability on his part to pay anything to Plaintiff.

8. Further answering the Defendant states :—

30 (A) That during the year 1932 and early in 1933 Plaintiff's business was failing and Plaintiff was unable to meet his creditors.

(B) Plaintiff therefore directed Defendant to close that business of Plaintiff and in that connection to assign to Alagappa Chettiar the decree in case No. 27002 of this Court and further to endorse and deliver to the said Alagappa Chettiar the note referred to in para. 4 of the Plaintiff.

(C) Defendant accordingly closed the business of Plaintiff, assigned the said decree and endorsed and delivered the said note. Defendant had thereafter nothing to do with the said decree or note.

40 (D) Thereafter Defendant rendered to Plaintiff a due and proper account of all his transactions as Plaintiff's attorney and

*In the
District
Court of
Galle.*

—
No. 2.
Answer,
21st
September
1942,
continued.

*In the
District
Court of
Galle.*

No. 2.
Answer,
21st
September
1942,
continued.

handed over to Plaintiff all books, letters and other documents connected with the agency of Defendant under Plaintiff. Thereupon by his writing dated the 28th of April 1934 Plaintiff gave Defendant a complete discharge and acknowledged that he had no present or future claims against Defendant. The said document prevents Plaintiff from maintaining the present action.

(E) Further by such conduct the Plaintiff had deprived Defendant of evidence which would have proved the complete falsity of Plaintiff's claim in this case. Plaintiff is thus estopped from making the present claim. 10

(F) The Alagappa Chettiar referred to above and Plaintiff have joined together and brought this action maliciously and out of other motives.

(G) Plaintiff's claims and causes of action are prescribed.

WHEREFORE THE DEFENDANT PRAYS—

(A) That Plaintiff's action be dismissed with costs.

(B) For such other and further relief as to this Court shall seem meet.

(Sgd.) MOHAMMED S. MARIKAR,
Proctor for Defendant. 20

Settled by me
(Sgd.) S. J. V. CHELVANAYAKAM,
Advocate.

No. 3.

REPLICATION of the Plaintiff.

No. 3.
Replica-
tion of the
Plaintiff,
7th
December
1942,

IN THE DISTRICT COURT OF GALLE.

A. T. K. P. L. M. MUTTIAH CHETTIAR . . . Plaintiff
Vs.
A. R. L. LAKSHAMANAN CHETTIAR . . . Defendant.

No. X 56. 30

On this 7th day of December, 1942.

The replication of the Plaintiff above-named appearing by D. V. A. Gunesekera, his proctor states as follows :—

1. The Plaintiff joins issue with the Defendant upon the details contained in the answer.

2. Further replying the Plaintiff states—

(A) That the sum of Rs.8,500/- set out in paras. 4, 5 and 6 of the plaint and the sum of Rs.5,706/81 set out in paras. 8, 9, 10,

11 and 12 of the plaint were recovered by A. L. A. S. M. Alagappa Chettiar referred to in para. 8 of the answer to whom the Defendant appears to have endorsed the said promissory note and assigned the said decree for collection on his behalf.

*In the
District
Court of
Galle.*

(B) That the said Alagappa was associated with the Defendant in the Defendant's business of S.S.L. in Galle.

No. 3.
Replica-
tion of the
Plaintiff,
7th
December
1942,
continued.

10 (c) That the Defendant wrongfully and fraudulently endorsed the said promissory note and assigned the said Decree to the said A. L. A. S. M. Alagappa Chettiar without any instructions from the Plaintiff and without his authority. The Defendant in so doing was acting in his own interest in order to misappropriate the said Promissory Note and the said Decree and or the proceeds thereof for his own use.

(D) That the Defendant is liable to make good the said sum of Rs.8500/- and the sum of Rs.5706/81 together with interest as set out in the plaint for having wrongfully and fraudulently endorsed the said promissory note and assigned the said Decree in favour of the said Alagappa Chettiar and thereby misappropriated the said promissory note and the said Decree and or the proceeds thereof.

20 3. Still further replying the Plaintiff denies that he ever authorised the Defendant either to endorse the promissory note or to assign the decree to the said Alagappa Chettiar. The Plaintiff denies the allegations in para. 8 of the answer save and except as hereinafter admitted.

4. The Plaintiff states the Defendant obtained the document referred to by him in para. 8 (D) of the answer by fraudulent misrepresentation and the said document does not release the Defendant from any fraudulent misappropriations.

WHEREFORE THE PLAINTIFF PRAYS :—

30 That judgment be entered for Plaintiff as prayed for in the plaint.

(Sgd.) D. V. A. GUNASEKERA,
Proctor for Plaintiff.

*In the
District
Court of
Galle.*

No. 4.
Order,
11th
December
1942.

**No. 4.
ORDER.**

Before the trial proceeds in this action, Mr. Nadarajah appears in support of the replication filed. The replication is dated the 7th December, 1942. Mr. Nadarajah admits that in view of certain statements contained in the answer of the Defendant, it has become necessary for the Plaintiff to set out his own version, so that proper issues might be framed at the trial.

Mr. Chelvanayagam, for the Defendants, objects to the replication being accepted and points out that inasmuch as the replication contains 10 new material to which the Defendant himself has to plead by way of an answer, the purpose which the Plaintiff has in view can only be achieved by amending the plaint, and not by way of a replication; that Defendant may have an opportunity of filing an answer after the amended plaint is filed.

I myself have read through the plaint in this case, including the replication, and I feel the proper course, in the circumstances, would be for the Plaintiff to amend his plaint, and the Defendant can then be given an opportunity to file an amended answer.

Amended plaint for 25/1.

20

Plaintiff will pay the Defendant taxed costs of to-day.

(Sgd.) M. A. SAMARAKOON,
D.J.

No. 5.
Amended
Plaint,
25th
January
1943.

**No. 5.
AMENDED PLAINT.**

IN THE DISTRICT COURT OF GALLE.

A. T. K. P. L. M. MUTTIAH CHETTIAR . . . Plaintiff

Vs.

A. R. L. LAKSHAMANAN CHETTIAR . . . Defendant.

No. X 56.

30

Nature : Money.

Class :

Amount Rs.20278/42.

On this 25th day of January 1943.

The amended Plaint of the Plaintiff above-named appearing by D. V. A. Gunasekera, his proctor states as follows :—

1. The Defendant resides and carries on business at Galle and the causes of action hereinafter set out accrued to the Plaintiff within the jurisdiction of this Court.

2. From about the year 1919 the Plaintiff was carrying on money lending business at No. 164 Sea Street, Colombo under the vilasam of "A. T. K. P. L. M." The said business was wound up in or about the year 1933.

*In the
District
Court of
Galle.*

3. The Defendant above-named was the agent of the Plaintiff in Ceylon from 1923 till the business was wound up in 1933. As Plaintiff's agent the Defendant was in full charge and control of the Plaintiff's business during the said period.

No. 5.
Amended
Plaint,
25th
January
1943,
continued.

FOR A FIRST CAUSE OF ACTION.

10 4. One I. M. S. Alles of Galle was indebted to the Plaintiff's firm in a sum of Rs.7000/- on a promissory note dated 1st January 1931. The said Alles had paid to the Plaintiff's firm a sum of Rs.500/- out of the said sum of Rs.7000/- on the 27th June 1931 and there was a balance of Rs.6,500/- and interest due to the Plaintiff's firm from the said Alles.

5. The Defendant on the 5th of December 1932 wrote off the said sum of Rs.6,500/- in the books of the Plaintiff's firm as an irrecoverable debt. The Defendant ceased to be agent for the Plaintiff in Ceylon as from the 31st January 1933.

20 6. Thereafter the Defendant wrongfully, unlawfully and fraudulently and without the authority or knowledge of the Plaintiff endorsed the said note to one A. L. A. S. M. Alagappa Chettiar who was associated with the Defendant in the Defendant's business of S. S. L. in Galle.

7. The Plaintiff has reasons to believe that the said endorsement by the Defendant to the said A. L. A. S. M. Alagappa Chettiar was a merely colourable transaction and that the said A. L. A. S. M. Alagappa Chettiar was acting as the Defendant's nominee and agent for collection of the amount due on the said note.

30 8. Thereafter the said A. L. A. S. M. Alagappa Chettiar at Galle within the jurisdiction of this Court without the knowledge of the Plaintiff received in October 1934 from the executor of the estate of the said Alles a sum of Rs.8,500/- in settlement of the debt due to the Plaintiff from the estate of the said Alles.

40 9. The Plaintiff pleads that in endorsing the said note in favour of the said A. L. A. S. M. Alagappa Chettiar the Defendant was acting in his own interest in order to misappropriate the said promissory note and/or the proceeds thereof for his own use. The Defendant is liable to make good to the Plaintiff the said sum of Rs.8,500/- together with interest thereon at 6 per centum per annum from October 1934 for having wrongfully and fraudulently endorsed the said note in favour of the said Alagappa Chettiar and thereby misappropriated the said promissory note and/or the proceeds thereof. This fraud of the Defendant in endorsing the said note and receiving the said sum of Rs.8,500/- was discovered by the Plaintiff only in February 1942.

10. A cause of action has now accrued to the Plaintiff to sue the Defendant for the recovery of a sum of Rs.12,496/- to wit: Rs.8,500/-

*In the
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Court of
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No. 5.
Amended
Plaint,
25th
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continued.

being the principal amount and Rs.3,995/- being interest thereon at 6 per centum per annum from October 1934 up to date which amount or any part thereof the Defendant has failed and neglected to pay though thereto often demanded.

FOR A SECOND CAUSE OF ACTION.

11. In January 1933 there was due to the Plaintiff's firm on the decree in case No. 27002 of this Court a sum of Rs.5,918/29 from the estate of one C. D. A. Samaranayake of Galle.

12. On the 25th of January 1933 at Galle within the jurisdiction of this Court the Defendant wrongfully unlawfully and fraudulently and without the knowledge or authority of the Plaintiff assigned the balance due on the said decree to A. L. A. S. M. Alagappa Chettiar who was associated with the Defendant in the Defendant's business of S. S. L. in Galle at that time for a sum of Rs.3,000/-. The Defendant did not pay over the said sum of Rs.3,000/- to the Plaintiff. 10

13. The Plaintiff has reasons to believe that the said assignment by the Defendant to the said A. L. A. S. M. Alagappa Chettiar was a merely colourable transaction and that the said Alagappa Chettiar was acting as Defendant's nominee and agent for collections of the amount due upon the said decree. The said Alagappa Chettiar collected the sum of Rs.5,706/81 from the Defendant in the said case No. 27002 of this Court between May 1933 and June 1938. 20

14. The Plaintiff pleads that in assigning the said decree in favour of the said A. L. A. S. M. Alagappa Chettiar the Defendant was acting in his own interest in order to misappropriate the said decree and or the proceeds thereof for his own use. The Defendant, i.e., liable to make good to the Plaintiff the said sum of Rs.5,706/81 together with interest thereon at 6 per centum per annum for having wrongfully and fraudulently assigned the said decree in favour of the said Alagappa Chettiar and thereby misappropriated the said decree and/or the proceeds thereof. The Plaintiff became aware of the assignment and the recoveries only in February 1942. 30

15. A cause of action has accrued to the Plaintiff to sue the Defendant for the recovery of the said sum of Rs.5,706/81 or in the alternative the sum of Rs.3,000/- together with interest thereon at 6 per centum per annum from the date of recovery up to date.

FOR A CAUSE OF ACTION ALTERNATIVE TO THE ABOVE TWO
CAUSES OF ACTION.

16. The Plaintiff states that the Defendant in endorsing the said note and assigning the said decree in favour of Alagappa Chettiar and in collecting through the said Alagappa Chettiar the said two sums of Rs.8,500/- and Rs.5,706/81 constituted himself a trustee for the Plaintiff and is liable to account for the said two sums together with interest thereon at 6 per centum per annum from the dates of recovery up to date to Plaintiff. 40

· FOR A FURTHER CAUSE OF ACTION ALTERNATIVE TO THE ABOVE
TWO CAUSES OF ACTION.

*In the
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17. The Defendant wrongfully and fraudulently misrepresented to the Plaintiff that the said two debts were irrecoverable and thereafter endorsed the said note and assigned the said decree in favour of the said Alagappa Chettiar. The Defendant fraudulently and wrongfully concealed the fact of the endorsement and assignment made by him and the subsequent collections of the said two sums.

No. 5.
Amended
Plaint,
25th
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1943,
continued.

18. The Plaintiff became aware of the said endorsement and the
10 assignment and the subsequent collections on or about the dates stated above.

19. By reasons of the foregoing facts a cause of action has accrued to the Plaintiff to sue the Defendant for damages.

20. The Plaintiff assesses the damage at Rs.20,278/42 to wit:—
Rs.14,206/81 being the amount received by the Defendant and Rs.6,071/61 being interest thereon at 6 per centum per annum from the date of recovery up to date.

21. There is now due and owing to the Plaintiff from the Defendant on the said two causes of action the sum of Rs.20,278/42 to wit:—
20 Rs.14,206/81 being the principal amount and Rs.6,071/61 being interest thereon at 6 per centum per annum from the dates of recovery stated above up to date. The Defendant has failed and neglected to pay this amount or any part thereof though thereto often demanded.

WHEREFORE THE PLAINTIFF PRAYS—

(A) That judgment be entered for the Plaintiff for the sum of Rs.20,278/42 together with legal interest thereon from the date of action till payment in full.

30 (B) Or on the alternative judgment be entered for the Plaintiff for Rs.12,495/- on the first cause of action and for such amount as the Court holds due to the Plaintiff on the second cause of action.

(c) For costs of suit and for such other and further relief as to this Court shall seem meet.

(Sgd.) D. V. A. GUNASEKERA,
Proctor for Plaintiff.

Settled by
M. SOMASUNTHERAM,
N. NADARAJAH, K.C.,
Advocates.

AMENDED ANSWER.

*In the
District
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Galle.*

No. 6.
Amended
Answer,
22nd
February
1943.

IN THE DISTRICT COURT OF GALLE.

A. T. K. P. L. M. MUTTIAH CHETTIAR . . . Plaintiff

vs.

A. R. L. LAKSHAMANAN CHETTIAR . . . Defendant.

No. X 56.

This 22nd day of February 1943.

The amended answer of the Defendant above-named appearing by Mohamed S. Marikar his Proctor states as follows :— 10

1. The Defendant denies the averments in paragraph 1 of the amended plaint and denies the jurisdiction of this Court.

2. The Defendant admits the averments in paragraphs 2 and 3 of the amended plaint and states further that :—

(A) Defendant was agent under Plaintiff in the business referred to from the year 1919, and

(B) Defendant's charge and control of Plaintiff's business was subject to the orders and directions of Plaintiff which were given very frequently.

3. The Defendant admits the averments in paragraphs 4 and 11 20 of the amended plaint.

4. Answering paragraph 5 of the amended plaint the Defendant states that the said sum of Rs.6,500/- was written off at the request and on the orders of Plaintiff but the Defendant is unable at this distance of time to speak to the exact date on which that item was written off.

5. Answering paragraphs 6 and 7 of the amended plaint the Defendant states that he endorsed and delivered the note therein mentioned to A. L. A. S. M. Alagappa Chettiar at the direction and on the orders of Plaintiff. Defendant denies the remaining averments in the said paragraphs. 30

6. The Defendant denies the averments in paragraphs 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21 of the amended plaint.

7. Answering paragraph 12 of the amended plaint the Defendant states that he assigned the decree therein mentioned to A. L. A. S. M. Alagappa Chettiar at the direction and on the orders of Plaintiff and that the Defendant received no money or other consideration for the said assignment. Defendant denies the remaining averments in the said paragraph.

8. Further answering the Defendant states that :—

(A) During the year 1932 and early 1933 Plaintiff's business 40 was failing and Plaintiff was unable to meet his creditors.

(B) Plaintiff therefore directed Defendant to close his business and in that connection directed Defendant to assign to Alagappa Chettiar the decree in Case No. 27002 of this Court, to endorse and deliver to the said Alagappa Chettiar the note referred to in paragraph 4 of the amended plaint and to write off in the books the amount due on the note.

*In the
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No. 6.
Amended
Answer,
22nd
February
1943,
continued.

(C) Defendant carried out the directions referred to in subparagraph (B) above and thereafter had nothing to do with the said decree or note.

10

(D) Thereafter Defendant rendered to Plaintiff a due and proper account of all his transactions as Plaintiff's attorney and handed over to Plaintiff all books, letters and other documents connected with the Defendant's employment as Plaintiff's agent. Thereupon by his writing dated the 28th of April 1934 Plaintiff gave Defendant a complete discharge and acknowledged that he had no present or future claims against Defendant. In the circumstances the Plaintiff is not entitled to maintain this action.

(E) Plaintiff's claims and causes of action are prescribed.

WHEREFORE THE DEFENDANT PRAYS

20

That Plaintiff's action be dismissed with costs and for such other or further relief as to this Court shall seem meet.

(Sgd.) MOHAMED S. MARIKAR,
Proctor for Defendant.

Settled by

(Sgd.) S. J. V. CHELVANAYAGAM,

(Sgd.) . . .,
Advocates.

MOTION to Amend Amended Answer.

*In the
District
Court of
Galle.*

No. 7.
Motion to
amend
Amended
Answer,
8th
November
1943.

IN THE DISTRICT COURT OF GALLE.

A. T. K. P. L. M. MUTTIAH CHETTIAR . . . Plaintiff

Vs.

A. R. L. LAKSHAMANAN CHETTIAR . . . Defendant.

No. X 56.

I move to amend paragraph 8 of the amended answer by adding the following sub-paragraph :—

8. (F) On or about the 28th day of April 1934 the Plaintiff 10
represented to the Defendant that the Plaintiff discharged the
Defendant from all present or future claims and relieved the
Defendant of all and any liability in respect of the said business and
requested the Defendant to hand over to the Plaintiff all documents
and records inclusive of all letters written by the Plaintiff to the
Defendant. Relying on the truth of the said representations the
Defendant handed over to the Plaintiff all documents and records
including in particular the letters written by the Plaintiff to the
Defendant. The Defendant states that by reason of these facts
the Plaintiff is now estopped from making any claim against the 20
Defendant.

Galle 8th day of November 1943.

(Sgd.) MOHAMED S. MARIKAR,
Proctor for Defendant.

Received notice.

I object.

(Sgd.) D. V. A. GUNASEKERA,
Proctor for Plaintiff.

No. X 56.

11th December 1942.

Mr. Advocate N. Nadarajah, K.C., with Mr. Adv. P. R. Gunasekera, 30
and Mr. Adv. Somasunderam, instructed by Mr. D. V. A. Gunasekera
for the Plaintiff.

Mr. Adv. Chelvanayagam with Mr. Adv. Panditha Gunawardena
instructed by Mr. Marikkar for the Defendant.

Mr. Nadarajah addresses the Court.

Cites—Section 79 of the Civil Procedure Code. 2nd Volume of
the Ceylon Law Reports, page 11. 4, Balasingham Notes on
cases, page 8. 2 Ceylon Law Weekly, page 168.

Mr. Chelvanayagam replies.

Cites—2 Ceylon Law Reports, page 125.

PLAINTIFF'S EVIDENCE.

No. 8.

W. Richard de Silva.

In the
District
Court of
Galle.

Plaintiff's
Evidence.

Mr. Nadarajah moves that he be allowed to call Mr. Richard de Silva to have his evidence recorded *de bene esse*. Mr. Chelvanayagam consents.

I record the evidence *de bene esse*.

No. 8.
W. Richard
de Silva.
Examina-
tion.

(Sgd.) M. A. SAMARAKOON,
D.J.

Mr. Nadarajah calls—

10 W. RICHARD DE SILVA, Sworn, Magistrate at Gampola.

I was the executor of the last will and testament of the late Mr. J. M. S. Alles and as such I had to meet some liabilities of the late Mr. Alles. One of the liabilities of Mr. Alles was to the firm called A. T. K. P. L. M. Letchimanan Chettiar. Mr. Alles had given a promissory note to secure that amount and I have that promissory note in my custody.

(Mr. Nadarajah marks the promissory note, P.1.)

The note was for Rs.7,000/- dated the 1st January, 1931, carrying interest at 12 per cent. in favour of A. T. K. P. L. M. Letchimanan Chettiar. I paid the amount of this note. I made the payment to A. L. A. S. M. 20 Alagappa Chettiar, No. 41, Kaluwella, Galle. I do not know these Chettiars by their names. I issued a cheque on the Mercantile Bank of India, Galle, on No. 2 account. The number of the cheque was A.521503 dated the 3rd October, 1934, and was in favour of A. S. M. Alagappa Chettiar. I do not know Letchimanan Chettiar. (Witness Karupaiya Pulle is called and shown to witness.) I know him. After I issued cheque for Rs.8,500/- I got a receipt. I produce that receipt, marked P.2 That receipt is signed by two witnesses. I know one Arunachalam. One signature may be his. I do not know if Arunachalam was the Agent of Letchimanan Chettiar. Arunachalam helped me to settle this amount 30 due on the note at this figure. He reduced the amount. I disclosed that payment in the schedule to the Final Account which I filed in Testamentary case No. 7394, as being made to A. T. K. P. L. M. Letchimanan Chettiar (Shown Schedule B of the Final Account, marked P.3.) In that schedule to the final account, I set out the person who was paid as A. T. K. P. L. M. Letchimanan Chettiar. I got the particulars from the note which was discharged. I originally got particulars from my father-in-law's notes. I told Arunachalam that I wanted to pay this amount and asked him to get the note. I knew that we were indebted to A. T. K. P. L. Firm. Alagappa was produced by Arunachalam whom I know. I went in search 40 of this firm, but I could not find. I was anxious to get back the note. Arunachalam appeared with Alagappa and Karupaiya and the note was produced. I paid Alagappa and got back the note.

XXD.

I saw the endorsement on the note P.1. It was there at the time it was brought to me. I was aware that the payee had endorsed it. (The

Cross-
examina-
tion.

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence,
continued.*

No. 8.

W. Richard
de Silva.
Cross-
examina-
tion,
continued.

Defendant is called in and shown to witness.). I do not know him. I do not remember him collecting money. The Defendant did not collect money. I have been practising in Galle as a Proctor, before I became the Magistrate. I was practising for about 19½ or 20 years. I left Galle on the 15th January, 1938. I do not think that I saw the Defendant until I saw him to-day.

(Sgd.) M. A. SAMARAKOON,
D.J.

No. 9.

Issues
Framed,
5th
November
1943.

No. 9.

ISSUES Framed.

No. X 56.

5th November, 1943.

10

Mr. Advocate Nadarajah, K.C. with Mr. Advocate P. R. Gunasekera and Mr. Advocate Somasunderam instructed by Mr. Gunasekera for the Plaintiff.

Mr. Advocate Chelvanayagam with Mr. Advocate Nadesan and Mr. Advocate Panditha Gunawardena instructed by Mr. Marikkar for the Defendant.

Mr. Nadarajah raises the following issues :—

(1) Did the Defendant wrongfully, unlawfully, fraudulently 20 and without the consent and approval of the Plaintiff endorse the promissory note marked P.1 to A. L. A. S. M. Alagappa Chettiar ?

(2) Did the Defendant by endorsing the said promissory note misappropriate the said note and or its proceeds ?

(3) Did the said Alagappa recover a sum of Rs.8,500/- on the said promissory note from the executor of the said estate ?

(4) Is the Plaintiff entitled to recover the said sum of Rs.8,500/- and interest from the Defendant ?

(5) Was the fraud as set out in issue No. 1 of the Defendant discovered by the Plaintiff on or about the month of February 30 1942 ?

(6) Did the Defendant on or about the 25th January, 1933 wrongfully, unlawfully, fraudulently and without the consent and knowledge of the Plaintiff assign to the said Alagappa Chettiar the decree in case No. 27002 of this Court for a sum of Rs.3,000/- ?

(7) By assigning the said decree did the Defendant misappropriate the said decree and or its proceeds ?

*In the
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(8) Did the said Alagappa Chettiar recover a sum of Rs.5,706/81 under the decree in the said case ?

(9) Is the Plaintiff entitled to recover from the Defendant the said sum of Rs.5,706/81 and interest ?

No. 9.
Issues
Framed,
5th
November
1943,
continued.

(10) Did the Defendant neglect and fail to hand over to the Plaintiff a sum of Rs.3,000/- referred to in issue 6 ?

10 (11) If issue (10) is answered in the affirmative is the Plaintiff entitled to recover from the Defendant the said sum of Rs.3,000/- and interest in any event ?

(12) Was the fraud of the Defendant referred to in issue (6) discovered in or about the month of February, 1942, by the Plaintiff ?

(13) Did the said Alagappa Chettiar collect the said two sums of Rs.8,500/- and Rs.5,706/81 for and on behalf of the Defendant ?

(14) Did the Defendant in collecting the said two sums become the trustees for the Plaintiff ?

20 (15) If issues (13) and (14) are answered in favour of the Plaintiff, is he entitled to recover the said two sums with interests thereon ?

(15A) If so at what rate ?

(16) Did the Defendant wrongfully and fraudulently represent to the Plaintiff for the said two debts on the promissory note P.1 and under the decree in case No. 27002 of this Court or either of them as being irrecoverable ?

(17) Did the Defendant thereafter recover the said two debts ?

(18) Did the Defendant fraudulently and wrongfully conceal the fact of the collection of the said two debts from the Plaintiff ?

30 (19) Did the Plaintiff become aware of the said endorsement, assignment and collection of the said debts in or about the month of February, 1942 ?

(20) If issues 16, 17, 18 and 19 are answered in favour of the Plaintiff, what damages is the Plaintiff entitled to recover from the Defendant ?

Mr. Chelvanayagam suggests the following issues :—

(21) Did the Defendant realise the sum of Rs.3,000/- or any other sum by reason of the assignment of the decree in case No. 27002 of this Court referred to in issues 6 and 10 ?

40 (22) If not, is the Defendant liable to the Plaintiff in respect of the sum of Rs.3,000/- or any other sum in respect of the assignment ?

*In the
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No. 9.
Issues
Framed,
5th
November
1943,
continued.

Mr. Chelvanayagam suggests that issue No. 13 be amended as follows :—

Did the Defendant through the said Alagappa Chettiar collect the said two sums of Rs.8,500/- and Rs.5,706/81 ?

(23A) Does the Defendant reside within the jurisdiction of this Court ?

(23B) Have the causes of action set out in the plaint arisen within the jurisdiction of this Court ?

(23C) If sub-issues (A) and (B) are answered against the Plaintiff, has this Court jurisdiction ?

10

(24) Did the Defendant endorse the note P.1 and/or assign the decree at the directions and on orders of the Plaintiff ?

(25A) Did the Defendant thereafter render an account to the Plaintiff of all the Defendant's transactions as Plaintiff's agent and hand over to the Plaintiff all books, letters and other documents connected with the Defendant's employment as Plaintiff's agent ?

(25B) Did the Plaintiff on the 28th April, 1934, give the Defendant a complete discharge and acknowledge that the Plaintiff had no present or future claims against the Defendant ?

(25C) If sub-issues (A) and (B) or either of them is answered in the affirmative is the Plaintiff entitled to maintain this action ?

20

(26) Did the Plaintiff on or about 28th April, 1934, represent to the Defendant that the Plaintiff discharged the Defendant from all present and future claims and relieve the Defendant of all or any liability in respect of the Plaintiff's business and request the Defendant to hand over to the Plaintiff all documents and records relating to the said business inclusive of all letters written by the Plaintiff to the Defendant ?

(27) Did the Defendant relying on the said representation hand over to the Plaintiff all documents and records relating to the said business ?

30

(28) If issues (26) and (27) are answered in the affirmative, is the plaintiff estopped from making any claim against the Defendant ?

(29) Are the Plaintiff's causes of action or any of them prescribed ?

Issue No. 13 will remain as it stands and I would allow the issue raised by Mr. Chelvanayagam and number it 13A.

Mr. Nadarajah objects to issues (26), (27), (28) on the ground that they do not arise from the pleadings.

40

Mr. Chelvanayagam does not contest the fact that in the amended answer, estoppel is not specifically pleaded. He however draws my attention to clauses A, B, C, and D. of paragraph 8 of the amended answer and contends that there is sufficient material in this paragraph on which an issue as to estoppel may be based.

Obviously that argument must fail because it is clear law, I think, that estoppel must be expressly pleaded.

Paragraph 8 of the amended answer says, so far as it has a bearing on the issues before me, that the document dated the 28th April, 1934, which is said to have been given by the Plaintiff prevents the Plaintiff from maintaining this action.

Mr. Chelvanayagam, however, concedes that these issues must be raised on pleadings and he tenders to Court a motion bearing to-day's date, in which it is sought to amend paragraph 8 of the answer by the addition of clause "F."

10 The amendment proposed contains certain statements and raises the question of estoppel. I think the position is rather reversed in this case. It seems to me that the amendment of the answer should have preceded the raising of these issues and the correct course should have been for the Defendant to move to amend this answer, and if the amendment were allowed it would then be open to the Defendant to raise issues from the pleadings as amended.

The question before me therefore is not so much as to whether these issues should be allowed but whether the amendment sought by the Defendant should be allowed.

20 Mr. Nadarajah objects to the amendment and points out that steps should have been taken by the Defendant to amend the answer earlier and not at the present stage when the case is ready for trial. I cannot however say that at this stage, the Defendant is not entitled to amend his answer, subject of course, to what the Plaintiffs' counsel will have to say on the merits of the amendment.

Mr. Nadarajah leaves the matter to the Court.

I think in these circumstances I would allow the amendment and it will be marked "F." In view of my order as regards the amendment, issues (26), (27) and (28) are allowed. Mr. Nadarajah frames further issues :—

30 (30) Did the discharge of the 28th April, 1934, referred to in issue (25B) cover the two items set out in the plaint ?

(31) Was the said discharge obtained by the Defendant by fraudulent misrepresentation—

(A) in his disclosure of the fact of endorsement of the assignment to Alagappa Chettiar,

(B) that all recoverable debts have been handed over to his successor Chinniah,

(C) that these debts or either of them is irrecoverable ?

40 Mr. Chelvanayagam consents to issues Nos. (30) and (31). The case will proceed to trial on all these issues.

(Adjourned for lunch.)

(Sgd.) M. A. SAMARAKOON,
D.J.

*In the
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No. 9.
Issues
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continued.

*In the
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PLAINTIFF'S EVIDENCE (continued).

No. 10.

A. T. K. P. L. M. Chettiar.

*Plaintiff's
Evidence
(continued).*

(After the luncheon interval.)

No. 10. *Mr. Nadarajah calls—*

A. T. K.
P. L. M.
Chettiar.
Examina-
tion.

A. T. K. P. L. M. CHETTIAR, affirmed.

I am the Plaintiff in this case. I am 75 years old. I was carrying on a business sometime ago in Colombo. That was a business of money-lending and also I was dealing in rice. My business was carried under the "villasam" of A. T. K. P. L. M. I carried on that business for about 10 20-22 years. I know this Defendant A. R. L. Lakshamanan Chettiar. I know him very intimately. He was my friend. Apart from that in India also I knew him. He is now separated from me. He was working for us in the business of money lending. He was working on my behalf. He was my agent. He was my agent from 1919-1933. In 1919 he was the next in command of my business and after that he became my duly empowered agent. In this money lending business, I have periods of about three years. It is normally a three-year period. Each contract is for a period of 3 years or 4 years. This Defendant continued as such for more than 2 or 3 periods. Till 1933 he was my agent. Apart from the 20 Colombo firm I had branches in some parts of His Majesty's dominions. I had branches in Rangoon, Singapore and in Akyab. I had two other branches in Burma. In connection with my business all over these places, I have conducted the business through my various agents. I myself was at my place. I am from Sirukoodalpatti near Natukotte in South India. In 1931-1932, the Defendant was managing my business in Colombo. In 1931-1932 on a certain date, people demanded money. We were in little financial difficulties over my business commitments. I asked them to close the Colombo business. That was in 1931-1932. The Defendant was in the firm, but he was not doing business transactions. There was 30 no money to settle everybody. I asked him to recover as much as possible and to pay off my debtors. With regard to debts that were irrecoverable, I have only asked him to recover whatever possible. By about the end of 1932, there was nothing very much to be done in Colombo firm. I asked him to pay what was due from the firm. The Defendant came over to India. He came to India in 1933. He closed the business. I gave a note to the creditors. When Lakshamanan came to India, there were some debts due to me. I asked him to hand over the assets to Chinniahpulle. He was the second man in the firm. He was there from 1919 in the Colombo firm working under me. I gave him instructions to collect 40 whatever possible from my assets, pay as much as possible to the creditors and then hand over the remaining assets to Chinniah and come over to India. Chinniahpulle was to go on carrying on best as he could. I have not looked into the account books to find out any irrecoverable debts. Lakshamanan came over to India in January or February, 1933. After that he did not work for me in the Colombo firm. He was no longer my agent. The Colombo firm was on a care and maintenance basis. Chinniah

was to recover as much as he could. Subsequently I have learned about the two debts to my firm. I do not know if I. M. S. Alles owed my firm Rs.7,000/- on promissory note marked P.1. I know it now. I came to know it about 1½ years ago. Chinniahpulle handed to Karupaiapulle to recover the debts. Chinniahpulle when he came to India told me about this debt. Chinniah came to Ceylon on a commission issued in a case filed in India and in connection with that commission, after he returned, he told me about this. After I came to know about this fact, I had not obtained a certified copy of the proceedings. As a result of the communication made to me by Chinniah, I wrote to Nadarajah Pulle. Nadarajah Pulle communicated with me. I wrote to Nadarajah Pulle to write to Chinniahpulle. I do not know Nadarajah Pulle personally. As a result of these writings I instructed my agents to go into the accounts. My agents were Velasam Chettiar and I. M. Thirumale Iyer. Some entries were shown. One account had not been carried forward to the new account. One of those accounts was that of Alles. The book showed that the amount was not recovered. I say the Alles's debt was not shown as recovered. (The witness is asked to show the items in the book. He says he is unable to read.) About 10 years ago I was operated on for some trouble in both my eyes. (To Court: (Shown the book) I am trying to find out Alles's account.) I looked into Alles's account and I found that money was due to us. I came to know that money was still due. This debt was not handed over to Chinniahpulle. I heard that the note had been endorsed and Somasunderam had taken the money. I do not know what happened to the money. He is a relation of mine. He is known as Alagappa. I know him very well. He is related to me and to the Defendant. Very recently, the Defendant married Alagappa's daughter a few months ago. Although Lakshamanan had endorsed the note and the money was taken by Alagappa, the account books show as money due. I did not question Chinniah as to what happened to the money due on that account. Up-to-date I have not questioned him. At my instructions Valaitham Chettiar and Chinniah gave instructions to the proctor. The Defendant had assigned the mortgage bond to Somasunderam alias Alagappa. I heard that the bond was put in suit and the money was recovered by Somasunderam Chettiar. Lakshamanan's agent is Karupaia Chettiar. I did not authorise the Defendant or anybody to assign the decree. The Defendant is carrying on a business in Galle and in Matara under the "villasam" of A. R. L. Before that he was having a joint business with Alagappa Chettiar. I know the firm of S. S. L. That was also in Galle. That was the Defendant's business. It was a joint firm of Alagappa Chettiar and the Defendant and Alagappa's son. The Defendant comes to Galle for the purpose of Business. When he comes to Galle he has a house at Galle. There are houses belonging to the temple. He has taken out on rent. When he was in our firm, he used to come to Galle and Matara very frequently. After he left our firm I heard that he comes to Galle and Matara. In April 1934, I gave a receipt to the Defendant. I gave a receipt in Pille mangalam. I was in difficulty at that time and there were warrants out against me at that time and I had gone to live in my daughter's place, where they cannot arrest me. The Defendant came with a creditor to Pullemangalam. It was K. R. K. N. A. R. Arunasalam Chettiar. My agent and my creditor came there. At that place, the books were not with me, but they were at Rangoon. No books were available

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District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 10.
A. T. K.
P. L. M.
Chettiar.
Examina-
tion,
continued.

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 10.
A. T. K.
P. L. M.
Chettiar.
Examina-
tion,
continued.

to me. I owed money to Arunasalam. As far as I am aware I know that the Defendant had overdrawn the salary account by about Rs.5,000/- The debt was settled for Rs.3,000/-. I settled and paid Rs.3,000/- and the balance was paid later. Rs.5,000/- due was settled at Rs.3,000/-. I got the Defendant to pay that amount of Rs.3,000/- as part payment of the debt due. A note was obtained and given to Arunasalam and a receipt was given at that time. I have seen that receipt. That receipt was drafted by Lakshamanan. The Defendant drafted it. I do not know who wrote it. It was drafted on the instructions from the Defendant. The books were in Rangoon and I trusted Lakshamanan Chettiar. He told me that he had given the account to Chinniahpulle and he had not done any wrong. I said that I cannot give a receipt like that without going into the accounts. I was not able to trace anything because the books were not there. As far as I could see, I could not see a mistake At that time I did not know that the Defendant had assigned Alles's debt and the mortgage debt to Somasunderam alias Alagappa. Pullemangalam is about 4 or 5 miles away from my place of residence. From there I went to Pondyichery, and from there I went to Singapore. In 1938 I came back to my village. There was an I.P. petition presented for adjudication and after a few adjournments I got it dismissed. I settled 20 the amounts due and got the case dismissed. From Pondyichery I went off to Malaya. While the Defendant was carrying on business in Ceylon, in August from the Vel festival, I came. That was about 15 years ago. I had come to Ceylon about 15 years ago. The next visit was to give evidence in this case.

Cross-
examina-
tion.

XXd. by Mr. Chelvanayagam.

The book in front of me is my ledger. It is a ledger of my Colombo firm. (Mr. Chelvanayagam marks the ledger D.1.) I cannot read this ledger. All the books of my Colombo firm are with me now. I have brought them all to Court. When the Defendant was my agent in the Colombo firm I used to write him letters very frequently. I only sent 30 replies to his letters and those letters I wrote to the Defendant were not handed over to me. I terminated his services from me. The Defendant used to write letters and he used to keep press copies of those letters in Colombo. Those were not my orders to him, but were of his own accord. He kept press copies of his letters to me throughout. He told me that those press copy books have been handed over to Chinniah. That was in 1933. He told me that in 1933 all my books of the firm were handed to Chinniahpulle. Chinniah was in Colombo when the Defendant left my shop and went to India. Chinniahpulle took charge of my business from the Defendant. Chinniahpulle came to India. I was in Singapore. 40 Chinniahpulle used to write to me. Chinniah did not send me letters complaining to me that the Defendant had not handed over to him any books of the firm, nor did he say so verbally. I do not know if my letters to the Defendant were handed to Chinniah. Those letters written by me to the Defendant belong to the business in Colombo. I do not know if they should be either left in the shop or returned to to me. A large number of Chettiar in India carry on their business through their agents. I had about 5 or 6 places of business. I carried on each business through an agent. I gave instructions to my agent by letters. All the letters that I wrote must be left in the office to which 50

I write. There was no shop in Colombo. If the Defendant had handed over the letters to Chinniah he would have returned them to me. Chinniah Pulle continued to be in my firm in Colombo for a number of years after the Defendant left it. When Chinniah Pulle came to India, I was not in India. I was in Singapore. I cannot say when Chinniah Pulle came to India. I went to Singapore in 1934. I returned in 1938. The Defendant was employed by me for periods of 2 years, 3 years and 4 years at a time. For every such period, the Defendant writes and gives a document stating what salary and for what period he would work under me. This Defendant

10 has given such writings for every period he worked under me. At the end of any such period I look into the accounts and discharge him from the contract. That is the custom among the Chettiars and at the end of the period when the account is looked into the document is returned to the employee, and before I return the document I do not get back from my employee all the documents. That is not the custom. Letters written to me by the Defendant are with him. I will have to look to find out if all the letters are with me. I will have to ask my agent, to find out if all the letters are there. I do not know about it. I will have to ask Velaithan Chettiar. I was summoned in this case to produce all the letters written

20 to me by the Defendant. Velaithan Chettiar has come here to-day. He is my agent. In 1932 my eyesight was not very good. About two years prior to that I was operated. In 1932 I was in India. I used to read the letters that my agents used to write to me. For about 2 years prior to that I was able to read them. Sometimes Iyangar used to read and tell me. In 1934 Velaithan was my agent. Iyangar was there to assist me in 1932 in India. Both are my agents now. Iyangar has not come to Ceylon. For some years I did not get the periodical accounts but now I am getting the accounts. From Colombo I was getting the periodical accounts in 1931-1932. That is the Chetty custom to get copies of

30 accounts from their firms. From the Colombo firm I got accounts once in two or three months in 1931-1932. In 1931, 1932 and 1933, I did not get account particulars for every month. Sometimes I get once in two or three months. The account particulars I used to get were exact copies from the day book. With the result that I will have in India a replica of my day book. Whatever I get I preserve them. In India to deal with these accounts I have a staff, a Kanakapulle and a clerk. In 1931, 1932 and 1933, I had two or three such people. I have an office in the house. From the copies of the day book I get from Colombo, I did not construct a ledger. I did not get copies of the ledger from Colombo. Iyangar

40 goes through the accounts sent and if there is anything important he would tell me. In 1932 Iyangar used to read the accounts from the copies sent from Ceylon and I used to listen to them. I have not been an agent of some other Chettiars during my younger days. I was working with my father and did not work for anybody else. In Colombo during the years 1932-1933, when the Defendant was my agent he had a number of assistants. There were some Kanakapulles and Chinniah Pulle was one of them. Chinniah Pulle is still working under me. He knows my business well. He can read and write books. He may have known everything what happened in the shop from 1931-1932. He was my second in

50 command. Up to date he is my trusted servant. In my firm when big sums are lent to people, the accounts are written to me about those debts by the agents. Rs.7,000/- was a big sum for my firm in 1932. Rs.7,000/-

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 10.
A. T. K.
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Chettiar.
Cross-
examina-
tion,
continued.

*In the
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was lent to Alles in Galle. He may have written that account to me or it may have been in the accounts sent to me. It may have been written in the copy I got, but I may have not kept it in mind. The Defendant comes to India and returns. He never came to my place.

*Plaintiff's
Evidence
(continued).*

(Xxd. to be continued.)

No. 10.
A. T. K.
P. L. M.
Chettiar.
Cross-
examina-
tion,
continued.

(Sgd.) M. A. SAMARAKOON,
D.J.

Further hearing on 1.2.1944.

(Sgd.) M. A. SAMARAKOON,
D.J. 10

5th October 1944.

Mr. Advocate Somasunderam for Plaintiff with Mr. Advocate P. R. Gunasekera, instructed by Mr. D. V. A. Gunasekera. Mr. Advocate Chelvanayagam with Mr. Advocate Nadasan and Mr. Advocate Panditha Gunawardena for Defendant, instructed by Mr. Marikkar.

(It is agreed that I read over and act on the evidence already recorded and continue the trial.)

A. T. K. P. L. M. CHETTIAR, re-called.

XXd. by Mr. Chelvanayagam.

I was summoned to produce all the letters written by the Defendant 20 to me. I have brought all the letters. I was also asked to produce the press copy books of the letters which he wrote to me and I produce the press copies.

(Mr. Chelvanayagam requests that the letters and press copies which he had summoned the Plaintiff to produce be handed over to him.)

Mr. Somasunderam states that he would be producing them at a later stage when he cross-examined the Defendant and that he also objects to their production now, because the Defendant will take advantage of the contents of the letters to shape his case and his evidence to bring them into conformity with the contents of the letters. 30

ORDER.

I think the letters are essential at the present stage to enable Mr. Chelvanayagam to cross-examine the Plaintiff himself and further the production of them through his own client so that he may explain the letters and support his case. It may be possible for the Defendant to shape his case or his evidence to bring it into conformity with the contents of the letter, but if he did so, it would be obvious.

I direct that the letters be handed over to the Counsel now.

(Sgd.) R. R. SELVADURAI,
D.J.

40

On the last occasion when I gave evidence I did not bring the press copies to Court although I was summoned before that. It was not brought here. (Mr. Somasunderam hands over to Mr. Chelvanayagam the press copy book. Mr. Chelvanayagam marks the same D.2.)

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

—
No. 10.

A. T. K.

P. L. M.

Chettiar.

Cross-

examina-

tion,

continued.

- I had many branches in Malaya and in Burma. I had the office in my village at my house. I had a number of people looking into the accounts of the number of branches. In respect of every branch outside India, I had a set of account books in my house. The statements of account which are sent from the different branches are not entered into any books kept in my house but are filed. They are read and examined by my staff and by myself. I kept in addition to the day book the ledger balance. I received from the Colombo branch a statement of the ledger balances. Once in two months or four months I receive a statement showing the ledger balances. This Defendant also used to send me those from time to time. Once in four months or six months he had been sending them to me. I did not ask him to send the accounts on more frequent occasions. I do not remember whether I wrote and asked the Defendant to send the ledger balances every month. When I wrote to the Defendant I did not keep the press copy of the letters in India.
- 10 I employed a large number of agents. I had an agent for every branch. Each of these agents give me a contract. When they assume the post of agent, they give me a writing. At the termination of the services I return that. It is not the practice that at the termination of the services of each agent he had to bring back and give me the letters I wrote to him. No secret instructions are sent in writing. I gave a receipt to the Defendant. On that occasion the Defendant had no documents whatsoever. I am sure of it. I have not got a copy of that receipt. No copy was kept. I have not given my lawyers a copy of that receipt. I gave only oral instructions. That receipt may have been given by me over
- 30 one year after the Defendant was discharged from my firm. If both are agreed the receipt may be given at any time. Sometimes we look into the transactions and accounts before the receipts are given. If there were no accounts, receipts are also given.

- (Shown D.3 a receipt bearing the Hindu date corresponding to the Christian Era—28th April, 1934.) I cannot read D.3. I was operated on my eye. The signature looks that of mine. I do not go to see plays and dramas. It is not correct to say that in June this year I went to see a drama. In that document D.3 I say that I have received from the Defendant all the documents. The old accounts were with me. The
- 40 current accounts were not with me. He told me that those books referred to were sent to Burma for Income Tax purposes. He has not given me any books. Because I trusted him I gave him the writing. Before the receipt was given I was away in different places and there was no kanakapulle at the time. Pullemangalam is over 4 miles away from my residence. The shortest distance is 3½ to 4 miles. In Pullemangalam I was in my daughter's house. In that house my son-in-law was living. He was one Lakshamanan Chettiar. Letchimanan Chettiar had been my agent in Burma. He knows the money lending business thoroughly. He had his own business in Ipoh. He was present when I gave the
- 50 receipt D.3. He may have written that receipt. He was present and he may have signed it as a witness. My son-in-law is in Pullemangalam.

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 10.
A. T. K.
P. L. M.
Chettiar.
Cross-
examina-
tion,
continued.

Before I came to Ceylon I saw him. In D.3 it may be said that I have looked into all the accounts. The accounts were not looked into but because we trusted the Defendant we executed this receipt. Usually when we give receipts like D.3, I have not kept copies of them. Before I filed this action I did not consult an Advocate in Madras. I saw some advocates in India. I did not show them any copy of D.3. I only told them about the receipt. The other people who were present when I gave the receipt was a creditor of mine. He was Arunasalam Chettiar. Thirumali Aiyar was not there. I do not know if he was there. He was not there. After the books were sent to 10
Burma, one or two books were sent to India. It is correct to say that the Defendant sent the Colombo firm books to Burma. The Rangoon Agent wrote to the Colombo Agent to send the books and they were sent. After they were sent I was informed. I may have written to the Rangoon Agent that if he wanted the books, he should write to the Agent in Colombo and get the books. I do not remember whether I wrote to the Colombo Agent direct to forward the books to the Rangoon Agent. There is nothing wrong in having sent the books to Rangoon as they were required for Income Tax purposes. I had gone away to Singapore and I do not know whether the books were sent to India. I do not remember whether the 20
books were sent to India at the time the receipt was given.

(Adjourned for lunch.)

(Sgd.) R. R. SELVADURAI,
D. J.

(After the luncheon interval.)

A. T. K. P. L. M. CHETTIAR, affirmed, recalled.

My business began failing in 1931. When my business began failing the Defendant may have been in India at that time. In April, 1932, I may have asked him to go from India to Ceylon to close up the business. At that time a number of actions had been filed against me. There were 30
many cases against me at that time. Arunasalam Chettiar had sued me. I asked this Defendant to assign some of my assets to my creditors. That is because I had no time to recover the money. I got him to assign the notes and bonds. The Defendant accordingly assigned a number of notes and other assets to my creditors. Alagappa Chettiar *alias* Somasunderam is a relative of mine. An adopted son of my son is married to his daughter. My son is dead. My son's adopted son is like my own son, and I look upon him as my own son. He is Karuppan Chettiar. He married about 15 years ago. It may be that he got married in 1922. Before that also 40
Alagappa Chettiar and I had dealings, with each other. He did not transfer any lands to me before his daughter's marriage. After the marriage he took some lands from me and transferred some properties. After marriage I had transactions with him. He had taken a loan from me as he had a business in Colombo. He was also threatened with insolvency. At that time he transferred his lands to me for the money he took from me. He had to pay a sum of six laks of rupees and he said that they were settled for one lak of rupees and he demanded money to settle the transactions.

- Alagappa Chettiar is still in debt to me. He first took money from me about 17 or 18 years ago. I gave him money and still there is money due to me. After I first lend him money about 15 years ago, I gave him no further loans. He settled the debts for about Rs.30,000/- about 12 years ago. For the last 11 years he has been paying this Rs.30,000/- little by little and still there is something to be paid. On the agreement, it was settled for Rs.30,000/-. Out of that Rs.15,000/- had been paid and there is still a balance of Rs.15,000/-. He gave me no "undial" for Rs.10,000/-. It is not correct to say that an "undial" executed by the Defendant was endorsed by Alagappa Chettiar to me. I know the S. S. L. firm of Galle. I did not cash an "undial" for Rs.10,000/- from that firm. In 1932, Alagappa Chettiar was in India. I saw him in India. I did not send him to Colombo to settle my accounts. He did not come to my firm of A. T. K. P. L. M. On one occasion when he came to my house he told me that he was going to Ceylon to see to his business in Pussellawa. So I suggested him to settle my matters and to assist Letchimanan in settling my affairs in Colombo. I do not know whether he complied with that request. I do not know whether he stays in my firm when he stays in Colombo. The Defendant wrote to me that Alagappa Chettiar did not come to the shop in Colombo. I do not remember whether I wrote to the Defendant informing him that Alagappa Chettiar would come to the shop to assist him. I do not know whether I have got a letter written by Letchimanan stating that Alagappa did not come to my shop at Colombo. I have got several letters, but I have to examine them. That copy was in the press copy book. I will have to ask my agents and find out the date. Chinniahpulle and Velaithan Chettiar are my agents. I told Alagappa Chettiar—"When you go to Colombo, assist the Defendant in settling my affairs by recovering as much as could be recovered and paying off the creditors, the Defendant was in Colombo alone; and I would like to see the affairs wound up decently." That was in 1932. I do not remember whether it was during the end of 1932. It was in the latter part of 1932. At that time Alagappa and I were not friends as he had failed to repay my loans. In spite of that I had confidence in him. He was my relative and my son's adopted son was married to his daughter and therefore I requested him to do that. I therefore had confidence in him.

Q. Alagappa Chettiar never deceived you ?

- 40 A. He borrowed Rs.80,000/- and arranged to pay the amount but has been paying me little from time to time. Isn't that deception.

- 50 Still because he was my relative and my Sammandie, my son's adopted son had married his daughter therefore I thought he would not play me false. We are even now on speaking terms. I will not trust him with regard to money matters. It may be that when I had some disputes here and there I had asked him to be a joint arbitrator with others on my behalf. I had an agent called Somasunderam Chettiar in Singapore. I did not bring an action against him in India recently. Somasunderam has filed an action against me in Singapore. When I was in bad circumstances he filed an action against me to separate him from the firm. The case was not in Kudukottai in India, but in Singapore. In respect of a dispute I had with him I did not ask Alagappa to be an arbitrator. In a

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*Plaintiff's
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(continued).*

No. 10.
A. T. K.
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Cross-
examina-
tion,
continued.

dispute I had in the village I had asked Alagappa to be an arbitrator. That was about five or six months ago. That is after I gave evidence in this case on the last date of trial. He and I are neither on good terms nor on bad terms. We are on visiting terms. I cannot remember when Income Tax came into force in Ceylon. I had instructed the Defendant to write off in the "expense account" those debts which are really and hopelessly irrecoverable. On one day without giving the particulars he had written off in the "expense account" a total sum of Rs.47,000/-. He may have written to me about it. I have no recollection if he wrote and informed me that he had written off a sum of Rs.47,000/-. I do not 10 remember whether he send me a list of the debts that were written off. My agents will have to be questioned. My agents I referred to are Chinniah and Velaithan. It was only after they looked into the accounts and advised me that I filed this action. I cannot say whether the Defendant send me a list of all debts that were written off. Because of my defect with regard to my eye sight and my hearing I have to rely on what the agents communicated to me. In 1932 my hearing was not very defective. It was not so defective as it is now. I was able to hear little. In 1932 my eyesight was defective and I had been operated on my eye. Before the operation I was very bad with regard to my eyesight 20 and I used to move about with the help of a stick. My condition is not so bad after the operation. (Shown D.1 and D.2) I am unable to read because of the defective eyesight. I do not know whether the items are in the handwriting of Chinniah, as I am unable to see. I did not inquire in whose handwriting this ledger D.1 has been written. Chinniah would be writing under the supervision of the Defendant. It may be that the Defendant had written them off in the "expense account."

(Mr. Chelvanayagam marks a copy of the letter dated the 7th December, 1932, D.2.A, in the press copy book.)

If that letter says that along with that letter the ledger balances 30 were annexed, I may have received them.

(Mr. Somasunderam hands the ledger balances annexed to this letter D.2.A.)

If the letter also says that a day book copy was sent, it may be correct. My agents will have to be questioned. The state of the accounts can be seen. If the day book copies are sent, they are merely filed. I told the other day that a sum of Rs.7,000/- was a big amount for our firm. I must have asked Chinniah whether he knew about it. If Chinniah had known that the debt from Alles was not irrecoverable and if he had brought it to my knowledge at that time I would have taken immediate action in the matter. It is not correct to say that I had directed the note to be 40 endorsed to Alagappa Chettiar. Is it likely for me to say that since he had failed to pay the money which he had taken from me. I do not know whether Alagappa Chettiar remained in my Colombo establishment after the Defendant left for India. I did not go to Colombo at that time and I have no knowledge of it. Even when a debt due on a promissory note is written off, the note is still kept there in the establishment and is handed over by one agent to his successor.

Q. When the Defendant left for India, he should have handed over the note to Chinniah Pulle ?

A. If the Defendant had handed over the note to Chinniah how is it that it bears the endorsement of the Defendant in favour of Alagappa. If the Defendant had not endorsed the note, the note should be in the hands of my agent Chinniah. I do not know when Chinniah took charge. The Defendant left for India in January. If the note had been given to Chinniah he would have written to me that he had received it. Chinniah did not write to me that the note was given to him. I do not know whether the accounts should have shown to Chinniah that there must be a note which had not been delivered to him. It is not correct to say that I told the Defendant that Alagappa Chettiar was taking charge of the shop along with Chinniah. I did not write to the Defendant asking him to remain till Alagappa came and took charge. Chinniah had been in my establishment from 1915. After the Defendant left he was there for one or two years, and he left. He is a witness in this case. Even now Chinniah is a paid servant under me. I do not know whether Chinniah knew about the case that had been filed against Samaranayake. I do not know if Chinniah had joined in a fraud committed by the Defendant against me. God only knows.

*In the
District
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*Plaintiff's
Evidence
(continued).*

No. 10.
A. T. K.
P. L. M.
Chettiar.
Cross-
examina-
tion.
continued.

Q. Do you say that Alagappa and Letchimanan Chettiar have joined in defrauding you ?

A. (The witness evades the question and will not answer the question. He states—I can only make a demand from the Defendant.)

I had an agent called Muttupillai in Akyab. I have been filing an action against him. I filed the action about two years ago. That was in India. He ceased to be my employee. He also swindled the Akyab establishment and went away. He left the shop about four years ago. I did not give him a discharge receipt. Chinniah, Velaithan and Iyengar in my house and others advised me to file the action and it was I who filed that action. I have filed actions against some of my partners but not against any other agents. I did not file an action against my Rangoon Agent. Nadarajapulle was not in my employ. They say that he comes from the same village as that of Chinniah. I have given evidence in a large number of cases in which I have been a party. I saw Nadarajapulle in Court. Velaithan Chettiar always accompanies me from India, when I come for this case because I am an old man. Chinniah Pulle is either in Ceylon or in India and he does not accompany me. He comes earlier than I arrive. Velaithan Chettiar's expenses in coming to Ceylon are paid by me. He is employed by me and I pay his expenses. I also pay Chinniah's expenses. I have summoned Nadarajapulle and I pay his batta. I have not paid him anything. I have not promised to pay him anything else. He has written to me a letter about this case and informing me about the recovery of money due from Alles and Samaranayake. He examined the Court records and informs me. After that he did not say anything.

(Mr. Chelvanayagam also produces marked D.4 another book handed by Mr. Somasunderam. It is also a press copy book of the letters written by the Defendant to the Plaintiff).

*In the
District
Court of
Galle.*

In 1932 October when letters were written to me I got them read as I was not able to read them myself.

(Mr. Chelvanayagam marks the letter dated the 29th October, 1932, D.2.B).

*Plaintiff's
Evidence
(continued).*

(Shown D.2.B). I will have to ask my agents about it. All these letters were read to me by the agents. I will have to ask the agents. I cannot say anything about them. These letters were read to me. When Velaithan was at home he used to read them to me and Iyengar also used to read them to me.

No. 10.
A. T. K.
P. L. M.
Chettiar.
Cross-
examina-
tion,
continued.

(Since the witness states that he had no recollection as to the contents 10 of the letters though he listened to them when they were read out and as he is unable to speak to them, Mr. Chelvanayagam does not put in the number of letters to the Plaintiff which he intends to produce).

I have settled many of my debts. There may be Rs.1,000/- or Rs.2,000/- payable by me. But I have plenty of lands.

*Re-exami-
nation.*

Re-examined :

Before the matrimonial alliance, Alagappa Chettiar was related to me. He is related to the Defendant. Alagappa Chettiar's father and the Defendant's mother are brother and sister. Originally this Defendant was introduced to my shop by Alagappa. After this action had been 20 filed, there has been a matrimonial alliance between the Defendant's family and Alagappa's family. Alagappa's daughter is now married to the Defendant's son. Alagappa and the Defendant are on the best of terms.

Q. Do you think that Alagappa Chettiar and Letchimanan Chettiar have got together?

A. It looks like that.

It appears that they have colluded in defrauding the monies due to me from Alles and Samaranayake. In 1932 when I gave instructions the Defendant wrote off the irrecoverable debts. I did not give instructions 30 to the Defendant to endorse Alles's note to Alagappa. I did not ask him to assign the Samaranayake decree in favour of Alagappa. When the Defendant came to Pullemangalam in the company of my creditor, the Defendant did not bring anything but he had some kind of a document in his waistcloth which he used to peep at in my presence. He used to look at the document in his waist when he gave instructions to write the discharged receipt to my son-in-law. At the time I signed the discharged receipt and gave it to the Defendant I did not know that the Defendant had assigned the note and assigned the decree to Alagappa. If I had 40 known that I would not have given him the receipt. Alagappa was indebted to me to an extent of more than Rs.50,000/-. At a certain stage it was settled at Rs.30,000/- and he gave me a mortgage. Out of that there is still a balance sum of Rs.10,000/- due. There was a balance sum of Rs.30,000/- due. In reduction of that sum of Rs.30,000/- I do not remember if Alagappa gave an undial signed by the Defendant directed at the S.S.L. firm.

(Sgd.) R. R. SELVADURAI,
D.J.

No. 11.
M. Nadarajapulle.

*In the
District
Court of
Galle.*

M. NADARAJAPULLE, affirmed.

*Plaintiff's
Evidence
(continued).*

No. 11.
M. Nadara-
japulle.
Examina-
tion.

I know this Defendant in this case. I also know that the Defendant is carrying on a business in Galle under the "villasam of S.S.L." I was working in that firm. I worked in that firm from 1929-1934. The business of S.S.L. has got a firm in Galle. Usually it is managed by a local agent. During those years when I was employed in the S.S.L. firm, the local agent was Karuppiyah Pulle and Muttiah Pulle. The Defendant comes to the shop in Galle whenever he comes to Colombo from India. I know the time he ceased to be agent of the Plaintiff. He went away to India. When I was working in the S.S.L. firm he came to Ceylon. I cannot say how many times he came to Ceylon from India. About the latter part of 1941 I was in Galle. At that time I met Chinniahpulle. He had come to Galle in connection with the recording of evidence on a commission sent by an Indian Court. I cannot say in what connection he was sent. I met him. I told him about these two cases and we discussed about them. I told him that I did the Court work regarding the recoveries in the Samaranayake case. That was done under the directions of A. T. K. P. L. M. I told Chinniah that certain moneys had been recovered in that case. I told him that the recoveries were made in a promissory note case and in a decree. Alagappa Chettiar had recovered the moneys. In connection with the decree of Samaranayake, it was also recovered by Alagappa. When I told Chinniah that the moneys were recovered he wanted further details. I was in the S.S.L. firm and I have recovered moneys in the Samaranayake case twice. When Chinniah asked me I told him about the recoveries made in that case. Then Chinniah asked me whether I could obtain a copy of the record showing the recoveries. I said I would take a copy and forward it. Thereafter the Plaintiff wrote to me directly from India. I have got that letter.

(Mr. Somasunderam moves to produce the letter written by the Plaintiff to Nadarajapulle the witness.)

Mr. Chelvanayagam objects. He states that it should have been produced through the Plaintiff.)

ORDER.

The Plaintiff had stated in his evidence that he had written letters to this witness. The letter has been listed and the witness is now handing it over. I allow the production of the letter. If Mr. Chelvanayagam is embarrassed I would allow the Plaintiff to be re-called after this witness has given evidence so that Mr. Chelvanayagam may ask questions from the Plaintiff on that point.

(Sgd.) R. R. SELVADURAI,
D. J.

(The witness hands over the letter as well as a certified copy of the translation.)

(Mr. Somasunderam marks the letter P.4. It is dated the 19th February, 1942.)

*In the
District
Court of
Galle.*

As a result of that I wrote letters to the Plaintiff. I wrote about the details to Chinniah.

(Shown letter written by this witness to Chinniah marked P.5.)

*Plaintiff's
Evidence
(continued).*

(Mr. Chelvanayagam objects to those portions in the letter P.5 which contains hearsay evidence.

Mr. Somasunderam admits that such portions are inadmissible.)

*No. 11.
M. Nadara-
japulle.
Examina-
tion,
continued.*

I produce the envelope marked P.6 in which letter marked P.5 was sent. (Shown P.7.) P.7 is a letter written by me to the Plaintiff. I also produce envelope marked P.8, in which I sent that letter.

*Cross-
examina-
tion.*

XXD.

10

I am from the same village as Chinniah. Chinniah is no my uncle. I address him in my letter as "elder brother" Chinniah has been employed in the firm of A. T. K. P. L. M. for a long time. Chinniah was the attorney of that firm. When Chinniah was employed in that firm as the attorney, I was not in the S.S.L. firm. I was in the S.S.L. firm from 1929 to 1934. I do not know if in 1933 and 1934 Chinniah was the attorney of A. T. K. P. L. M. Chinniah was in that firm from 1929 to 1934. S.S.L. firm is in Galle. The S.S.L. firm used to assist the firm of A. T. K. P. L. M. firm in respect of their business in Galle. If that firm want some work done in Galle, the S.S.L. firm does it.

20

Q. It is in that manner you assisted in recovering the moneys on the decree against Samaranayake ?

A. Yes.

Only one recovery was made for the firm of A. T. K. P. L. M. After that the decree was assigned to Alagappa Chettiar. I made one recovery before the assignment. Twice I recovered. After the assignment also I recovered. I know of the assignment. The assignment was done through the proctors. Everybody knew about it. There was no secret about it. When the case was originally filed against Samaranayake it was filed in Galle. At the time it was filed the members of the S.S.L. 30 firm helped in the filing of the case. They got a proctor for the case. They retained the lawyers. I know Alagappa Chettiar personally. He did not personally recover any money during my time. I do not know whether he recovered any money personally during any other time. Alagappa Chettiar did not work in the S. S. L. firm. He was never a partner of that firm. His two sons were partners. In respect of Alles's note, I had nothing to do with it personally. I have not seen that note. I had nothing to do with the recovery of the amount due on the note, but I know that money had been recovered in the testamentary case. The administrator told me about the recovery. Mr. Richard de Silva, 40 the executor of the estate, told me that. Apart from what he told me I cannot remember. I left the S. S. L. firm in 1934. When I left the firm we were doing a business jointly in Galle. D. S. Goonesekera and his father, two other people and I did business in Galle jointly. We did that business for four years. Now I am at Udugama also in Galle District. I have been there for about 6 years. I used to come to Galle frequently, and I met Chinniah accidentally. Chinniah had come to Galle in connection

with a commission. Chinniah and I were friends but not relations. When I was in Galle I cannot remember whether he came to Galle in 1934 or 1932. I told him about the case of my own record. I do not know if Chinniah had come to Galle in connection with a case against Karuppiyah. He told me that he came in connection with a commission. I know Karuppiyah. He had been working with me. I did not know who was the plaintiff and who was the defendant in that case, in which a commission had been issued. At the time I met Chinniah I did not know that there was a case against the Defendant. In 1933 I knew about the Samaranayake
 10 decree. I did not know that there was anything wrong about it. Even after that I did not know that there was anything wrong about it. Up to date I do not know whether there is anything wrong about it. I made one recovery in the Samaranayake case. Whatever we were asked to do, we carried them out. The Colombo and the Galle firms were working together. I told Chinniah that Alles's money had been recovered. I came to know of the recovery after I had left the S. S. L. firm. It is Mr. Richard de Silva who told me about the recovery. Because Chinniah was connected with the A. T. K. P. L. M. firm I conveyed that information to him. I did not know whether he was aware of it or not. Because
 20 he was connected with the firm I told him. It is not true to say that Chinniah came and asked me for the information when he came in connection with the commission, and that he stayed in the Defendant's firm. There are ten or fifteen boutiques in which the Chettiars stay. There were two big kittangies but there may be few small kittangies. There was a kittangie belonging to the temple. I met him there. He stayed in one of the kittangies. When I went there I met him. I was not aware that he was staying there. Chinniah had not written to me.

In the District Court of Galle.

Plaintiff's Evidence (continued).

No. 11.
 M. Nadarajapulle.
 Cross-examination.
continued.

(Further cross-examination to-morrow.)

Further trial on 6.10.44.

30

(Sgd.) R. R. SELVADURAI,
 D.J.

(The press copy books marked D.2 and D.4 are handed over to the Defendant's proctor Mr. Marikar who undertakes to have them always in his personal possession and not to leave them in the hands of the Defendant at any moment.)

Intd. R. R. S.
 D.J.

(Trial resumed.)

6th October, 1944.

40 Same appearances as before.

M. NADARAJAPULLE, affirmed, re-called.

XXD. continued.

When Chinniah was in the A. T. K. P. L. M. firm in Colombo, he does not come frequently to Galle. Whenever he wanted he came. He used to come in connection with the firm's work. The Plaintiff and

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 11.
M. Nadara-
japulle.
Cross-
examina-
tion,
continued.

the Defendant belong to one class. That is the class of Chettiars. I belong to the Pulle class. Both Chinniah and I belong to the same class. I meet Chinniah when I go to Galle. Before 1941 I do not remember when I last saw him. The Defendant gave up his connection with the A. T. K. P. L. M. firm and he may have gone to India in January, 1933. I cannot remember the date. I do not remember if he did not come to Ceylon in 1938. After 1933 I may have met him in Galle but I cannot remember. When I was leaving the S. S. L. firm I met him. That was in 1934. The S. S. L. firm had agents. The Defendant was never in continuous charge of it. The agent was in charge of the business. 10
Between 1933 and 1938 I cannot say if the Defendant did not come to Ceylon. I do not remember if he did not come during that period. At the time I left the firm the Defendant was in Galle. I left the firm in 1934. In 1941 I was not working in any Chettiar's firm. Nor in 1942 I worked. In 1941 and 1942 there were a number of Chetty firms in Galle. When a Chettiar comes on other business in Galle, they stay in one of these firms. The Chetty firms in Galle do business of other Chetty firms. That is in respect of their work in Galle. Samaranayake case was a case in which anybody could have got particulars. For my own work I used to go to Galle during that time. I knew the number of the 20
case. I was working up the case. Last time I worked in that case was in 1934. After 1934 till 1941 I had nothing to do with the case. In 1941 I was remembering the number. That is during a period of seven years. I had no note of it. I do not know if Chinniah had kept a note of the number. He did not tell me the number of the case. I did not ask for the number of the case from him. Knowing the number of the case I took the case record through Mr. Gunasekera, Proctor. He is the proctor for the Plaintiff in this case and his clerk got me the particulars. I had nothing to do with the filing of this case. I gave Chinniah the particulars of the recoveries. I told him that I would furnish the particulars if I received a 30
communication from the Mudalali. That is from the Plaintiff in this case. He never asked me for the particulars of the case. He asked me whether I could send the particulars. Then I replied him that if I got a letter from the Mudalali, I could do so. Certain expenses were required to get the particulars and if the expenses were given I was prepared to get him the particulars. I was living in a village. I told him that if I got a letter from the Mudalali I would give the particulars. It is not because that I thought that Chinniah would not pay the expenses. It is not because that I wanted to get money for the trouble from the Mudalali. It is not correct to say that I was trying to create evidence in this case by writing letters. 40

Re-exami-
nation.

Re-examined.

During the time I worked in the S. S. L. firm I had occasion to act on behalf of the S. S. L. firm in the Samaranayake case. I remember the case. In 1941 I got copies of the case through Proctor Gunasekera. Before that occasion, Mr. Gunasekera was acting as the Proctor on various other matters. I have filed actions through him in this Court. He was my proctor in Galle at that time. That was the reason I went to Mr. Gunasekera. At present I am doing a business in Udugama. In connection with that business I come very often to Galle.

(Sgd.) R. R. SELVADURAI, 50
D. J.

No. 12.
M. Chinniah Pulle.

*In the
District
Court of
Galle.*

M. CHINNIAH PULLE, sworn.

*Plaintiff's
Evidence
(continued).*

—
No. 12.
M. Chinniah
Pulle.
Examina-
tion.

I know the Plaintiff in this case. He was carrying on a business of money lending in Ceylon. He carried on the business from 1915. I was connected with the Plaintiff's business in Ceylon from 1915. I was the Kanakapulle. My chief duty was to write the books of account. I was employed in the Plaintiff's firm till 1935. I know the Defendant in this case. He also joined the firm in 1915. He first joined it as an Assistant.

10 He became the chief agent of the firm from 1927. The Plaintiff came to the Colombo Branch. He came to the Colombo Branch in 1927. He came to see the Vel festival. Before this case was filed that was the only occasion he came to Ceylon. Thereafter he has come in connection with the present case. When the Defendant was in charge of the Plaintiff's business in Colombo all the security notes and mortgage bonds of the firm were in the charge of the Defendant. He received instructions from time to time from the principal the Plaintiff. That is by letter. He used to tell me about them at times. The letters were kept in his custody. The lending of money was actually done by the Defendant. In his absence, I

20 have never lent out money. When the Defendant was the agent here in Colombo firm, he started a business of his own. He started the S. S. L. firm in Galle. That was a partnership business. The partners were Alagappa *alias* Somasunderam Chettiar and the Defendant. The business in Galle was carried through an Agent. The Defendant came from Colombo to Galle in connection with that business. In 1932 the Colombo branch of the A. T. K. P. L. M. firm was in financial difficulties. We were not doing any new business. We were trying to recover as much as possible. In 1932 instructions were sent as regards the accounts to the Defendant.

30 Q. What were the instructions ?

A. Instructions were to recover as much as possible and to write off in the expense account those debts which were irrecoverable.

(Mr. Chelvanayagam objects to this answer as this is oral testimony to the contents of a document.

Mr. Somasunderam states that the letters written by the Plaintiff to the Defendant are not in their custody.

Mr. Chelvanayagam states that they are not in the custody of his client.

That being so, the letters are lost. The evidence would therefore

40 be admissible if as a matter of fact the letters are not in the custody of the Plaintiff. Subject to the consideration as to whether the letters are in the custody of the Plaintiff or not, I allow the answer to go in.)

Instructions were sent by the Plaintiff. The Defendant told me that such instructions were sent. In August, 1932, new set of books were started. All the recoverable debts were brought the new books. The Defendant told me what debts could be recovered and what could not be recovered. Accordingly new books were started in August, 1932. The

*In the
District
Court of
Galle.*
*Plaintiff's
Evidence
(continued).*
No. 12.
M. Chinniah
Pulle.
Examina-
tion,
continued.

new books were started on the 1st September 1932. On the instructions of the Defendant only the debts that could be recovered were entered. In that book which was started in September, 1932, there was a page for recoveries of old accounts. After the new accounts were started about the end of the year, instructions were given to the Defendant to write off some debts and that all the accounts that should be written off in the expense account should be written off. He stated that he had received instructions from the Plaintiff to write off the irrecoverable debts in the expense account. On the 5th December, 1932, I wrote off the debts. That was for a sum of Rs.47,000/-. That was written off in the "expense 10 account." That entry will appear in the expenses account of the ledger. After that was written off on the 5th December, 1932, the Defendant sent the ledger balance to the Plaintiff. That is at present in the possession of the Plaintiff. It was I who wrote that statement.

(Shown P.9.) That is the statement I referred to. It is written by me. It was enclosed in a letter sent by the Defendant to the Plaintiff. I have brought into Court all the books of the Colombo branch of the firm of A. T. K. P. L. M. That is from the beginning up to 1935 when the Plaintiff's business was completely wound up. I produce marked P.10, the ledger for 1930-1932, and the ledger for 1932 to 1935 marked P.11. 20 (This is the ledger which has also been marked D.1.) I produce marked P.12, an extract from the ledger of the account of I. M. S. Alles, Galle, from April 1930 downwards. (Shown P.12.) According to that extract on the 1st January 1931 a sum of Rs.7,000/- had been lent to I. M. S. Alles of Galle. On the 1st September 1932, there was a balance of Rs.6,500/- due on that note and that had been transferred to the new account on the 1st September. It is written in the new ledger under the "Alles's account that had been written off. Alles's account appears in page 26 of P.11. It states "brought forward from the old ledger Rs.6,500/-. The next 30 entry on the same page is undated and states that the amount has been written off in the expense account as irrecoverable. (To Court: It is in my handwriting. It was written at the instance of the Defendant. That entry was written on the 5th December although no date is mentioned there.) I also produce marked P.13 an extract from my ledger showing the account of the Plaintiff's firm with Samaranayake, Galle from August 1927 to the 4th December, 1931. These extracts are taken from the ledgers of 1927 downwards. I produce marked P.14 the firm's ledgers for years 1928 and 1927 and the ledgers for the years 1928 and 1929 marked P.15, and the ledgers 1929 to 1930 marked P.16. The extract P.13 showing Samaranayake's account had been taken from all these ledgers and from 40 P.10. (Shown P.13.) The account starts from the 7th August, 1927, and ends on the 4th December, 1931. On the 4th December 1931 there was a balance sum of 5,700/25 due to the firm from Samaranayake. In the new book that was started in 1932, namely, P.11, this account of Samaranayake was not transferred. That account was not transferred as this debt was considered to be irrecoverable by the Defendant at that time. I produce marked P.17 an extract showing an extract of the old account page of my ledgers P.10 and P.11. The page is headed "old account". P.17 shows that a sum of Rs.1,108/- had been recovered in the decree entered against Samaranayake on the 27th May, 1932. That 50 was the last actual recovery in the case. The previous recoveries have been shown in P.13. Of these two accounts Alles's account had been

written off in the "expense account." It was written off on the 5th December. Nothing was done to Samaranayake's account on that date because it had not been brought over. Shortly after the 5th December, the Defendant left for India. He left for India on the 28th January, 1933. When he left he did not give me any papers. He gave me the notes and bonds and other securities which appears recoverable in the new ledgers. Those notes and bonds had been written in the new ledgers. What were irrecoverable were not handed over to me. When I asked him about the notes and bonds which had been written off in the new ledgers irrecoverable, the Defendant told me that I need not ask him about them; that the Defendant had carried out the instructions of the Plaintiff. Once the debts are written off, the notes and bonds are of no value to the firm. Only the new account books were left with me. The old account books were sent to Burma for Income Tax purposes. On that date, just before the Defendant left, I did not know that Alles's note had been endorsed to Alagappa by the Defendant. I did not know that the decree of Samaranayake had been assigned to Alagappa. By examining the books one can see that the note had been endorsed to Alagappa and the decree had been assigned to Alagappa. From the entries in the book the endorsement and the assignment cannot be seen. There are no entries in the book, as regards the endorsement and the assignment. On the day the Defendant left Ceylon, Alagappa did not come to Ceylon. He came to Ceylon after about two weeks. That is to the best of my recollection. When he came to Colombo, he came to the shop. He stayed one day in the shop and went to Galle and Pussellawa. For Alagappa there is a ledger page in my books. I produce marked P.18 an extract of Alagappa's dealings with the firm. P.18 shows the account from 1930 to 1932. P.18 shows that a sum of Rs.25,000/- was due from Alagappa on the loan account and a sum of Rs.40,600/- on account of the current account. The total debt to the Plaintiff's firm was in the neighbourhood of Rs.65,000/-. In P.18 there is no reference to show that any note for Rs.6,500/- had been endorsed to him, neither does P.18 show that a decree had been assigned. Normally if a decree and a note had been assigned and endorsed in his favour, these things ought to appear in the folio. After the Defendant left in 1933 I carried on the business. I carried on the business till 1935. I was able to make very little recoveries during that time and that was insufficient for the expenses. I left Colombo in 1935. When I left I handed over the securities that remained unrecovered to Karuppiyah Pullai. That was done at the instructions of the Plaintiff. After 1935 when I returned to India, I was in another place. I left the Plaintiff and came to Colombo as the agent of another firm. I got myself re-employed under the Plaintiff in 1941. I came to Ceylon in connection with a commission of inquiry in an action filed against Karuppiyah. In 1941 the Plaintiff had filed an action against Karuppiyah in India and for that purpose a commission had to be sent to Ceylon. Certain securities that were left with him were recovered and they were not accounted for to the Plaintiff and an action was filed. I came to Galle in connection with that matter and a commission had to be sent to record the evidence of certain witnesses resident in Galle. When I came to Galle I met Nadaraja Pulle. Both of us were friends. I told him why I came to Ceylon. Nadarajapulle told me that the S.S.L. firm had made two recoveries and whether those amounts were accounted for to the principal. I said that I knew nothing

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 12.
M. Chinniah
Pulle.
Examina-
tion,
continued.

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 12.
M. Chinniah
Pulle.
Examina-
tion,
continued.

about it. I told him that I would write to the Mudalali and get the details about it. I asked for particulars and asked him whether he could furnish information. He told me that he could not furnish the information but he said he could furnish information at the request of the Mudalali. After the commission was over I went to India and related the facts to the Plaintiff. I asked the Plaintiff to write to Nadarajapulle. He sent me the particulars and wrote a letter to the Mudalali. The Mudalali looked into the accounts and he sent me to Ceylon to file the action here. When I came to Ceylon I obtained certified copies of the accounts. I produce marked P.19, the journal entries and the assignment marked P.20. 10

(Mr. Somasunderam invites the attention of the Court to the journal entry dated the 24th February 1933, showing that Alagappa applied to be substituted as the Plaintiff. He also refers to the journal entries dated the 30th March, 1933, 18th May, 1933, 9th April, 1934, 29th May, 1937 and the 15th January, 1938.) In the firm's books the Defendant had a ledger page. I produce marked P.21 an extract showing the Defendant's salary account with the firm from April 1931 to the 9th May, 1934. On the 28th January, 1933, there was a balance of Rs.5,193/02 shown as being overdrawn by the Defendant on salary account and thereafter I have put down dated the 9th May, 1934, that the sum had been settled at Rs.3,000/- 20 and that an undial had been granted to Arunasalam Chettiar for Rs.3,000/-. That was done at the request of the Plaintiff. That was done on the instructions given by letter by the Plaintiff.

Cross-
examina-
tion.

XXD.

The last letter written by the Mudalali is with me. It is in the hands of my lawyers. To file the case I handed over that letter. The Mudalali asked me to file the case. It was at his request that I filed the case.

(Mr. Chelvanayagam requests that that letter be handed to him.

Mr. Somasunderam searches for the letter and he hands it to him. 30
Mr. Chelvanayagam marks that letter D.5.) D.5 was written to me in 1934 by the Plaintiff asking me to write off the account of the Defendant. Like these the Plaintiff used to give me particulars from time to time, after I became the agent. D.5 is written by Iyanger. The Plaintiff never signs his letters. There is a seal on the letter but there is no signature. (*To Court:* That is the Plaintiff's seal. That seal is kept by the agent.) The Plaintiff did not sign the letters. He cannot write letters. In spite of that I took this as his letter and I acted on that. That was in 1934. In 1936 I left his employ. It was in my possession. No copy of it was kept by the Mudalali. From 1927 we kept copies. I 40
have written letters repeatedly to the Plaintiff. D.5 states that the Plaintiff had questioned the Defendant about some other man's accounts and he had asked me to verify whether the Defendant's answer was correct. It was in my possession. I had it with me in India. When this case was started the Mudalali asked me for the letter because the balance due from the Defendant has been written off in the expense account. In

the new account there is a balance of Rs.5,000/- odd due on account of salary overdrawn. As this had been settled in India he had written a letter to me.

Q. What has this letter got to do with this case ?

A. The salary account had been settled and he demanded this letter from me.

After this case was filed, the Plaintiff demanded this letter. This was the only letter I received after I took over the Plaintiff's business. After January, 1933, no other letter were written to me by the Plaintiff.

10 This is the only letter I had from the Plaintiff when this case was filed. I do not belong to the class to which the Defendant and the Plaintiff belong. They are Chettiars. We are Pulles. In 1932, the Defendant was a person of means. He was carrying on a business. He was a rich man. Alagappa Chettiar had his properties in India in 1932. Alagappa's daughter was married to the Plaintiff's grandson. I do not know if they were related apart from the matrimonial alliance. In 1932 I was paid Rs.60/- per month. I had a house and property. In January, 1932, I had a house and I was living on this salary. I had a small house in the village. It was not worth very much. That was also mortgaged.

20 my marriage the Defendant gave me a present. He paid 1,000/- out of my salary. On my salary account I was paid Rs.1,000/-. That was not his own money. That was done at the request of the Plaintiff.

(Shown D.2—copy of letter 8th March, 1933, marked D.2.C.)

This is a letter written by me to the Plaintiff. It is in my handwriting. I acknowledge there the receipt of a letter written by the Plaintiff. Shortly before I had written that letter I had received a letter from the Plaintiff. Along with that letter I had received a letter written by the Plaintiff to Sonannamanar. He is the same person as Alagappa Chettiar alias Somasunderam. It was to be forwarded to him. It is a shortened

30 form of calling Alagappa referred to in this case. From January, 1933, when I took charge of the business I do not remember to have received letters from him. But I have received letters. In addition to D.5 I remember that I have received one more letter. The original of that letter is not with me now. I cannot say whether I have got that letter. I am not in a position to say whether he has written to me any other letters. About 7 or 8 years ago he wrote these letters, but I cannot remember them. To my memory I find that I had received only D.5.

(Adjourned for lunch.)

40

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

(After the Luncheon interval.)

M. CHINNIAH PULLE, affirmed, recalled.

XXD.

By 1932 I had been in the business for a long time. I knew all about the Chetty money lending business. In the Plaintiff's business at that time I was the second man next to the Defendant. During the absence of the Defendant in India I used to be in charge of the shop. The

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

*No. 12.
M. Chinniah
Pulle.
Cross-
Examina-
tion,
continued.*

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 12.
M. Chinniah
Pulle.
Cross-
examina-
tion,
continued.

Defendant was paid a big salary according to the Chettiar standard. I also knew the form how Chetties keep accounts. I do not know if in 1931 or 1932, the income tax came into force. I do not know well if the income tax was in force in 1931 or 1932, I know that income tax has been in force in Ceylon during the last four or five years. I know that. Every Chetty business had to send accounts to the Income Tax Department regarding the business. Every year the Chetty business had to send a return to the department. Before income tax came into force in Ceylon, it was in force in India. From time to time in the Chetty account books we write off what is considered to be bad debts. 10 If we wrote off an account, we do not carry that into a new book. But we may make recoveries in respect of those items if possible. When we make any recoveries we have in our new book a folio called "old account." When we write off an account of a note, we keep the note. That is the usual thing. We do not destroy that note. We keep it in the kittangie. It will be kept for years. The list of such notes will be in the kittangie. Even when the Defendant goes to India periodically he will not hand over to me such notes and securities. The Plaintiff will hand over such notes to the agent. The Plaintiff will not trust me for these documents. I am only a kanakapulle. 20 Samaranayake account was in respect of a note transaction. There was a decree. It was not on a mortgage bond. They were people of worth. Samaranayake's note had been converted into a decree before the 1st September 1932. We had made a number of recoveries in respect of that. Although that was the position that account was not transferred to the new account. It was in the old account. The new account was opened on the 1st September, 1932. I had not given hopes of recovery on that decree. We expected to recover something from that decree. It is not correct to say that we did not bring it to the new ledger because we did not want to show a large number of assets. After the new account was opened, 30 we have not recovered. A little amount has been recovered in the Samaranayake case. When that amount was recovered we did not open a new account folio for him. Such a recovery we will enter in the old account. Even after the new account was opened we would have a trace of what happened to the old account written off. The old account book will be in the kittangie though it may be periodically sent for income tax and other purposes. It is not always the practice of the Chettiers to have an account of the amounts written off. Although Samaranayake account was in the old account, if it is recovered, they would be entered. (*To Court*: For the purpose of recovery we would know what is due. If the old ledger 40 is there when recoveries are made on a debt not brought over to new account book, we would enter in the old account book.) Unless they are sent elsewhere for some purpose those books will be in the Kittangie. Even if they are sent to Rangoon they are returned to the shop. In the Colombo firm there was a safe. When the Defendant was there he had the key of that safe. When he goes to India he does not hand over the key of the safe to me. In that safe are kept all the bonds and securities. When the Defendant is away in India whatever is received, we enter in the books. When a debtor pays money on a promissory note we must return the note. As the documents were not with us, we will have to wait till 50 the Defendant returns. During the latter part of 1931, the Plaintiff's firm began to crack. He was sued by many people because the Plaintiff

did not have enough cash to pay off the creditors. With the result he tried to settle with the creditors. The creditors were given certain promissory notes and other securities which were due to the Plaintiff. I do not know if the Plaintiff sent Alagappa Chettiar to effect a settlement from India. I do not remember if Alagappa came to the firm in the early part of 1932. Alagappa brought about a settlement between the Plaintiff and some creditors with regard to one transaction at Colombo. I do not know when he came or when he went. That settlement was effected in Colombo. To effect this settlement Alagappa came. He was not in our
 10 kittangie but he was at Pussellawa, and at Galle. I do not know if he was sent by the Plaintiff for this purpose. I cannot say if Alagappa was sent by the Plaintiff to assist in the settlement of his business. It was an important matter. I know only about one transaction and that is the one which I mentioned earlier. Alagappa was the arbitrator and settled that transaction. He was the arbitrator on behalf of the Plaintiff I did not write about it to the Plaintiff, I cannot say if the Defendant wrote the Plaintiff about it. At his request I may have written some of the Defendant's letters. It is not correct to say that everything that took place in the shop during that time was known to me. I know some.
 20 Some I do not know. (Shown letter dated the 12th May, 1932, marked D.4A.) The whole of that letter is in my handwriting. That is a letter written by the Defendant to the Plaintiff. In that letter I say that I utilised his services in settling the debt. That was the transaction I referred to earlier. Sometime after that letter Alagappa went to India. We did not send a detailed statement about the firm's action through Alagappa to the Plaintiff. I know D.2 and D.4. In 1931 and 1932 these two books were there. There were no other books. They were available to me. These contain the letters written either by me or by the Defendant
 30 to the Plaintiff's lawyers. The Plaintiff knew about these matters. He had agents there in India and this correspondence was read to him there. The agents may have told him what was written in these letters. By "agents" I mean his servants in the house. After the Defendant went away, these copy books were in the shop. I sent these books to the Plaintiff in 1935. That was when I gave up the shop. What was given to me I gave them to the Plaintiff. What was kept by me was given to Karuppiah. I did not hand over these books to him. I brought these books from India after this case. That was about 4 months after the case was instituted. I did not bring the originals of the letters contained
 40 in D.2 and D.4. They were brought by the Plaintiff. That was after the case was instituted about the same time that I brought the copies of letters. That was about 4 months after the institution of the case.

(Shown letter dated the 6th July, 1932, marked D.4B). That is a letter written by the Colombo firm to the Plaintiff. That is in the handwriting of the Defendant. The Defendant states in that letter that Alagappa Chettiar is going to India and that he will give the information to him. It is not correct to say that several months prior to the 6th July, 1932, Alagappa was in the shop settling the Plaintiff's business accounts. He was at Pussellawa. I do not know if the Plaintiff used
 50 to write letters to Alagappa and that they were sent to my shop. Important letters will not be handed over to me by the agent.

*In the
District
Court of
Galle.*
 Plaintiff's
Evidence
(continued).
 No. 12.
M. Chinniah
Pulle.
Cross-
Examina-
tion,
continued.

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

*No. 12.
M. Chinniah
Pulle.
Cross-
examina-
tion,
continued.*

(Shown letter dated the 6th April, 1932, marked D.4C.) I wrote that letter. During that time repeated instructions were coming from India about the settlement of the Plaintiff's business. In that it states that whatever instructions are given they are carried out. In that it states that "Whatever I do I must get instructions from him." Alagappa went in July, 1932. According to the earlier letter he went in July. After Alagappa went to India, the Defendant wanted to leave the shop and go away. The Defendant wanted permission to go home. I do not know if the Plaintiff asked him to wait till Alagappa came back. The Defendant may have written to the Plaintiff that he would leave Chinniah 10 in charge of the business as Somanathan was getting late. I am not aware if the Plaintiff refused to give permission for the Defendant to come to India before Alagappa came back.

(Shown D.2.) (Shown letter dated the 22nd November, 1932, marked D.2D.) That is a letter in my handwriting. This is from the Defendant to the Plaintiff. It states that if Alagappa would not come he would not come and the Defendant had asked the Plaintiff to get Alagappa to come to Ceylon. He says that earlier he had sent a list of debtors and that he would give all the particulars. That list had been sent to the Plaintiff prior to that date by the Defendant. That list was 20 written by me and that list is not with me. It is with the Plaintiff. This letter says that the list has been forwarded containing all particulars about the recoveries and of the irrecoverable debts. That list is with the Plaintiff. It will show all the particulars. I have seen the list. It is with the Plaintiff's lawyers. Without referring to the list I cannot say whether it is in the handwriting of the Defendant or in my handwriting. Without seeing it I cannot say. (Shown letter dated the 29th October, 1932, marked D.2B.) That is a letter sent by the Defendant to the Plaintiff. In that letter the Defendant makes a request to return to India. In that letter he refers to the sending of a ledger balance and 30 day book copy and also to a list of recoverable and irrecoverable debts. Two lists were referred to.

(Mr. Somasunderam hands over the original of the letter and two annexures.)

(Shown D.6.) This is the original of D.2B. (D.6A.) D.6A is the annexure to that letter. It is a list referring to debts. This is a list of debts mentioned as irrecoverable and recoverable. The letter says that he sent ledger balances and day book copy. There is a reference in D.6A to Alles' debt. It says with regard to Alles' debt that Alles is dead leaving properties which are being administered in a testamentary case and the administration is likely to go for about 2 years and that it is only after 40 that anything could be recovered. In October, 1932, I knew about Alles' debt. I heard the Defendant telling me that Alles was dead. The Defendant told me that as Alles is dead the debt has become irrecoverable and that it should be written off in the expense account. He told me that on the 5th December 1932. Earlier he had written to the Mudalali that Alles' debt was being recovered. I do not know myself about Alles' debt whether it was recoverable or otherwise. To my knowledge I do not know whether the Defendant wrote to the Plaintiff that it was irrecoverable.

It is not true that on the 5th December the Defendant did not tell me that this debt was irrecoverable. I am speaking the truth when I say that he told me on the 5th December that the debt was irrecoverable.

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(Mr. Chelvanayagam asks Mr. Somasunderam for the day book copy and the ledger balances which were sent along with the letter D.6.

*Plaintiff's
Evidence
(continued).*

Mr. Somasunderam states that they are not in the possession of the Plaintiff and that he has searched them). (Shown D.2.A.) That is a letter written by the Defendant. It is in my handwriting. That was written two days after the writing off Rs.47,000/-. The Defendant
10 states in this letter that in accordance with the instructions given to him he has written off in the "expense" account the irrecoverable debts and that he was annexing along with his letter a ledger balance and the day book copies.

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tion,
continued.

(Mr. Chelvanayagam asks Mr. Somasunderam to produce the original of that letter and the originals of the annexure.

Mr. Somasunderam hands marked D.7 the original of D.2.A and the annexure is P.9).

(Shown P.9). That was the document sent with it. Both the annexure and the letter are in my handwriting. The ledger balance
20 appears on the first page of P.9. The front page is the credit balance and the back page is the debit balance.

(Mr. Somasunderam states that the Plaintiff is not having the original of the day book copy referred to in the letter D.7.)

P.9 was sent after two days of writing off Alles' account. In P.9, Alles' debt is not shown. After a debt is written off and it has been included in the expense account, it will not go into the ledger balance. The previous ledger balance sent was the one referred to in D.6. In that ledger balance Alles' account would have appeared. By looking at the ledger balances sent in October and December—P.9—it must have been
30 obvious to the Plaintiff that Alles' debt had been written off. If D.6.A. was perused by the Plaintiff or by his staff in India it must have been obvious that Alles' debt was written off. If Alles' account stood in the books in December, interest that is recoverable whether they are recovered or not, would have to be shown as profit for income tax purposes. It is not the practice of the Chettiar community to write off in the "expense" account any recoverable debts when the recoveries are likely to be delayed in order to avoid paying Income Tax on interest. I do not know with all my experience that the moment a debt is written off in the expense account, the note is destroyed or preserved in the safe. It is the Chetty custom
40 after writing off in the expense account to preserve notes and securities. Rs.6,500/- debt and the interest due was a big debt. The Plaintiff and his staff could not have missed it. In October, November and in December, the Defendant was writing to the Plaintiff saying that he wanted to leave.

(Shown letter dated 14th December, 1932, marked D.2.E.) It is in my handwriting.

(Shown letter dated 21st December, 1932, marked D.2.F.) (Witness reads this letter). It is in my handwriting. In that letter also he asks that he be allowed to come to India. He says in that letter that I could manage the work.

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Court of
Galle.*

(Shown letter dated 26th December, 1932, marked D.2.G.) It is also in my handwriting. (Witness reads this letter). He complains that there is no point of his staying and so he wants to come to India.

*Plaintiff's
Evidence
(continued).*

(Shown letter dated 29th December, 1932, marked D.2.H.) It is also in my handwriting. The Defendant had written several letters one after the other saying that he wanted to come.

No. 12.
M. Chinniah
Pulle.
Cross-
examina-
tion,
continued.

(Shown letter dated the 3rd January, 1933, marked D.2.1.) In that letter he states that Alagappa had written that he would come within a week. This letter shows that two letters had been received from the Plaintiff and an additional letter had been received from Alagappa stating that he would be coming. He states that as soon as Alagappa comes, he would come over to India. In that letter he states that even if Alagappa delays to come he would stay till he comes. I do not think that Alagappa came to Ceylon before the Defendant left for India. Alagappa did not arrive in Ceylon before the Defendant left for India. I am definite that Alagappa Chettiar came to Ceylon two weeks after the Defendant left for India. I know that he came to my shop and stayed there for one day and went away. Apart from my memory there is no record. There is no document or account book to show the date he arrived. If the Defendant states that he left for India after the arrival of Alagappa it is not true. I would have written to the Plaintiff if the Defendant left for India. It takes less than 24 hours journey to go to the Defendant's house from Ceylon. As soon as he goes there he would see his principal. 10

(Shown letter dated 22nd January, 1933, marked D.2.K.) The Defendant says that he was waiting till Alagappa arrived but that he has not arrived up to date. He says that he was ill at that time and that he would leave for India in a few days hence. The Defendant left on the 28th January, 1933 for India. He left for India on the 28th. I do not know whether he went to India. He looked into the accounts and left the firm on that day. I do not know that he did not go to India on that day. In the ordinary course of business I would have written to the Plaintiff that the Defendant had left for India. I cannot remember who wrote about it, but I will have to see about it. The usual habit was to write within a few days. 30

(Shown letter dated 13th February, 1933, marked D.2.L.) It is my own letter. It is in my handwriting. It is the first letter written by me after the Defendant gave up the business and went to India. At the time that I wrote the letter Alagappa had arrived. On that day I had written that Alagappa had gone to Pussellawa. Alagappa Chettiar came to Ceylon about two weeks before I wrote this letter. I cannot say by looking at that letter that the Defendant left for India after Alagappa came to Ceylon. After Alagappa came it was not he who attended to the important duties of the shop. There was no such big matters for me to consult Alagappa. There were some cases. They were settled. During the time of the Defendant's stay there were only about two cases. It is not correct to say that letters addressed to Alagappa were sent to our business place. 40

(D.2B shown.) This letter says that a letter sent to Alagappa Chettiar was received by me. The letter addressed to Alagappa was enclosed in a letter addressed to me. Till I read this, I did not remember that fact. 50

The Plaintiff was writing to Alagappa at that time. The Plaintiff knew that he was having a business at Pussellawa. He knew that he goes to Pussellawa. He had sent the letter to me to be given to him. It is not because that he was writing to the Plaintiff about the Plaintiff's affairs in Ceylon. That letter was written because Alagappa owed money to the Plaintiff and the Plaintiff had requested him to pay the amount. Because Plaintiff did not know whether Alagappa was at Pussellawa or at Galle it was sent to me to be transmitted. The Plaintiff wrote to Alagappa saying that the Plaintiff was in difficult circumstances and that if Alagappa returned him the money that was due from him, it would help him. In the letter written to me it was stated that he was writing to Alagappa to pay his debts. That letter is in my village. I remember that letter. Many letters were written and I cannot remember all the particulars. I say that I had forwarded that letter to Pussellawa. I had written there that the Plaintiff's son-in-law Letchimanan Chettiar had also come there. He came to another firm. He did not reside in our firm. He resided somewhere in Colombo and stayed for about 10 days and went away. There was a sale of the Plaintiff's property at that time. Alagappa Chettiar came to Colombo for that sale. He did not come on behalf of the Plaintiff. He came and went away. He did not tell me that he came to safeguard the Plaintiff's interests. He did not tell me anything. I may have written that he also came.

(Shown letter dated 20th March, 1933, marked D.2M.) There was a sale of the Plaintiff's land on writs issued. One of the creditors was K. S. P. S. They were trying to buy it for a small amount. I say that Alagappa had come from Pussellawa to attend to the sale. He did not come to see that the property fetched a proper value. He came there casually. He also came for the sale as the land was advertised. I cannot say why he came. I did not write to Alagappa about the affairs of the Plaintiff and asked him to come to Colombo. I do not remember and I do not think that I wrote to Alagappa and asked him to come to Colombo to attend to any matters of the Plaintiff. It may be that Alagappa was sent from India to attend to important matters of the Plaintiff's in Ceylon. I do not know about it.

(Shown letter dated 15th July, 1933, marked D.2N.) I now acknowledge that I have been receiving letters from the Plaintiff from time to time. In that letter I gave the particulars about the case against the Plaintiff. In that letter I say that those particulars I have written to Alagappa at Pussellawa, Alagappa had replied that he was coming but that he has not arrived. I had written to Alagappa about this matter and he had promised to come and see me but he did not come. I wrote to him for advice. Because Alagappa was indebted to the Plaintiff I wrote to him about these particulars. He wrote that he would come but he did not come. I wrote particulars of the account because I thought he may come and pay it up. I expected to recover money from Alagappa. I am sure of it. No time. Adjourned for the 1st and 2nd March 1945.

(Sgd.) R. R. SELLADURAI,
D. J.

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 12.
M. Chinniah
Pulle.

Cross-
examina-
tion,
continued,

(Trial resumed.)

In the
District
Court of
Galle.

1st March 1945.

Plaintiff's
Evidence
(continued).

Mr. Advocate Nadarajah K.C., with Mr. Advocate Somasunderam instructed by Mr. D. V. A. Gunasekera for the Plaintiff.

Mr. Advocate Chelvanayagam with Mr. Advocate Nadesan instructed by Mr. Marikkar for the Defendant.

No. 12.
M. Chinniah
Pulle.
Cross-
examina-
tion.
continued.

M. CHINNIAH PULLE, affirmed, re-called.

XXD. continued.

The Plaintiff in this case is a very old man. He said that he cannot see. He says that he depends on my information for this case. That is 10 correct. At the end of January 1933 I took over from the Defendant. At that time I knew nothing of the assignment of the Samaranyake decree. I now know that before the Defendant gave over charge to me the Samaranyake bond had been converted into a decree in this Court. It was a promissory note given by Samaranyake on which decree had been obtained. Lakshamanan Chettiar was the Plaintiff in that case. He used the villasam of A. T. K. P. L. M. and sued him. At that time in January, 1933, I knew that the decree was existing. I now know that the decree was assigned on the 25th January, 1933. Now I also know that on that assignment Alagappa had got himself substituted in that 20 case. I know that Alagappa had got himself substituted as the Plaintiff in that case against Samaranyake. I came to know for the first time about the substitution and of the assignment somewhere after 1942 when Karuppiyah came in connection about the commission. The Defendant made a secret about the assignment when I took over in 1932. If I knew about the assignment then the Plaintiff would not have suffered. I say that the Defendant had done the assignment secretly. If I had known about the assignment in 1933 then I would have informed the Plaintiff about it. I cannot say that the Defendant intended to defraud the Plaintiff by the assignment. I did not join the Defendant with the 30 intent to defraud the Plaintiff. I do not know of another case of Samaranyake. I had nothing to do with any other case of Samaranyake. The only case I know of Samaranyake is in respect of this note. It is not correct to say that I knew in 1933 about the substitution of Alagappa Chettiar in that *Samaranyake* case. It is not correct to say that I helped him to get himself substituted as the Plaintiff in that case. For the purpose of substitution an affidavit prepared was not sent from Galle to me to Colombo. It is not correct to say that I forwarded that from Colombo to India. In connection with the *Samaranyake* case I cannot remember of having transmitted any document 40 in connection with the *Samaranyake* case.

(Mr. Chelvanayagam proposes to show the witness a letter purporting to have been written by him.

Mr. Somasunderam objects.

I allow the document to be shown.)

(Mr. Somasunderam asks that the letter should be produced from proper custody.

I am still of the opinion that the document can be shown to the witness.)

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 12.
M. Chinniah
Pulle.
Cross-
examina-
tion,
continued.

(Witness shown a letter.) It is one of my letters. This letter was written by me. It is marked D.7. It is dated the 14th February, 1933. It is written by me from Colombo. I have written to the firm A. R. L. Pussellawa. That firm belongs to Alagappa Chettiar. It was sent to Alagappa Chettiar. At that date Alagappa was at Pussellawa in that shop. (Witness reads out the letter.) S. S. L. had sent me certain papers from Galle to be transmitted to Alagappa Chettiar in order that he may sign them and I was requested to forward them to Alagappa Chettiar and to get them back after his signature had been written and to send them back again to Galle. On account of that request I forwarded them with this covering letter. On that date the Defendant was in India. That was on the 14th February, 1933. He had gone to India on the 28th January. The decree was assigned on the 25th January.

Q. Within 20 days of the assignment you were sent an affidavit in connection with the *Samaranayake* case ?

20 *A.* I do not know what happened in Galle.

In this letter I had written that the papers be sent direct to Galle. The papers were sent to me and I do not know what the contents were. I say in that letter D.7 that there were two affidavits and two deeds. I say that they are in connection with the *Samaranayake* case. It was written to me so. I do not remember to have written the details as to whether Alagappa should come and sign the affidavit. The statement was that the document had to be signed before a Justice of the Peace. I only conveyed information which had been conveyed to me from Galle. I do not recollect the letter I received from Galle. I cannot say what was written to me from Galle. I also state that not only the affidavit but also the deeds have got to be signed by Alagappa before a Justice of the Peace. It is because I had been written to asking that the Justice of the Peace should sign the deeds identifying the deeds that I have written in D.7 accordingly. In that letter I say that I was annexing the letter I had received from Galle.

Q. If these details as to signatures and attestation by the Justice of the Peace were contained in the letter to you from Galle, since you were annexing the same what was there for you yourself to write in detail ?

40 *A.* The details I wrote were the details I had gathered from the letter which I was annexing.

On that date I knew of no other *Samaranayake* case. The only case I knew was about the note that was granted to the Defendant. The only case I knew was the case on which decree was obtained on the note. When I received these papers the S. S. L. was the firm in charge of the transactions at that time. I do not know about these things and they were in their charge.

In the
District
Court of
Galle.

Plaintiff's
Evidence
(continued).

No. 12.
M. Chinniah
Pulle.
Cross-
examina-
tion,
continued.

Q. Since you got these papers into your hands it must have been obvious to you that Alagappa was taking steps to have himself substituted ?

A. Alagappa Chettiar and the Defendant were partners and the S. S. L. firm was in charge of the *Samaranayake* case. I do not know in what connection the papers were sent.

Q. Will you now grant that the S. S. L. firm certainly did not want to keep this a secret in view of the fact that the papers were transmitted through you ?

A. S. S. L. firm transmitted the papers through me. 10

Q. The papers sent in February 1933 through me were the papers in connection with the *Samaranayake* case ?

A. Yes.

Q. In view of the fact that the S. S. L. firm sent the papers through you, they did not want to keep it a secret to you ?

A. I do not know about it.

I do not know whether they intended to keep it a secret from me but they sent the papers through me. I do not know whether after January, 1933, there were inquiries or trials in connection with the *Samaranayake* case. In connection with the *Samaranayake* case I sent 20 to the Courts at Galle the books of the Plaintiff's firm which were in my charge. That was after February, 1933. The books that I sent were of the firm of A. T. K. P. L. M. They were sent because they were necessary to show that the money was lent to Samaranayake on that note. The books were held up in this Court in 1933-1934 with the result that I was unable to send the books for a case in India. I informed my principal saying that the A. T. K. P. L. M. books were held up in connection with the *Samaranayake* case in Galle and therefore I was unable to send them to India. The books were only sent to Court. No one produced them in Court. (To Court: I brought the books from Colombo and handed 30 them to Court, but I did not give evidence.) I handed them for the same *Samaranayake* case. Our firm had no other dealings with the *Samaranayake* case, in respect of this note. Apart from the note there were no other transactions with Samaranayake with our firm. In connection with that note transaction there were entries in our books with regard to the entering up of the decree, the sale of land etc. It is not correct to say that I came to Galle Courts and looked at the books for the purpose of the Indian Court case. (Shown letter D.8.) It is one of my letters. It is dated the 8th December, 1933. It is written from the firm of A. T. K. P. L. M. Colombo, and sent to A. R. L. Pussellawa. It was a letter signed by me 40 and sent to Alagappa.

(Witness reads out a portion of the letter.) I refer there to the account of "A. L. A." A. L. A. is the party concerned in the Indian Court case. 5th February was the date in the Indian Case and the books were required there. I came to Galle and examined the books and left in Court the books necessary for the *Samaranayake* case and handed over the others to the S. S. L. firm to be posted to India. I stated in that letter that I have left behind in Galle all the books necessary for the *Samaranayake*

case. Those were all the books of the firm A. T. K. P. L. M. In December 1933 I was myself in charge of A. T. K. P. L. M.'s affairs. I had a power of attorney. I had written to my principal in India saying that the A. T. K. P. L. M. books were in Galle for the *Samaranayake* case. I still say that I am not aware of the assignment of the decree by the Defendant. I do not know whether in December 1933, the Defendant had ceased to be the attorney of the Plaintiff's firm. I do not know whether the Defendant had a power of attorney in December 1933 but the power of attorney which I had was the one given to me by the Defendant himself. I was told that a case was going on in the Galle Court. With regard to *Samaranayake* affairs I do not know about it. I was not aware that before December 1933, Alagappa had got himself substituted in the *Samaranayake* case I do not know if Alagappa Chettiar came from India to Ceylon before the Defendant left for India. I stated earlier that he came to Ceylon two weeks after the Defendant had left for India. It is correct. I do not know if the Defendant gave this assignment of the decree at the request of the Plaintiff. I have not been able to find out whether Alagappa Chettiar came to Ceylon before the Defendant left for India. He may have come. To-day I cannot say definitely that Alagappa may have come to Ceylon after the Defendant left for India.

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 12.
M. Chinniah
Pulle,
Cross-
examina-
tion,
continued.

Q. Then your earlier statement that he came to Ceylon two weeks after the Defendant left for India is not correct ?

A. My position to-day is that I do not know whether Alagappa Chettiar came to Ceylon before the Defendant left for India or after the Defendant left for India. I have not made enquiries and I cannot say definitely about it. When we come from India we have to report to the Health Officer. I do not know whether Alagappa reported himself to the Health Officer when he came in January to Ceylon. I do not know if the Health Officer has come to Court. I do not know whether the Defendant has summoned the Health Officer to produce the books to show when Alagappa came to Ceylon. I am the man who signed the proxy in this case. I now hold the Plaintiff's power of attorney. To-day the Plaintiff is not in Ceylon. I am the man who is instructing the lawyers to carry on with this case. I do not know whether the Defendant has summoned the Health Officer to produce the books to show when Alagappa came to Ceylon. After Alagappa came early in 1933 one of his places of business was at Pussellawa and I used to write to him frequently about the A. T. K. P. L. M. affairs. Because there were some balances due to my Mudalali from Alagappa I wrote to him. I wrote to him about the transactions between the Mudalali and Alagappa and I also wrote about our transactions with his firm. If the Counsel says that I have been writing to Alagappa about the transactions of the Plaintiff's firm with third parties I must look into the letters. I may have written to Alagappa about the transactions of our firm with third parties. After I was carrying on the business in January, 1933, it is not correct to say that I had to take instructions from Alagappa in respect of the Plaintiff's business and as to how it should be run. After January, 1933, Alagappa did not render any assistance to me in the manner of carrying on the business of the A. T. K. P. L. M. firm. After 1933,

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 12.
M. Chinniah
Pulle.
Cross-
examina-
tion,
continued.

the Plaintiff was not in Ceylon. I was in Colombo. If I went to India I had no necessity to get permission from Alagappa, but I had to get leave from my principal in India.

(Shown letter dated the 20th February, 1933, marked D.9.)

This is the covering letter which I sent to Alagappa enclosing the letter from my Mudalali to Alagappa. On that day I sent another letter. It is marked D.10. It is also written by me.

(Witness reads out the portion of the letter regarding the K. S. P. S. Seizure.)

K. S. P. S. had seized my principal's lands for the balance due on a writ against my principal. The National Bank's seizure was also on a decree against my principal. Those matters are matters of the A. T. K. P. L. M. business. K. R. K. N. A. R. Chettiar is also mentioned in that letter. That is in respect of Arunasalam Chettiar who was in Colombo. I wrote to Alagappa about the seizure of my principal's lands. He knew that some writs were out and I wrote about them to recover money from him. I wrote to him thinking that he might turn up. I have written there that I would inform him after the sale takes place. 10

Q. You have not stated one word about any money being due to your firm from Alagappa ? 20

A. The Mudalali had written to me and I had transmitted those letters to Alagappa.

I have written only about the lands seized but not with regard to the money. I did not give this information because I was in the habit of writing to him about the transactions of our firm, but I was stating the circumstances in order that Alagappa might pay the principal the money due to him. Alagappa was carrying on a business at Pussellawa. He had the means to pay. He did not pay me but he settled. He came for the sales and he was present at the sales with me. I was present at the sales and he was also present at the sales. He came for the sales just to find out whether it was true or not. He has a place in Colombo and he came to see whether there was a sale or not. I do not know whether he doubted my letter. It is not correct to say that he came because I had asked him to attend to the matters of the sale of the Plaintiff's affairs. I did not write to him to come but he came. I do not remember to have written any other letter ; when he came for the sale he did not try to settle with the creditors of our firm. He did not take any interest to bring about any settlement between K. S. P. L. and my principal's firm. On the 28th February I wrote to Alagappa another letter. I produce it marked D.11. It is one of my letters. K. S. P. Chettiar was not one of our creditors but he was a creditor of Alagappa Chettiar. I wrote to him about the firm at Negombo. That is the firm that owed money to A. T. K. P. L. M. I wrote to him what they had stated about their debt. Alagappa knew about this debt earlier. Therefore I wrote to him about it. There also I gave information about our business. 30 40

Alagappa knew about the transactions of our firm. He had to pay money to our firm and so I wrote to him but in this letter I did not claim the money due to our firm from him. My Mudalali had written to him claiming the money due to the firm, so I did not write to him. I did not

write in this letter also about the debt that he owes to our firm. I may have written a letter about this debt. On the 9th March, 1933, marked D.12, I wrote another letter, to Alagappa. (Shown D.12.) It is one of my letters. The "Shop" referred to in D.12 is our shop. I also refer in D.12 to our principal. The National Bank asked for a transfer of the lands that were seized by K. S. P. S. I have written to Alagappa Chettiar stating that I would sign the deeds on hearing from Alagappa. I was consulting Alagappa whether I should sign the deed or not because he was a relation of the Mudalali. In respect of carrying on this business I did not consult Alagappa. It is not correct to say that I consulted Alagappa with regard to the affairs of the Plaintiff's firm. Because I had no orders from the Mudalali and because Alagappa knew about these transactions I consulted him.

Q. If Alagappa had advised you to sign the deed of transfer in favour of the National Bank you would have signed ?

A. I would not have signed it without the express permission from our Mudalali.

In my letter D.12 I have written that after getting a reply from Alagappa Chettiar I would give an answer to the demand of the National Bank. On the 13th March, 1933, I wrote another letter marked D.13 (Shown D.13). I wrote that letter. (Letter read out.) In this letter I have written to Alagappa asking him to come two days before the sale. In that letter I say that K. S. P. S. might put in a nominee and buy the property. I had asked Alagappa to come there to watch the interests of the Plaintiff. On the 8th April, 1933, I wrote another letter marked D.14. It is one of my letters written to Alagappa. In that letter I refer to one Somanna Mana. That is Alagappa Chettiar. Alagappa Chettiar was known as Somasunderam and when I refer to him I refer him by the first two letters. Similarly I wrote to him again on the 15th June, 1933, marked D.15. D.15 is written by me to Alagappa. I wrote there about the debt due from Alles to the Chartered Bank. That is a note to which my principal was a party and it was given to Alles who had given to the Chartered Bank. I had given Alagappa particulars about that case. He knew about this transaction. So I gave them.

D.16, dated the 19th June, 1933, was written by me to Alagappa.

D.17 was written on the 1st July, 1933. That is one of my letters to Alagappa. (Last portion of that letter read out.) I say that I have written to the principal about these matters and that I have not got a reply. I have written here that I had not received any communication from the Mudalali and I requested Alagappa Chettiar to advise me first as to what course I should adopt. I wrote D.18 on the 14th August, 1933, to Alagappa. In this letter I have written stating that my child was seriously ill in India, that I want to start off immediately that I had wired my Mudalali for leave, pending the receipt of Mudalali's reply I was asking Alagappa to grant me leave. Alagappa did not give me leave to go to India. I went to India. I sent a wire to the Mudalali and left without getting a reply from him. The Mudalali's instructions were not to get instructions from Alagappa if he could not give instructions to me.

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

*No. 12.
M. Chinniah
Pulle.
Cross-
examina-
tion,
continued.*

*In the
District
Court of
Galle.*

It is not correct to say that the Mudalali had given instructions that if I was unable to get any special instructions from the Mudalali that I was to get from Alagappa.

(Adjourned for lunch.)

*Plaintiff's
Evidence
(continued).*

(Sgd.) R. R. SELLADURAI.
D.J.

(After the luncheon interval.)

No. 12.
M. Chinniah
Pulle.
Cross-
examina-
tion,
continued.

M. CHINNIAM PULLE, affirmed, re-called.

XX D. continued.

In 1933 I was constantly writing to Alagappa. I gave up the 10 Plaintiff's firm and went away in 1935. When I went away I handed over to S. P. Karupiah of the S. S. L. firm. Alagappa had nothing to do with my handing over to Karupiah. In 1935 when I was handing my principal was in Singapore in Malaya. I did not ask him what I was to do. Alagappa did not write to me anything. The Mudalali wrote to me from Singapore asking me to hand over. So I handed over to him. Alagappa had nothing to do with that.

Q. Did you write to the Mudalali asking him permission to hand over to Alagappa ?

A. I wrote to my Mudalali inquiring as to whom I should 20 hand over.

He replied to me to hand over according to the directions of Letchimanan and Alagappa. Alagappa wrote to me then. I handed over the business to the man nominated by Letchimana and not by Alagappa. (Letter of the 27th May, 1935, in D.2 referred to.) That is a copy of a letter written by me to the principal. It is marked D.2P. I wrote there asking for permission to go to India. A. L. A. S. M. referred to is the Alagappa Chettiar. I also wanted permission to obtain money due from A. L. A. S. M. I also stated that A. L. A. S. M. may be informed of this. I have stated in that letter that if a list of recoverable debts 30 is given to A. L. A. S. M. then Alagappa would spend out of his money and recover those debts for us. I asked for an order to hand over to Alagappa. At that time Alagappa was in Ceylon. I did not get instructions from the Mudalali to hand over to Alagappa and leave. My Mudalali son wrote to me to hand over to Karupiah. I cannot remember if I received a letter directing me to hand over to Alagappa and leave.

(Letter dated the 4th July, 1935, marked D.20.)

That is a letter written by me to my principal in Singapore. There I have stated that I have received a letter written by him to me and to Alagappa. At that time my principal had written a letter to Alagappa. 40 Those letters show that I have written to my Mudalali stating that in terms of his directions I could not hand over to Alagappa because Alagappa had to go away to India suddenly. I now admit that the Mudalali had written to me directing me to hand over to Alagappa. I further stated in this letter that I handed over to Karupiah of the S. S. L. firm and left. Soon after this letter was written I left this firm. D.2Q is the last letter

in D.2 I wrote. Thereafter I did not do anything. From January, 1933, till I left in July, 1935, Alagappa was in touch with our firm. Alagappa was a relative of my principal. He was a person trusted by my principal. The principal trusted Alagappa. Before the Defendant left the firm in January, 1933, I did not know if he endorsed Alles' promissory note to Alagappa. I do not know about it. The loan was given to Alles when I was assistant to the Defendant in the Plaintiff's firm and the account had been going on for sometime before I took charge of the business. I have produced a copy of Alles' account. I have produced the original ledger from which I have made the extract P.12. The extract has been made in my own handwriting. The latter part of this extract has been made from the book P.11/D.1. (Alles' account referred to is in page 26.) That account has been brought forward from page 66 of the earlier ledger. (Shown P.10 page 66.) Alles' account is at page 66 of P.10. Till the 20th February, 1931, this account is in my handwriting and the subsequent entries are in the handwriting of Arunasalam. After all the transactions are entered there is a note made at the end of it and that note is in the handwriting of the Defendant. The endorsement made by the Defendant reads—"that the testamentary proceedings are taking place with regard to this item and it is recoverable in one year more or less." It is written in pencil. It has conveyed the nature of this account. It states whether it is recoverable or not and how long it would take. The Defendant made that endorsement for the guidance of other people. The entry suggests that the money is good money but that it would be little delayed. After the 27th June, 1931, I knew that it was good money. I now know that that money was recovered from Alles' estate about one year after that. I know that entry. I knew about this entry before the Defendant left the firm. Anybody looking at our books could have found that out. I know that in about 1931 or 1932 income tax was imposed for the first time in Ceylon. We pay income tax on all the interests received in the shop. It is not correct to say whether we received interests or not as long as it is shown as a loan we have to pay income tax. We pay income tax only for interest recovered. I informed the principal in India that Income tax had come into force in Ceylon. Thereafter the principal gave instructions to write off a number of irrecoverable debts. Debts amounting to Rs.47000/- were written off. That was on the 5th December, 1932. It was on this date that the Alles' note was written off. I knew that it was a good debt on that date. Even if the debt was written off, the promissory note was in the safe. Alles' promissory note was in favour of the Defendant. If the Defendant goes, then he should endorse it to somebody else. Without an endorsement his successor could have recovered if he had held a power of attorney from the Defendant. During the time that the Defendant was here in Ceylon in charge of the business, that is before January, 1933, when he was away he had given me a power of attorney. Letchimanan was in charge of the business. If at any time he went to India I used to officiate in his place sometimes. When I was also in India the other assistants officiate. Before January, 1933, when the Defendant was away in India when I was in charge I have been recovering loans and I have given loans, I have also sued in his name. When payments are made the notes are cancelled by me. When the Defendant is away in India if anyone pays money due on the notes I used to cancel

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 12.
M. Chinniah
Pulle.
Cross-
examina-
tion,
continued.

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

*No. 12.
M. Chinniah
Pulle.
Cross-
examina-
tion,
continued.*

the note and return it. Similarly I discharged mortgage bonds also during the time when the Defendant was away in India. I was able to discharge the mortgage bonds when I held the power of attorney during his absence and not when I was merely a substitute for him. The promissory notes were kept in the safe. The safe key is given to me when the Defendant goes away. The notes are given in my custody when the Defendant is away. (Shown D.4.) (Letter of the 5th March, 1932, in D.4 referred to marked D.4D.) When I wrote that letter I was in charge of the business and the Defendant was away in India. I informed in that that income tax had come into force in Ceylon and sent copies of the 10 day book and ledger balances. I also refer to the fact that I have discharged the promissory notes and given them away. I do not know about the endorsement and handing over of this note. I do not know whether the Defendant received any money by the endorsement of this note. I do not know of the assignment of the decree. I cannot say whether the Defendant received one cent. on the assignment of that decree.

*Re-exami-
nation.*

Re-examined :

After the Defendant left in 1933 I was in charge till 1935. During that time I received letters from the principal giving instructions regarding 20 this business. They are all with me. I severed my connections with the firm in 1935. Even to-day those letters are with me. No summons has been received by me from the Defendant to produce those letters. During the time when the Defendant himself was in actual charge, I have seen letters written by the Plaintiff to the Defendant. I have read some of the letters. Sometimes he used to give me letters to read. He used to give me instructions. According to the books the Defendant's salary account was closed on the 28th January. His connection with this firm was closed on the 28th January, 1933. I produce that day book marked P.22, for January, 1932. The entry of the 28th January reads 30 that all his salary and other accounts were paid and his account closed. The Defendant left for India thereafter. I produce marked P.23 the telegram sent by the Defendant to the Mudalali. In P.23 he states that he was leaving on the following day. When the Defendant left he gave me a power of attorney. I am not aware whether the Defendant or my principal gave a power of attorney to Alagappa to act on their behalf before January 1932. They did not give. As far as the A. T. K. P. L. M. was concerned I was their attorney. From 1932-1935 I signed document on behalf of the firm. Alagappa never signed on behalf of the firm. Whenever the Mudalali sends an agent to Ceylon the agent's expenses 40 entered in the expense account of the local firm. Whenever the Defendant went to India and came back all his expenses were entered in the expense account book. (Expense account in P.10 referred to.) In P.10 on page 9 there is an entry giving the expense account of the Defendant when he came from India in 1930. Against the 20th February, 1930, there is an entry showing that Rs.32/- was paid on account of the railway charges of the Defendant when he came from India. Page 127 of P.10 shows that on the 19th July, 1930, the Defendant had taken Rs.20/- for his railway ticket. On the 16th August, 1930, when another assistant came from India his travelling was paid. At page 170 of P.10, Rs.44/- was 50

paid to another employee who came from India. In ledgers from 1932-1935 there are no entries to show that any expenses were paid to Alagappa for any travelling done. During 1933 and 1934 the Mudalali used to write letters to Alagappa and enclosed those letters with those that were written to me. They were regarding monies payable by Alagappa to the Plaintiff.

*In the
District
Court of
Galle.*

(Mr. Chelvanayagam objects to this answer.)

*Plaintiff's
Evidence
(continued).*

- Alagappa had his own business at Pussellawa. He was also the owner of the S. S. L. firm in Galle. He was in the habit of coming from Pussellawa to Galle. I forward those letters addressed either to Pussellawa or Galle or wherever he may be. (Shown press copy of letter in D.2 written by the witness to the Plaintiff on the 9th June, 1933, marked P.24.) It is a letter written by me to the Mudalali in 1933. (The witness reads out a portion of the letter.) In that letter I refer to the fact that Alagappa had been trying to mortgage the properties to raise a big loan and to pay off the debts due to the firm and that some people who promised to give money on the mortgage later had backed out. I also state that Alagappa would write to the Mudalali after he has made some arrangements with regard to the money. In that letter I also state that I had tried my best to make Alagappa realise that he should pay back the money due to the firm especially when the Plaintiff had gone to the rescue of Alagappa when he was in trouble. During 1933-1935 when I was in Ceylon I pressed Alagappa to pay the money due to the firm. I do not know Samaranayake personally. I have not seen him. I had not collected money from him. (Shown P.13.) P.13 is an extract from my ledger of Samaranayake's account. It was S. S. L. firm who lent the money to Samaranayake. It was through S. S. L. that the money was recovered. My extract P.13 shows the various amounts paid to the S. S. L. firm in connection with that case. P.13 shows that right through the case it was managed by the S. S. L. firm. Whenever the books of the Plaintiff's firm were necessary in the Samaranayake case, the S. S. L. used to write to us to send them. Sometimes they were sent and sometimes they were brought by me. When the Defendant left in January, 1933, I was not aware that the Samaranayake decree had been assigned in favour of Alagappa. Afterwards when I was in sole charge after the Defendant left, during 1933-1934 I sent the books to the S. S. L. firm in connection with that case. At that time I was not aware of the assignment of the decree. I do not know that Alagappa Chettiar was substituted as the Plaintiff in that case. During the years 1933-1935 I did not give instructions to any proctor in connection with that case. I did not get into a witness box and give evidence. When books were called for in connection with that case during 1933-1934 I thought that they are calling for them in connection with it. In my books the Samaranayake decree had not been written off.

No. 12.
M. Chinniah
Pulle.
Re-exami-
nation,
continued.

- I had been sending certain documents to Alagappa regarding the *Samaranayake* case. The S. S. L. firm may have had dealings with Samaranayake but I do not know them. Those affidavits and deeds that were sent on to me by the S. S. L. firm had to be transmitted. At that time I received those documents I did not know in what connection those documents were sent or in what particular case they were required. They said that it was for a Galle Case. After the Defendant left, the

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 12.
M. Chinniah
Pulle.
Re-exami-
nation,
continued.

S. S. L. firm did not recover any money from the *Samaranayake* case and remit it to us. I know personally Mr. Alles. He was from Galle. That money was originally lent by the Galle firm. The payment was made to Alles through the S. S. L. firm. (Shown P.10.) At the end of Alles' account in P.10 there is an endorsement by the Defendant personally stating that the debt could be recovered. That was soon after the June entry. I started a new set of books in August, 1932. That debt of Alles was transferred to the new books. Prior to the preparation of the new books our local firm did not receive instructions from the principal as regards the transfer of these accounts. I did not receive instructions 10 personally. I do not know whether the Defendant received any instructions. Those debts which in the opinion of the Defendant were recoverable were transferred to these books. Alles' debt was one of those accounts. The Samaranayake account was not transferred to the new ledger. Alles' debt was brought to the new ledger P.11, on the 1st September, 1932. On the 5th December it was written off as irrecoverable. On the 5th December a sum of Rs.47,000/- was written off in the expense account.

Q. Why were these amounts of Rs.47,000/- written off in the books ?

A. Because they were not recoverable. (To Court: The 20 Defendant thought that they were not recoverable.)

Q. Were they written off for the purpose of evading income tax ?

A. No.

(Sgd.) R. R. SELLADURAI,
D. J.

No. 13.
V. A.
Suwaris.
Examina-
tion.

No. 13.
V. A. Suwaris.

V. A. SUWARIS, Sworn, Chief Clerk of the Mercantile Bank of India, Galle. 30

I am a clerk employed there. (Shown document marked P.25.) This certified extract from the bank books of the account of the firm of S. S. L. in Galle for the year 1934. The account shows that on the 3rd October, 1934, a sum of Rs.4,500/- had been deposited by that firm to their account. I also produce marked P.26 a certified copy of the second account of W. V. R. M. de Silva. It shows that on the 3rd October a cheque of Rs.8,500/- in favour of A. L. A. S. M. Alagappa Chettiar drawn by Mr. Silva had been paid by the Bank.

Cross-
examina-
tion.

XXD.

I do not know anything about these accounts. I am the chief Clerk 40 of the Bank. P.26 shows that we have paid a cheque. I cannot say whether it was paid at the counter or not without seeing the cheque.

It does not show that cash was given across the counter. It shows that the bank had debited his account with Rs.8,500/- Regarding the S. S. L. firm accounts I went through the ledger for that year and I produce that extract. I did not go through the ledger for the previous year.

*In the
District
Court of
Galle.*

Re-examined :

*Plaintiff's
Evidence
(continued).*

I was summoned to produce the cheque by which Silva paid Rs.8,500/- to Alagappa. That cheque is destroyed. We keep cheques only for ten years.

No. 13.

V. A.
Suwaris.
Cross-
examina-
tion,
continued,
and re-
examina-
tion.

(Sgd.) R. R. SELLADURAI,
D. J.

10

Further trial on 2nd March 1945.

Intd. R. R. S.
D.J.

No. 14.

G. Velaithan Chetty.

(Trial resumed.)

No. 14.
G.
Velaithan
Chetty.
Examina-
tion.

2nd March, 1945.

Same appearances as before.

G. VELAITHAN CHETTY, affirmed.

- 20 I know the Plaintiff A. T. K. P. L. M. Chettiar. I took employment under him in December, 1934. Prior to this date I was in Burma in A. T. K. P. L. M. firm. In December 1934 I became the agent in India. I know the Defendant in this case. I came to know him in 1935. At that time the Defendant was having a business in Ceylon in Galle. Under the villasam of "S. S. L." He was not the sole proprietor. It was in partnership. I produce marked P.27 the certificate of registration of the firm of S. S. L. It is the original certificate of registration. According to P.27, the partners of the firm were the Defendant, Sunderam, Singaram and Sivalingam. The last three are the sons of Somasunderam Chettiar
- 30 alias Alagappa Chettiar. At a later state the partnership was changed. I produce marked P.28 the statement of change made in 1931. According to P.28, Singaram and Sivalingam ceased to be partners. I produce marked P.29 the registration of the existing partnership between the Defendant and Sunderam. I produce marked P.30 the statement of change dated the 18th April, 1939. According to P.30, Sunderam too ceased to be a partner, and the Defendant became the sole proprietor of the S. S. L. firm as from April, 1939. I produce marked P.31 the registration of the firm of S. S. L. where the Defendant is shown as the sole proprietor of the firm. That is on the 24th April, 1939. In addition to the firm of S. S. L.
- 40 the Defendant was the proprietor of another firm A. R. L. I produce marked P.32 the certificate of registration of the firm of A. R. L. From 1935 I knew the Defendant fairly well. After 1935 to my knowledge the

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 14.

*G.
Velaithan
Chetty.
Examina-
tion,
continued.*

Defendant has come to Ceylon. Every year he comes. He comes to Ceylon in connection with his business. Whenever he came to Ceylon in connection with this business he has written letters to me from Ceylon to India. (Shown P.33.) This is a letter of the 13th February, 1937, written by the Defendant from Galle to me. It is written in his own handwriting. I know his handwriting.

(Mr. Chelvanayagam objects to the production of this letter on the ground that there is no translation.

Mr. Somasunderam states that he is not producing the contents of the letter. He is only producing the letter to show that on the 13th February, 1937, the Defendant was at Galle as indicated by the fact that the letter purports to have been written from Galle. 10

Mr. Chelvanayagam states that none the less the whole document becomes a part of the evidence; that he is entitled to cross-examine on the other points of the document; that in the absence of a translation he is unable to do so.)

ORDER.

If Mr. Chelvanayagam finds anything in the document in support of his case or to break down the case of the Plaintiff, Mr. Chelvanayagam himself can produce the translation. The relevant portion of the letter 20 as far as the Plaintiff is concerned is the word Galle and the date. I do not think that I should rule out this document because there is no translation.

(Sgd.) R. R. SELLADURAI,
D.J.

(Mr. Somasunderam undertakes to put in a translation.) I produce marked P.34 the envelope in which P.33 was enclosed. Shortly after I became the agent of the Plaintiff in 1934, the Plaintiff went to Singapore in December, 1934, and he returned in 1938. From 1934-1938 Tirumaliaiyangar and I looked after the Plaintiff's affairs in India. In 30 1934 Chinniah Pulle was in Colombo in charge of the Plaintiff's business. He left the business and returned to India in 1935. When he left in 1935 he handed over the securities to one Karupiah Pulle of the S. S. L. firm. To my knowledge he recovered moneys on these securities. He did not pay over those amounts either to me or to the Plaintiff. After the Plaintiff returned to India the Plaintiff, the Plaintiff filed an action against Karupiah in an Indian Court. In that case, the present Defendant was also made a party. The Defendant filed answer in that case. He was discharged from the case and the case proceeded against Karupiah. Decree was entered. In connection with that a commission was issued to Galle. 40 In connection with that commission Chinniah came to Galle in 1942. When Chinniah Pulle returned I knew that he told something to the Plaintiff. (*To Court*: I was present when he told that to the Plaintiff.) He told the Plaintiff that the S. S. L. firm had recovered a sum of money due to A. T. K. P. L. M. He told the Plaintiff that he gathered this information from Nadarajapulle. Then I took all the books and examined. The Plaintiff did not write any letters. (*To Court*: The Plaintiff himself did not write any letters as a result of the information given by Chinniah.

He got Chinniah himself to write the letters.) Chinniah wrote letters to Nadarajapulle. Nadarajapulle wrote all the details. When we received this information in India, we sent Chinniah Pulle to Ceylon to take certified copies. The books of the firm of A. T. K. P. L. M. were in India. I referred to the books and found that Alles' account had been written off in the expense account and Samaranayake decree was entered in the "old" account. Before that I did not know anything about Alles' account or of the Samaranayake decree. Thereafter this present action was filed against the Defendant. After I became the Plaintiff's agent in 1934 to my knowledge the Plaintiff never came to Ceylon. In connection with this case he came to Ceylon to give evidence.

XXD.

I am not the genius behind this action. I looked into the accounts and found Samaranayake account entered in the old account and Alles account was written off. Then I thought that something was wrong. I did not tell the Plaintiff anything. I told the Plaintiff that it seems some fraud had been committed because Alles' promissory note had been written off. I did not know the circumstances in which it was written off. I knew the state of affairs of the A. T. K. P. L. M. firm in 1932.

20 I was the agent of the Plaintiff's firm in Burma. I was not in Ceylon in 1932. I was not in India in 1932. I know all what transpired between the Plaintiff and the Defendant in 1932. Because insolvency papers had been filed by the Plaintiff I knew all about his transactions. I have not seen the correspondence that passed between the Plaintiff and the Defendant. When I looked into the accounts in 1942 I had not seen the correspondence between the Plaintiff and the Defendant. Before I told the Plaintiff that in respect of these two items fraud had been committed I had not seen the correspondence that passed between the Plaintiff and the Defendant. I have not seen the letters written by the Plaintiff to the Defendant in 1932. Without seeing any of the correspondence I had come to the conclusion that a fraud had been committed. I know Alagappa Chettiar. I knew him from December 1934. Before that I did not know him. I do not know that the Samaranayake decree had been assigned to him. In 1942 when I saw that the fraud had been committed I knew that the Samaranayake decree had been assigned to Alagappa Chettiar. I do not know what relationship existed between Alagappa and the Plaintiff in 1932. In 1932 when I surmised that there was a fraud I did not know the transactions which had existed between the Plaintiff and Alagappa in 1932. In 1942 I did not know that in 1932-1933 Alagappa had assisted the Plaintiff in the closing of his business. In 1934 I knew that the Plaintiff and Alagappa had dealings with each other. The Plaintiff's grandson is married to Alagappa's daughter. In 1934 Alagappa and Plaintiff were not friends. I first came to Ceylon in 1941. Before that I was in Ceylon in 1911-1912. After 1912 I was in Ceylon in 1941. I know Karuppiah. He did work for the Plaintiff. He worked under the Plaintiff. He worked in the years from 1935-1940 in addition to other work. Between 1935-1940 Karupiah was at one and at the same time the agent for the S. S. L. firm. After 1935 the Plaintiff had very little work in Ceylon and he got Karupiah to assist him.

In the District Court of Galle.

Plaintiff's Evidence (continued)

No. 14 G.

Velaithan Chetty. Examination, continued

Cross-examination.

*In the
District
Court of
Galle.*

*Plaintiff's
Evidence
(continued).*

No. 14.
G.
Velaithan
Chetty.
Re-exami-
nation.

Re-examined.

To my knowledge the Plaintiff did not give a power of attorney to Alagappa. When Karupiah was doing the work of the Plaintiff's firm after 1935-1940 the Plaintiff had signed and given to Karupiah a power of attorney from Singapore. In 1942 when I looked into these accounts I found that Alles' account had been written off.

Q. At that time you looked into the accounts in 1942 did you know that the Plaintiff had authorised the Defendant to write them off?

(Mr. Chelvanayagam objects to this question on the ground that it does not arise from the cross-examination.)

(Sgd.) R. R. SELLADURAI,
D.J.

Mr. Nadarajah closes his case reading in evidence P.1 to P.34.

(Intld.) R.R.S.
D.J.

*Defendant's
Evidence.*

No. 15.
L. H.
Jinadasa.
Examina-
tion.

DEFENDANT'S EVIDENCE.

No. 15.
L. H. Jinadasa.

Mr. Chelvanayagam calls—

20

L. H. JINADASA, affirmed, Clerk, Colombo Port Health Office.

I have kept the books in the Port Surgeon's office where particulars regarding the people who return from India are recorded. I have here the book relating to January 1933. Under the date 23rd January 1933, a number of people had come and reported and there I have got the name "A. L. A. S. A. Alagappa of 178, Sea Street." He was asked to report thereafter to Dr. D. P. Kitulgoda.

(The witness has in Court a register in which the entry appears under the 23rd January, 1933. The witness asks that it be given back to him.)

I direct him to prepare a copy, certify it and to give it to me and then take the book back.)

(Mr. Chelvanayagam marks it D.19.)

Cross-
examina-
tion.

XXD.

The book was not written by me. The Port Health Officer is in charge. In 1933 this book was in charge of the former clerk. The passenger brings a report form from the Mandapam Camp and then he gives the number the name and the other particulars. Then he is instructed to

report to the nearest Medical Officer. The entries here except that column where I have asked him to report to Dr. Kitulgoda, the rest had been taken over from the form which the passenger brought and handed to me. That form is not filed for some years. I do not think that the form is available. I did not search for the form. I cannot say whether to my knowledge the form is available or not. Against this entry the first number of the vessel is 31761. 31761 has now been scored off and 32005 has now been entered. 32005 was entered by the clerk in charge of the register. The scratching has not been initialled nor the number. In the first column under the heading "vessel" the first number given was 31761. Under the heading "serial number" the original number given is something like 604 or 605.

*In the
District
Court of
Galle.*

*Defendant's
Evidence.*

*No. 15.
L. H.
Jinadasa.
Cross-
examina-
tion,
continued.*

(Mr. Nadarajah moves that the original register itself be kept in Court in view of these corrections and amendments.)

That has also been scored off and above that the number written is 1695. The original number 31761 is the next number after the previous entry. The previous entry immediately preceding 31762 has been scored off and 32008 written in red. These numbers intended to mean as the numbers of the quarantine form. That is the number appearing under "vessel." In the case of A. L. A. S. M. Alagappa Chetty the number of the quarantine permit and the number of his personal bond have both been entered first and then they were scored and 32005 written against the quarantine permit number and 1695 under his personal bond. The personal bonds are generally filed. I have not looked for the personal bonds or for the quarantine forms. I cannot say whether these things are still available or not. 23.1.33 is the date of the arrival. On that date a man calling himself Alagappa Chettiar arrived in Ceylon. For two weeks he is asked to report. After he reports himself for two weeks to the Doctor, the quarantine form is handed over to the Medical Officer and the Medical Officer returns that to our office. In that form will appear the signature of the person who called himself A. L. A. S. M. Alagappa. Every time he reports himself to the Medical Officer he has got to put down his signature in the presence of the Doctor to whom he reports. That form is returned by the Doctor. Those forms with the signatures of the passengers are generally filed for some time. I have not searched for it. I cannot tell the Court whether that form is available or not. This book contains entries up to the 18th August. The duplicate of the quarantine form is with the passenger. The original is in the head office. I get the original. Those originals will show the date on which these permits were issued. I say that these permits are issued in the Mandapam Camp the duplicate is handed over to the passenger and those permits have got numbers and the date 23.1.33 appearing in the extreme left-hand corner shows the date which appears on the quarantine permit and not the date on which the passenger comes and sees me. Every time a passenger comes with the quarantine permit he has to report to the Doctor at the Port Surgeon's office and he has got to sign in the presence of the Officer. There is no other book in which the passenger signs on the date he actually reports to the Port Surgeon. The Doctor takes the signature only on the reporting form and that is the entry in the reporting register. The sixth column in this book shows the reporting period. That shows that the passengers have got to report from the 23rd to 3rd. 23rd is the date of the permit.

*In the
District
Court of
Galle.*

There is nothing in this book to show the actual date on which he came into our office. There is another register where the passenger's report is recorded. There is another register. This is the register.

*Defendant's
Evidence.*

(*To Court* : The Mandapam Camp writes out the original and hands over the duplicate to the passenger. The entry in this register is made both from the original and the duplicate. The original travels to Colombo as fast as the duplicate.)

No. 15.
L. H.
Jinadasa.
Cross-
examina-
tion,
continued.

If the original was issued on the 23rd, no passenger can report before the 24th. There was no reporting on the 23rd. According to this book on the 23rd Alagappa did not report at the office on the 23rd January. 10
According to this book D.18, there are certain other passengers who did report. On the 23rd Alagappa did not report at our office. On the 23rd Alagappa did not produce any duplicate. I must have made this entry from the original only. If he had reported on the 24th, we would have made a mark. From the 23rd January to 3rd there is no mark against him.

Q. From this book can you say whether Alagappa ever turned up at your office ?

(No answer.)

We get the duplicate from the Doctor before whom the passengers report themselves. In this case it will be Dr. Kitulgoda and when we get that 20
report we make an entry in this register and this book shows the date of the receipt of the duplicate form. This book gives the 28th August, 1933, as the date of return of the duplicate from Dr. Kitulgoda. These entries in D.19 were taken from the original permit sent to us from the Mandapam camp. When the passenger produces the duplicate and appears before the Doctor, I mark him "present." When a passenger does not report on that due date we draw a horizontal line and against Alagappa I have drawn a horizontal line showing that he did not come to the office. There is no line to show that he had at any time come to this office. Opposite Dr. Kitulgoda's name there is an entry "28/8." That is the date on which 30
Dr. Kitulgoda sent back the duplicate. That duplicate will not show the date he reported. 28.8.33 is the date of the receipt of the form from Dr. Kitulgoda. If I produce the return sent by Dr. Kitulgoda on the 28th August, it will not show on what dates Alagappa reported to the Doctor. This book is the only record in the office. According to this book if Alagappa attended on any of these days—23rd January to 3rd February, 1933, I would have drawn a vertical line. I have not drawn a vertical line.

Re-exami-
nation.

Re-examined :

I am the only clerk in the office. I do most of all the work in the office. At present in similar books it is the Doctor who makes the entries 40
and not myself. I cannot say whether the entries made in this book were made by the Doctor in 1932 or by the clerk at that period.

(Shown a certificate issued by the Health Officer dated the 18th October, 1944, marked D.20. It is certified to by the Assistant Port Health Officer.)

Mr. Nadarajah objects unless the person certifying it is called.

Document D.20 purports to be a certificate issued by Dr. Swami stating that on the 23rd January, 1933, Alagappa Chettiar arrived at the Port Office. This is apparently an inference Dr. Swami has made from some documents in his office which are not before Court and Dr. Swami is not here to be cross-examined on the materials on which he drew the inference.

*In the
District
Court of
Galle.*

*Defendant's
Evidence.*

I rule out the document. It is not a certificate got under the Public Documents Ordinance.

No. 15.

L. H.

Jinadasa.
Re-exami-
nation,
continued.

(Sgd.) R. R. SELLADURAI,

D.J.

10

The first column gives the date. The relevant date is 23.1.33. Then the fourth column gives the name. In this book under that I have got 28 names. That is in the fourth column. The fifth column gives the addresses of these passengers. The (6th) sixth column gives the reporting period, and the reporting period covers a number of days beginning from the 23rd. Of the number of passengers that are shown under this date the 23rd January, 1933, some have reported on the 23rd. According to the book most of them have reported on the 23rd.

(It is pointed out that the book shows that certain number of persons presented themselves at the office on the 23rd and the witness is asked that being so :—

20

Q. Can you say whether 23rd, the date appearing in the first column can be the date on which the passengers arrived at the office or the date of issue of the permit at the Mandapam camp ?

A. I cannot solve this.)

(Shown a previous page.) The first column has the date 21st January, 1933 and the sixth column starts from the 21st. On that page some people have reported on the 21st. It is not possible for a man to leave Mandapam on the 21st and report himself to the Doctor on the 21st. I have seen 30 books like D.19 being written in this office. Under the 23rd January, 1933, the very last column is the remarks, passport No., etc. I have got Dr. Cassiechetty in the second line and by the side I have got 23/1. The seventh column shows the name of the Doctor. There is an entry "India 23/1." He has reported only on the 23rd. In the remarks column I have got "India 23/1." I do not know what is meant by these entries.

Q. Does this entry mean that on the 23rd the passenger returned to India ?

A. He may have returned to India on the very same day.

Apart from the originals of the reporting forms we do not get anything from the Mandapam camp. Those are sent in the same train in which the passengers come. On those reporting form, if these passengers do not report we take necessary action. We report the matter to the Police to find out the party concerned. We make the entries in the books if we so inform the Police. If a passenger fails to report under the remarks column we enter that he has failed to report. No such entry has been made with regard to Alagappa Chettiar. Certain numbers have been cut off and certain numbers have been written. (*To Court* : I went to this office in 1942. Before that I was not there.)

40

*In the
District
Court of
Galle.*

*Defendant's
Evidence.*

No. 15.
L. H.
Jinadasa.
Re-exami-
nation,
continued.

I cannot say whether the date 23.1.33 is the date of reporting or the date of the permit. We keep the form sent by the Mandapam camp till the passenger brings the other copy. Those forms are kept for some time. These reporting forms are not sent back to the Doctor at the Mandapam camp.

(Sgd.) R. R. SELLADURAI,
D.J.

No. 16.
A. R. L.
Letchi-
manan
Chettiar.
Examina-
tion.

No. 16.
A. R. L. Letchimanan Chettiar.

A. R. L. LETCHIMANAN CHETTIAR, affirmed.

10

I am the Defendant in this case. I commenced working under the Plaintiff in 1917. I left the Plaintiff's employment on the 28th January 1933. From the year 1919 I was the agent carrying on the Plaintiff's business except for the times I was away in India. On the occasions when I was away in India my assistant looked after the business. Chinniah Pulle was my assistant from 1918. In the course of my carrying on the business of the Plaintiff I have been lending money to people from time to time. I remember that one Alles from Galle borrowed certain monies from the Plaintiff's business. Alles was doing a business. I cannot say when he started borrowing money from the Colombo firm. I will have to refer to the books. (Shown P.10.) His account started on the 21st April, 1930. Thereafter he had transactions with the firm. All those are set out in the Plaintiff's books, and the last of those transactions was the loan transaction, the one embodied in this promissory note marked P.1. That is the last loan from the firm. Before that amount was repaid in full he died. He paid a portion and he died. There was a testamentary case in Galle. He had been to our firm in Colombo. All the employees knew him. Chinniah knew him. Alles was a man of means. Apart from this Alles transaction I had another transaction in respect of Samaranayake another Galle creditor. (Shown P.1.) This is the note that Alles gave. Samaranayake's account started on the 7th August, 1927. That was the first transaction. His transactions are set out in the books. Samaranayake also died. Before the case was filed he died and I sued his heirs. Before I left I had obtained decree. Samaranayake had come to our Colombo firm. Chinniah knew him. In 1931 these two amounts were owing. At the end of 1931 I was in India. I was in India for about 3 or 4 months. During the time I was away in India my house in which I lived was 7 miles away from the Plaintiff's house. Always I have been meeting him. In April 1932 I came back. I came in April 1932 at the request of the Plaintiff and as his business was in a precarious condition. He was not in a position to repay the debts. The creditors were demanding their dues. Actions were threatened by them. He asked me to go there

and to recover the outstanding debts and pay them. I said that I was not willing to come. I told him that I could not come. The Plaintiff's creditors would not undertake to receive from me in payment of their accounts, the notes due to us. He may have drawn money from the bank and in payments of those amounts so drawn, if promissory notes are handed, the bank will not accept. He said that he would ask Alagappa Chettiar to assist me and asked me to go to Ceylon. As soon as I came here I wrote a letter on the 4th April which appears in the press copy book D.4. I produce that letter marked D.4E. I asked for money from there. He

10 did not send me money. I was waiting till he sent me money. I asked him for particulars. I wrote to him again on the 6th April, 1932, marked D.4C. I wrote to him saying that it was difficult to carry on without the receipt of money. I refer there to certain letters and telegrams received from the Plaintiff. Those letters and telegrams received from the Plaintiff are with the Plaintiff. On the 26th April, 1932, marked D.4F, I wrote that letter. I stated there that the amount irrecoverable was about 40,000/-. I wrote there in that letter that I cannot obtain a receipt for the full amount if only a proportionate amount is paid. To pay a proportionate amount and get a full receipt was suggested by the Plaintiff. I wrote back saying

20 that I could not do that. He had sent a letter to Alagappa Chettiar which Alagappa gave me. On the day that I wrote this letter Alagappa was there. I say there the Rs.40,000/- is the amount that is irrecoverable from the insolvent customers. I say that the creditors will not accept them. What I meant was that our creditors would not accept in payment the promissory notes granted by these insolvent debtors. I sent letter dated the 3rd May, 1932, marked D.4G. I am referring in that letter to one K. R. Alagappa who is different to Alagappa Chettiar referred to. I state that when Sowanna Manar comes the Plaintiff would come to know. That is the Alagappa Chettiar referred to in this case. At that time I

30 was expecting Alagappa Chettiar to go to India. My letters roughly show when Alagappa came and when he left for India. In between those days Alagappa was with me settling the matters. To settle with the Plaintiff's creditors was a difficult matter. On the 12th May, 1932, marked D.4H I wrote the letter. I refer to the fact that I give details of the settlement of the creditors. The Plaintiff reads those letters, and considers those details. He used to carefully examine my letters and consider them. I stated that with the help of Sowanna Manar alias Alagappa I was able to settle with one creditor. I wrote a letter dated 6th July 1932, marked D.4B. I stated there that the particulars of the accounts already settled are sent

40 herewith. I stated that I was sending the particulars of the accounts already settled and I say that the settlement with the creditors was almost over and that Sovanna Manar had left. I also stated that I have no work to do here, and that Chinniah could do the work and that I be released. From that time onwards I was trying to go to India. Then on the 10th July, 1932, I wrote letter marked D.4I. I also sent another list with it. I stated that even the accounts which are sure will get delayed to be recovered. That was correct. I stated that it will suffice if Chinniah Pulle alone remained here for some days. I repeat my request that I be released from my charge. I wrote the next letter on the 15th September

50 1932, marked D.4K. (There is no letter marked D.4J.) In this letter I wrote that in reply to my request for permission to leave for India the Plaintiff had asked me to remain till Alagappa Chettiar came to Ceylon.

*In the
District
Court of
Galle.*

*Defendant's
Evidence.*

—
No. 16.
A. R. L.
Letchi-
manan
Chettiar.
Examina-
tion,
continued.

*In the
District
Court of
Galle.*

*Defendant's
Evidence.*

No. 16.
A. R. L.
Letchi-
manan
Chettiar.
Examina-
tion,
continued.

I also stated that he had not written to me when he was coming. I press my application to come in that letter too. The next letter is dated the 23rd September, 1932, and it is found in the press copy book marked D.2. I produce that letter D.2R. I refer to the fact that the Chartered Bank case was awaiting the arrival of Sovanna Manar to conclude. I followed that by letter dated the 29th October, 1932, marked D.2B. I state that I herewith sent the day book entries and the balance sheet. The original of that letter has been produced and it is marked D.6. Along with that letter I sent a list of irrecoverable and recoverable debts marked D.6A. In that letter D.6 I state that I had been asked to send the day book entries and balance sheet. I state that the Plaintiff had asked me to send a copy of the day book and an *aiyanthonai*. It is a balance sheet. It would be a balance sheet setting out in detail the amount due from the different customers to us and the amounts payable by us to our different creditors. D.6A contains the particulars. D.6A is not an "*Aianthonai*." In D.6 I say that I herewith send the day book entries and an "*aianthonai*." The day book entries and the "*aianthonai*" are not here just now. At present the day book entries and the balance sheet are not annexed to D.6. I sent a list of irrecoverable debts and recoverable debts. D.6A is a list which shows what are the recoverable debts and what are the irrecoverable debts. Against each item I have made a remark about the recoverability or otherwise. With regard to the debt of Alles I have stated that Alles being dead, we have to wait till the letters of administration are obtained and the recoveries would be delayed by about two years. With that document the Plaintiff would have known the nature of Alles' debt, the meaning I conveyed and it should have been understood by the Plaintiff to say that Alles' debt was recoverable but the recovery would be delayed. I also stated that it is no use remaining here and again I repeat the request that I should go back. I sent a letter dated the 22nd November, 1932, marked D.2D. In this letter I stated to the Plaintiff that the Plaintiff has asked me why I did not get Alagappa Chettiar down and hand over the business to him and return to India. I also stated in this letter that the reason for my delay was that the Plaintiff himself had not directed him to leave India; that Alagappa himself is not the sort of man who would come down at my request; that it is for the Plaintiff to direct Alagappa Chettiar to come to Ceylon and to take over the shop so that I may be relieved. I sent a letter dated the 7th December, 1932, marked D.2A. In this letter I state that in the Plaintiff's letter of 18th October (Hindu month) asking me to write off irrecoverable debts that the debt was written off and that I was forwarding to him a statement of account and an "*aianthonai*." About five or six weeks previous to that I had sent a copy of the "*aianthonai*." On this date also I was sending an "*aianthonai*." Before the sending of this "*aianthonai*" I had written off a number of accounts. The writing off was on the 5th December, 1932. The account books showed that on the 5th December a sum of Rs.47,000/- had been written off. P.9 is the "*aianthonai*" which accompanied D.2A. That shows what sort of an "*aianthonai*" I sent from time to time. That gives the amount due to the firm item by item. P.9 sets out all the items except those amounts that had been written off. This shows the amounts that are due to our firm and also the amounts that our firm has to pay.

This "*aianthonai*" does not set out Alles' debt. Along with D.2B/D.6 I sent an "*aianthonai*." I refer to that fact in the letter. In that

“aianthonai” Alles’ debt must have been shown. When I sent P.9 on the 7th December, the Plaintiff would have known what had happened to Alles’ debt. I never considered Alles’ debt as irrecoverable. The reason why I wrote off Alles is as follows. I had written earlier to the Plaintiff that the recovery would be delayed. So I wrote it off with the idea of bringing it back to the books later on when the recovery is made. Rs.47,000/- was written off on the 5th December, 1932. Soon after this occasion all these account books were sent to Burma for income tax purposes. All these books were not sent but the books containing the 10 accounts for the years 1930, 31 and 32 were sent. In this letter D.2A I have written that according to the instructions given in the Plaintiff’s letter of the 19th October (Hindu month) I have written off the irrecoverable debts. In that letter of the 19th October, the Plaintiff had directed me to write off all the irrecoverable debts.

*In the
District
Court of
Galle.*

*Defendant’s
Evidence.*

*No. 16.
A. R. L.
Letchi-
manan
Chettiar.
Examina-
tion,
continued.*

Q. Did he give you general instructions or particulars ?

A. He had given me particulars.

Q. What were the particulars with regard to the writing off of the debts ?

20 *A.* The Plaintiff wrote to me particulars of the debts which could be written off.

Q. Can you mention any particular name that was contained in those particulars ?

A. I will have to refer to the books to state what particulars he gave.

(The witness inspects P.11/D.1 and states): He directed me to write off the debt of Mathes of Matugama and of I. M. S. Alles. I. M. S. Alles and of all those as contained in page 47 of P.11.

(*To Court* : The Plaintiff supplied all these names to me.) There is a ledger exactly like this in India and all the letters I had written earlier 30 showed what amounts were due to the firm.

(Mr. Chelvanayagam marks page 47 of P.11 as D.1A.)

This entry was made on the 5th December, 1932. This is in the handwriting of Chinniah. This writing off was not kept away from the other employees of the firm. In respect of the promissory notes that are written off in the books those promissory notes are all kept in the box. When we write off the accounts sometimes we think that the whole sum is lost and sometimes we do entertain the hope of being able to recover some small sums at some future date. I wrote again on the 3rd January, 1933, marked D.2I. I wrote there that after the arrival of Sovanna Manar 40 I will leave the shop. I further stated that the day book and the ledgers for the period up to August 1932 have been forwarded to Rangoon. I also stated that only the day book for the month of September, 1932 is left here and I asked them to write to Rangoon and get the books. I wrote again on the 28th January, 1932, marked D.2K.

(There is no letter marked D.2J.)

That is my last letter I have written from the firm. I left the firm on the 28th January, 1933. Alagappa came on the 23rd. I could not have

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left till Alagappa came. Alagappa came on the 23rd. He was sent by the Plaintiff. Alagappa brought a letter to me. In that letter the Plaintiff stated that Alagappa Chettiar was coming to Ceylon. Sovanna Manar would convey to me all the information from India and the letter further stated that I was to endorse the note from Alles and to deliver it to Alagappa Chettiar. The letter also directed me to assign the Samaranayake decree in favour of Alagappa Chettiar. He also directed me to hand over all the account books, press copies and the recoveries of all the other sums due to us to Chinniah Pulle. I therefore endorsed the note P.1. This note P.1 bears my endorsement. The note P.1 has been made in my name. I 10 endorsed it in blank. Without the endorsement no one could sue on the note. I endorsed this note some day between the 23rd and 28th. I assigned the Samaranayake decree on the 26th. I executed the assignment on the 25th January. That was in Galle. I came to Galle on the 24th alone. Alagappa was in the firm of A. T. K. P. L. M.

(*To Court* : When the assignment was made Alagappa was not present in the notary's office.) When I came from India on the instructions from the Plaintiff, the Plaintiff gave me a power of attorney. That was in 1919. That power of attorney authorised me to appoint a substitute in the event of my going back to India. 20

(Mr. Nadarajah marks the power of Attorney, P.35.)

By virtue of that power of attorney I empowered Chinniah to act as a substitute. I produce a copy of the certified copy of the appointment made marked D.20. The decree in Galle was in my name. When I was leaving in January, 1933, I was leaving the Plaintiff's firm for good. The money in the Samaranayake decree belonged to the Plaintiff. I had no further interests. I gave the assignment in order that the Plaintiff might recover it. At the time I was going there were other big debts due to the firm apart from the debts of Samaranayake and of Alles. They were the big debts due to our firm at the time I left. There were big debts due from 30 our firm payable to others. The assignment of the decree and the endorsement were known to the other employees of the firm. Chinniah knew about it. He knew it while at the time I was going away to India. I handed over to Chinniah all the day book ledgers, the press copy books, the notes and other things. The notes were kept in the box. They were kept in the iron safe. Chinniah would have known if I had stolen this note. He could not have missed it if I had dealt with it stealthily.

(*To be continued.*)

Adjourned for 26th and 27th July, 1945.

(Sgd.) R. R. SELLADURAI. D.J. 40

23.11.45.

(*Trial resumed.*)

Mr. N. Nadarajah, K.C. with Mr. Adv. Somasundaram and Mr. Adv. Sivasubramaniam for Plaintiff instructed by Mr. D. V. A. Gunasekera.

Mr. Adv. S. J. V. Chelvanayagam with Mr. Adv. Pandithagunawardene instructed by Mr. Marikkar for Defendant.

A. R. L. LETCHIMANAN CHETTIAR affd. recalled.

(*Examination-in-chief continued*).

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I severed connection with Plaintiff's firm in January 1933. On January 28, 1933 I left for India. Thereafter I have never been employed under Plaintiff. At that time I had given Plaintiff a contract of service (Sambala Chitta') in writing. In 1934 that agreement was returned to me. No other documents were returned to me along with that Agreement. The returning of the Contract was at Plaintiff's son-in-law's house at Sirukudapatti in India. After I returned all the letters written to me by Plaintiff, accounts were looked into and Plaintiff took Rs.3,000/- from me and discharged me giving me a receipt D.3 (Shown D.3). This is in the handwriting of Plaintiff's son-in-law who has also signed it as witness. I made no misrepresentation to Plaintiff in order to get document D.3. For getting D.3 from Plaintiff I made no false statement to him. On that day my liability to Plaintiff was fixed on at Rs.3,000/-. Plaintiff had the opportunity of examining all the accounts at the time he gave me document D.3. Prior to 1934 the Account Books now produced were in India. I point out that D.1 bears the stamp of the Income Tax Office, India, of 1939. P.10 has the Karaikuly Income Tax office stamp dated 1.4.33. P.16 has also the Karaikuly Income Tax office stamp dated 1.4.33. P.15 has also the Karaikuly Income Tax Office stamp of 1.4.33. After I endorsed the note P.1 to Samaranayake I had nothing to do with those transactions. The money due on the note or Decree did not reach my hands. Nor did I get anyone to recover those moneys for me.

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In December 1932 when I wrote up Alles' debt I did not tell Chinniah that the debt was an irrecoverable debt. In the books I have stated that it is a recoverable debt. In P.10 at page 66 in Alles' Account there is a note in my writing in pencil at the foot of the page to the effect that "Testamentary case is going on relating to this. Account recoverable". That entry was made before I left. I did not do anything to hide the real nature of this transaction.

Chinnayah was first Assistant in Plaintiff's firm for a number of years. During my absence in India he was in charge of the Plaintiff's shop. For months together I have been away in India. From end of 1931 to about April 1932 I was away in India. During that time Chinnaya was handling the affairs of the Plaintiff's firm. He had the keys of the safe and had access to the promissory notes and other securities. Even when I was in Plaintiff's firm in Ceylon Chinnayah had access to documents of security. I now live in India. I have been living there for the last 2 or 3 years. I have been coming for this case from India every time. When I am in Galle I reside at 42 Kaluwella. That is a kittangy belonging to the Temple. Chetties generally stay there. I have no place of residence in Galle.

XXD.

I was summoned to produce my books. What books I have, I have brought to Court. I have brought ledgers and day books in respect of the years 1936, 1937 and 1938. I have brought no books prior to 1936.

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Those books are with the other partners viz. Sunderam and Singaram, partners of S. S. L. firm. Their father was Alagappa Chettiar alias Somasundaram. My son is married to a daughter of Alagappa Chettiar alias Somasundaram. That marriage was in the Tamil month of August 1943. Sunderam Chettiar is on war service in the state of Hyderabad. Alagappah, Sunderam and Singaram are members of an undivided Hindu family. The books are with Sundaram Chettiar. He has been at Hyderabad for about 4 years. He never came back to his native place during that time. He did not attend my son's wedding. I asked Alagappah for the books. I managed to get the letters from Alagappah through my son. 10

I did not receive any money when the cheque was cashed. In October 1934 I was not in Galle. I am aware that Plaintiff alleges that on 3.10.34, cash Rs.4,500/- has been credited to the account of the firm of S. S. L.— P.25. If the books were here they would show whether the amount was credited to the account or not. If the books were here they would also show if the sum of Rs. 4,500/- had been paid to the account of my firm on 3.10.34. The books will also show who had paid that amount to my credit. If the books of 1932, 1933 and 1934 were here they would have provided a strong defence.

I am 51 years old. I joined Plaintiff's firm in 1917 at the age of 23. 20 I came as second in command of the firm. I had not Power of Attorney at the time. No one introduced me to the firm. I was in Ceylon at the time. My salary was Rs.1,500/- for a period of 3 years. Generally the appointment as Agent in a Chetty firm is for a period of 3 years. I got the Power of Attorney in the third year. I had no business in Ceylon when I received the Power of Attorney from Plaintiff's firm. Till 1933 I was Plaintiff's attorney. Whether I started business of my own in 1927 I cannot remember. I started the business of S. S. L. in 1927. That business was run in partnership with the sons of Alagappah Chettiar. In 1921 I may have registered the business. I can produce the Certificate 30 but I am not sure whether I registered in 1921 or 1923. It is correct that I registered the firm of S. S. L. with myself and 3 sons of Alagappah to wit, Sundaram, Singaram and Sivalingam as partners in the year 1927. I may have registered the date of commencement of business as 10.3.1927. If it is stated in P.27 that the business commenced on 10.3.27 it must be correct. I cannot remember as to whether I had registered the firm of S. S. L. on an earlier occasion. The business was commenced earlier and there may be a certificate to show that. I was not aware that Plaintiff had produced the registration of 1927. My Proctor did not inform me of it. I was in Court when Velayuthan gave evidence. 40

Rs.40,000/- was invested in this business. I contributed Rs.11,000/- and the balance was Alagappah's money. The firm of S. S. L. is still on the Register ; but from time to time the one son of Alagappah or another left the firm. I am now sole proprietor of S. S. L. Up to 1938 I had partners. After 1938 I am doing the business alone but under the name of "A. R. L." In 1939 I did not register myself as sole Proprietor of S. S. L. I registered as A. R. L. (Shown P.31.) I cannot remember that on 24.4.39 I registered myself as sole Proprietor of S. S. L. I never did business alone by myself under the name of S. S. L. In 1938 the other partners of S. S. L. left the business : therefore in 1939 I may have 50 registered myself as sole proprietor of S. S. L.

In June 1939 I registered the business of A. R. L. That was also in Galle—42, Kaluwella, Galle. That was also a business of money-lending and pawnbroking. There were no partners to that firm. About 10 or 12 years prior to this, there was a firm known as A. R. L. at Pussellawa. The Proprietor of that firm was Alagappa. I was Proprietor of A. R. L. at Pussellawa many years ago. Now I have conveyed that business to Alagappah. Alagappah had no business of his own at Pussellawa. He has now a firm under the vilasam of A. L. A. S. M. at Pussellawa. In 1933 Alagappah was working in the firm of A. R. L. at Pussellawa. He was not my Agent. He was Manager of my firm of A. R. L. at Pussellawa for about 2 years. In 1933 Alagappah was managing my firm of A. R. L. at Pussellawa. I do not know whether he used to be known as A. R. L. Alagappah Chettiah during the time he was Manager of my firm A. R. L. at Pussellawa. It is sometimes customary for the Manager of a business to attach the vilasam of the business as his initials. He also sometimes used his own initials.

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During the time I was away, my Galle business was managed by Karuppiahpulle who had a Power of Attorney from me. Chinniahpulle—not the witness Chinniah—was managing my A. R. L. firm at Pussellawa. He had no Power of Attorney. When Alagappah came from India he took charge of my business of A. R. L. at Pussellawa about February 1933. It is not true that Alagappa came from India in January 1933 in order that he might manage my business at Pussellawa. From about February 1933 Alagappa managed my business at Pussellawa for about 3 or 4 months. From Pussellawa, Alagappah did not come to Galle to look after his son's business of S. S. L. I do not know whether Alagappah came to Galle in 1933 and 1934. I got letters D.7–D.18 from Alagappah. Those letters were really addressed to Alagappah. The Manager of A. R. L., Pussellawa, at that time was not Alagappah but Chinniahpulle. D.7 is addressed to Alagappah by Chinniah. D.18 is written by Chinniah to—A. R. L. Pussellawa—intended to Alagappah. During the ten months covered by letters D.7–D.18 Alagappah was not Manager of my business: Chinniah was. Alagappah may have been there as a help to Chinniah. I was not summoned to bring the books of the firm at Pussellawa. At no time was Alagappah a co-partner with me. Without looking up I cannot say whether I filed answer in an Indian case. I may have stated in that Answer that Alagappah Chettiar was a partner of mine in the firm of S. S. L. at Galle, by which I meant that his sons were my partners.

About 1927 A. L. A. S. M. Somasundaram alias Alagappah was in financial difficulties. I do not know whether there were a large number of cases filed against Alagappa Chettiar. I do not know whether in 1931 Insolvency proceedings were instituted against him in Colombo Courts. I am not aware that in 1930, 1931 and 1932 Alagappah Chettiar was in financial difficulties. I do not know well whether he was at any time in financial difficulties. Though he was assisting me in my business at Pussellawa I am not aware as to whether he was in financial difficulties. I admit that Alagappah owed a large sum to the Plaintiff-firm. He is paying that amount to the Plaintiff-firm. The total amount he owed Plaintiff-firm when I was Agent was over a lakh of rupees. That debt was not compromised for about Rs.60,000/-. There was no compromise to accept Rs.60,000/- or any smaller sum from Alagappah. The Plaintiff firm was also in financial difficulties in 1932. Alagappah Chettiar was

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the greatest debtor of Plaintiff's firm. Plaintiff may have written to me to demand from Alagappah payment due from him. In P.10 at page 77 (P.18) the debts of Alagappah are shown as Rs.25,000/-. Another account at page 78 shows Rs.40,000/- as due from Alagappah Chettiar. On the loan account the amount due was Rs.25,000/-. Up to 31 March, 1931 Alagappah has not paid a cent. (Shown P.11 under date September 1, 1932.) Nothing has been paid by Alagappah on either account. P.11 is a new book written up on 1.9.32 so that the earlier books may be sent to Rangoon. At times Plaintiff used to write to me to recover from Alagappah Chettiar the amount due from him. I cannot recollect, without reference to the letter, as to whether Plaintiff wrote to me about March 1931 to recover from S. S. L. or A. R. L. the amount due to the Plaintiff from Alagappah Chetty. Plaintiff was aware that I was running the firm of A. R. L. and S. S. L. The firm of A. R. L. used to borrow money from Plaintiff-firm. So did the firm of S. S. L. (Shown letter dated 21.3.31 in Press Copy Book (D.4). Extract produced P.36.) This is press-copy of letter written by me to Plaintiff. In this letter I undertake to pay the Plaintiff the amount due from A. R. L. by the 30th April 1931. I also write in this letter that with regard to the balance due from Alagappah Chettiar's sons, Plaintiff might contact him and recover from him there. Plaintiff did instruct me to recover as much as I could from Alagappah but I could not recover as he was in India and I wrote back to Plaintiff to recover from Alagappah direct. That was in 1931. (Shown letter dated 27.3.31 in press copy book (D.4). Extract produced (P.37).) I have written here that the Plaintiff had written to me asking me to recover from Alagappah money from the firm of S. S. L. and that I wrote back stating that Alagappah has no money standing to his credit in the firm of S. S. L. Early in 1932 Alagappah came to Colombo to settle Plaintiff. I did not recover any money from Alagappah in 1932 because he came to settle up Plaintiff's difficulties. If Alagappah Chettiar gave Rs.75,000/- due from him it would not have settled Plaintiff's difficulties because Plaintiff owed much larger sums. It would have relieved Plaintiff to some extent if that amount was paid. I do not know whether Alagappah was able to pay anything at all at that time. I did not ask Alagappah to pay anything at all. Alagappah Chettiar was in a position to pay his debts at that time. If I had pressed him he would have paid. The loans to Alagappah Chettiar were during the time of my Managership. Muthiah Chettiar asked me to give and he also asked me to recover. I took no steps to recover moneys due from Alagappah. Gently I may have asked Alagappah to pay. Alagappah said he would speak to Muthiah Chettiah personally.

When I left for India I endorsed the promissory note and assigned the note to Alagappah. Samaranayake and Alles are both from Galle. They had dealings with S. S. L. I had lent S. S. L. Moneys to them. It was through me that Plaintiff-firm lent moneys to Alles and Samaranayake. I do not admit that I was under a moral obligation to recover the amount due from Samaranayake and Alles to Plaintiff-firm through the firm of S. S. L. The debt due to the firm of S. S. L. was different to the debt due to Plaintiff-firm from Alles and Samaranayake. When I sued Samaranayake on behalf of the Plaintiff-firm my men in the S. S. L. firm assisted in the service of summons etc. The firm of S. S. L. may have advanced moneys for the purpose of suing Samaranayake on behalf of

the Plaintiff-firm. These were the only two men from Galle whose debts were outstanding to Plaintiff-firm. At the time I left for India there were no moneys due to the firm of S. S. L. from Alles or Samaranayake.

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In 1932 also Plaintiff wrote to me to recover all the debts. (Shown D.6 dated 29.10.32.) I admit that in this letter I have made special mention of the name of Alagappah and stated that his money may be recovered in India. That may be because the Plaintiff was repeatedly writing to me to recover the money from him. I am not recovering any moneys due to the firm of S. S. L. The firm of A. R. L., Galle is also
10 closed. It was closed at the end of 1943.

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At the time this action was filed I had a man to represent the firm of A. R. L., Galle, at 42, Kaluwella. I had rented out that house for Rs.160/- a year. I was a tenant of that room. Whenever I came down I stayed there. I have come to Ceylon on a number of occasions. I have stayed for a month or two in Galle after I left Plaintiff. I also used to go to Pussellawa. After 1933 I have come to Ceylon in connection with my business once or twice a year. Whenever I come I stay for a month or two in Galle to supervise my business. During that month or two I stay at Kaluwella Road. When I finish my Galle work I go to Pussellawa
20 and stay there for about a month and supervise work there.

In 1937 I had a business at Matara of pawnbroking under the vilasam of A. R. L. There were no partners to that firm. I did business only in Galle, Matara and Pussellawa. I had no business at Hambantota.

Alagappah used to come from India and be at Pussellawa periodically for periods of 8 or 10 months and go away. He comes to help me in my business matters. He is an experienced business man. He came last from India in 1933. He may have come in 1934. In 1935 or 1936 I transferred the business to A. L. A. S. M. Alagappah Chettiar and received Rs.15,000/- from him. Alagappah apart from being related to me through
30 the marriage of my son, is also my mother's brother's son. I did not ask Alagappah why he failed to pay Plaintiff because Alagappah and Plaintiff were related to each other and they could look after their own affairs. In 1935, 1936 or 1937 I did not act for Alagappah in respect of Alagappah's debt due to Plaintiff-firm. I did not speak to Velayuthan on behalf of Alagappah.

I gave an "undiyal" to Alagappah for Rs.10,000/- on 16.4.39. I took over the entirety of the firm of S. S. L. in 1939 and granted the "Undiyal" to Alagappah's sons for their shares. Alagappah's sons endorsed it in favour of Alagappah and Alagappah has endorsed it to
40 Plaintiff. I am not aware that at that time Plaintiff had agreed to accept from Alagappah half the amount payable by Alagappah. I was not aware that Alagappah had endorsed the undiyal to Plaintiff, till Plaintiff demanded payment from me on the undiyal. In 1932 I had no transactions with Alagappah. Alagappah has been borrowing money from the firm of S. S. L. Alagappah Chettiar had a loan account with the firm of S. S. L., Galle; but he had no Loan Account with the firm of A. R. L., Pussellawa. He had no ledger page in the Account Books of A. R. L., Pussellawa. I was looking after the interests of Alagappah Chetty's sons in the firm of S. S. L. and therefore Alagappah was looking after my interests in the firm

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of A. R. L., Pussellawa. He was not receiving any remuneration for the assistance he rendered at Pussellawa although he was in debt and unable to pay his debts.

I state that Alagappah brought a letter from the Plaintiff wherein the Plaintiff directed me to endorse the note and assign the Decree to Alagappah. Chinniah is also aware of that letter.

Q. Do you know why Muthiah directed that the note and the decree be assigned to Alagappah ?

A. The Plaintiff's firm had failed, and it may be for purposes of Income Tax or it may be so that Alagappah may recover the 10 amount due on from Alles without the amount being shown in the Account books.

I do not know whether that was as the result of some agreement between Alagappah and Muthiah. Whether Alagappah will know about it I do not know. As Muthiah had written everything in the letter I did not ask Muthiah why he had directed the endorsement. After this case I came to know why Muthiah had directed the endorsement. Because this action has been filed I know why the Plaintiff had directed the transfer to Alagappah. I did not learn of the cause for the direction given by Plaintiff I infer. I asked Alagappah after this action was filed as to why the 20 Plaintiff had directed the endorsement and Alagappa told me why. Alagappah said he had paid the amount he had recovered on the endorsed note and Decree to Plaintiff and they had settled the matter. Alagappah is a very important witness for me. I took out summons on him and had it served but he did not come. I told my Proctor that summons had been served on him but that he had not come. I did not ask my Proctor to take out a commission to have the evidence of Alagappah recorded in India. Through the influence of my son I was able to get the letters that Chinniah had written to Alagappah but I was not able to exercise influence 30 through my son to induce Alagappah to attend court, I do not know whether the Account Books of S. S. L. for 1932, 1933 and 1934 are important for 30 my case. When Alagappah was in India I sent the S. S. L. books to him to be shown to the Income Tax authorities in India.

Round about 1930 many Chetty firms in Ceylon fell into financial difficulties. A. R. AR. SM. was one of the biggest Chetty firms in Ceylon. They went insolvent. Plaintiff had a large number of firms in India, Burma, F.M.S. and Ceylon. His assets in all those branches were to the extent of about 20 lakhs. The Imperial Bank of India gave him an overdraft of 8 lakhs. He conducted his various branches through agents. From 1928-1931 there was a severe depression in Ceylon. In 1931 and 1932 40 Chetty firms in Colombo found difficulty in recovering their outstandings. Similarly Chetty firms in the East found such difficulty in recovering their outstandings. In March 1932 Muthiar Chettiar sent me to Ceylon. I came in April 1932. Shortly after that I wrote him letter dated 26.4.42 (D.4F) (shown). I have stated therein that the firm of M. R. N. N. had a debt of 10 lakhs and that that firm had failed. I have also stated that my firm had backed a note of M. R. N. N. for Rs.92,000/-. I have also stated therein that apart from the liabilities resulting from backing other people's notes, the assets of Plaintiff firm were between Rs.275 and 280,000/- and the liabilities were Rs.310,000/- and the irrecoverable outstandings 50

were to the extent of Rs.40,000/-. I went through the Accounts before that. According to my estimate the irrecoverable sum was Rs.40,000/00. That sum did not include Alles' or Samaranayake's debts. I have also stated therein that Plaintiff had written a letter to Alagappah Chettiar and that I had seen it. It is not correct that in that letter Plaintiff had pressed Alagappah for payment. At that time Alagappah Chetty was in Ceylon and he assisted me in adjusting Plaintiff's matters. I wrote letter dated 29.10.32 (D.2B or D.6). Along with letter D.6 I sent a list D.6A containing debts recoverable and debts irrecoverable. (Shown D.6A.)

- 10 This is the list, I have not included Samaranayake's account on either side of this list. I have shown Alles' account and stated against it that there is a Testamentary case pending and that it will take 2 years to recover that debt. I omitted Samaranayake's account from this list as it was in the old books. Samaranayake's account appears in the old ledger (P.10) and it is not taken to P.11, the new ledger. When P.11 was opened P.10 was sent to Rangoon. I wrote letter dated 3.1.33 (D.21) (shown). I admit I have stated therein that account books from March 1932 up to end of August 1932 have been forwarded to Rangoon and that the only book available is that of 1.9.32 a copy of which has been sent. I am unable to
- 20 say why the Plaintiff wanted those books.

- I do not remember whether Mr. M. S. Akbar was adjudicated an Insolvent. I estimate that Mr. M. S. Akbar was adjudicated an Insolvent. (D.6A.) It may be that there was nothing to recover from those whose debts I have shown as recoverable. I wrote to Plaintiff that Chinniah could make the small recoveries and that there was no point in my remaining in Ceylon. In 1933 before I left for India I substituted Chinniah as Attorney of Plaintiff. Muttiah Chettiar wanted me to appoint Chinniah as substitute. That is why I did not appoint Alagappah. Alagappah had already arrived from India and was in the shop. Between 25th and
- 30 28th January I endorsed the note. I assigned the note to Alagappah when I was at Galle. Alagappah did not come to Galle. I instructed the Notary, Mr. Peries, that I was selling the Decree to Alagappah for a sum of Rs.3,000/- odd. I also told Mr. Peries that I had received Rs.3,000/- from Alagappah. On my instructions Mr. Peries drafted the deed (P.20). After assigning the Decree I went to Colombo and endorsed the note. After endorsing the note I executed the Power of Attorney in favour of Chinniah. It may be that I had overdrawn my salary by a little over Rs.5,000/-. After having done all this I handed over all the books of account to Chinniah together with all the promissory notes both
- 40 recoverable and irrecoverable. Chinniah was a trustworthy man. He had been working with me for about 15 years. All the notes and securities handed to Chinniah may have amounted to a lakh and a half of rupees.

- (Shown D.2A or D.7 dated 7.12.32.) In this letter I refer to a letter of the 18th of the Hindu month of October. I wrote in this letter that according to the instructions from the Plaintiff I had written off in the Expense account all the irrecoverable debts and that I had forwarded to the Plaintiff the "ainthohe" and copy of Day Book. I had been instructed to write off in the Expense Account irrecoverable debts. Plaintiff had written to me a letter wherein he had stated what and what
- 50 accounts should be written off in the Expense Account and according to that I wrote off.

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*Defendant's
Evidence.*

No. 16.
A. R. L.
Letchi-
manan
Chettiar.
Cross-
examina-
tion,
continued.

Q. If he had written to you the items which should be written off, would you not have written in your letter that you have written off the items specified by him ?

A. I have written in my letter that I wrote off according to instructions.

I did not write in my letter the names of the persons whose debts had been written off. I stated that from D.6A he had taken the names of persons whose debts were to be written off. Even if I had not forwarded D.6A he had a set of accounts reflecting transactions here. D.6A is the list I had forwarded. Muttiah Chettiar personally did not know his clients in 10 Ceylon. As to the financial position of his clients he had to depend on me. In D.6A I have stated that Alles' account was recoverable after 2 years and I have not shown Samaranayake's account.

Q. If Alles' name was included in the list given by Plaintiff, did it not strike you as curious that his name should be included whereas his estate was perfectly solvent but one had only to wait till the Testamentary case was over to recover the amount ?

A. Muttiah Chettiar was in bad circumstances and to hide his assets from his creditors he may have directed that Alles' name should be put in the Bad Debts list. 20

The bad debts, according to my list, were roughly Rs.40,000/- by adding Alles' debt it became Rs.47,000/-. That would mean that Plaintiff had taken my list and added on the name of Alles from the recoverable list. In the recoverable column in my list is the name of Walter Peiris against a sum of Rs.8,000/- which I have stated was well recoverable. Even now Peiris' amount has not been recovered. In my list I have shown that it was recoverable within a year. In D.6A are shown the names of other debtors totalling about Rs.27,000/- as good debts. He did not instruct me to enter in the Expenses Account any of the items included in the Rs.27,000/- because if he had done so his circumstances would show as 30 insolvent. He did not direct the debtor Peiris to be written off because Peiris had already been sued and there was a Decree. Plaintiff did not ask me to write off Samaranayake's debt. He knew about the Decree against Samaranayake. In P.10 against the name of Alles it is entered that the debt is recoverable. This book had been forwarded to Rangoon. On 3.1.33 I wrote to Plaintiff stating that the books prior to August 1932 had been forwarded to Rangoon. I had forwarded copies of Day Book before the Books were forwarded to Rangoon. In the new Book the item of Alles' debt is written off in the Expense Account. (*Vide* S.1A of Ledger P.11.) The date of writing off Alles' debt in P.11 is not entered. At the time I 40 assigned the note to Alagappah he was indebted to Plaintiff to the extent of Rs.75,000/- or more. It was on instructions that I assigned and endorsed.

Q. Why did you not enter in your Account Books that these debts were assigned to Alagappah ?

A. Because they had already been transferred to the Expense Account I could not enter the fact of assignment and endorsement to Alagappah.

Samaranayake's Decree had not been entered in the Expense Account. The Assignment of Samaranayake's Decree Alagappah was not entered in 50

the Books because it is not customary. If debts which had been written off in the Expense Account as being irrecoverable are subsequently recovered, it is only some people who make an entry of those in the Account Books. Some do not.

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(Mr. Nadarajah invites attention of the Court to the evidence recorded on page 34 of the proceedings of 1.3.45.)

*Defendant's
Evidence.*

Q. Did it not strike you as strange that you should choose two Galle debtors out of all the other debtors to be transferred to Alagappah ?

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10 A. I knew very well those 2 debts were recoverable debts as I had personal dealings with them.

Letchi-
manan
Chettiar.
Cross-
examina-
tion,
continued.

I took away with me to India only the bundle of 200 original letters I had received during the last 3 years prior to my departure to India. I took those letters to my house in India. I had them with me till 28.4.34. I had no occasion to hand them over to Plaintiff. At that time Plaintiff was in very difficult circumstances and someone petitioned against him. I am not aware that he was operated on for a cataract in his eye. I do not know that he was ill. He went and lived in Alagapury in the residence of his daughter and son-in-law. I do not know whether that house was in
20 Pudukottai—outside British India. It was not possible for him to have concealed himself there against his creditors. I have heard of Chettiers going to Pondicherry to avoid creditors. I do not know whether there were warrants out against Plaintiff in Indian Courts. Arunachalam Chettiar had sued Plaintiff in the Ceylon Courts. I do not know whether Arunachalam Chettiar seized any property of Plaintiff. Arunachalam and I went to Alagapury. Muttiah Chettiar's car having come for us. It was on that occasion that I got the receipt. I paid Rs.3,000/- on it. In Burma and other places Plaintiff's business had failed. At the time
30 he asked me to go over to Ceylon and settle his affairs. I told him that I was not in a position to go to Ceylon. He told me he would pay me according to the Agreement and he would send Alagappah to assist me. I wanted to take the full sum of Rs.15,000/- but Alagappah would not agree: therefore I took Rs.5,000/-. I took the Rs.5,000/- believing he would pay me the full amount. Alagappah said it was a bad time and asked me not to take Rs.15,000/-. I did not take the Rs.5,000/- in a lump sum but I took it from time to time. I expected the full amount of Rs.15,000/- to be paid to me. I had been under Plaintiff for about 20 years. To me he was a good man.

40 Q. I put it to you that you endorsed the note as a second line of defence—to be sure of the Rs.15,000/-.

A. I did not do so with either good or bad intentions.

Plaintiff did not endorse the "undiyal" to Arunachalam in my presence. I can swear to that fact. Arunachalam signed my receipt as a witness. When Plaintiff asked me to come I took Arunachalam with me. At Alagapury at that time we looked into some accounts. On that occasion I told Plaintiff about Alles and Samaranayake's debts. If Arunachalam was a witness in this case he would have spoken to the fact that I carried the bundle of letters to Plaintiff. I have kept receipt D.3 safe up to date. It is not true that all the letters are still in my possession.

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I cannot explain why Plaintiff should have brought this action against me. It may be because he is in difficult circumstances.

*Defendant's
Evidence.*

When Chinniah left for India he handed some papers to my Agent Karuppiyah on instructions from Plaintiff. Plaintiff spoke to me and I allowed Karuppiyah to take over. Muttiah subsequently sued me and Karuppiyah in India in respect of collections made by Karuppiyah. Judgment went against Karuppiyah and I was discharged from the case.

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tion,
continued.

(Mr. Nadarajah marks the answer in that case—P.38.)

Rexd.

I had nothing to do with those collections. 10

Sunderam's whereabouts are not known.

Re-exami-
nation.

I produce original certificate of Registration of the firm of S. S. L. which shows that I started that business on 7.4.21 (D.22). From 1933-1936 I was in India. During that period I did not come to Ceylon. In 1936 I came to Ceylon. In 1937 also I came to Ceylon. I next came to Ceylon in 1939. Thereafter I had not been in Ceylon until this action was filed.

There are about 20 Chetty firms in the kittangy I referred to. I have rented out only one room of that building. The rent for that room is Rs.160/- per year. My wife and children never lived in Ceylon.

In letter D.21 I have stated that the books had been sent to Rangoon. 20 They are the old books I assigned the Samaranayake Decree on 25.1.33. That day I had with me in Colombo the Book containing Samaranayake's Account. The Books sent to Rangoon were not here when the Assignment was made but we had all the details here. Because the Books were in Rangoon there was no entry made of the Assignment of Samaranayake's Decree. Particulars for D.6A of October 1932 were taken from both the old and new books. Because Samaranayake's Decree appeared in the old books I have not entered it in D.6A. I cannot remember the exact date on which I endorsed Alles' note; but I endorsed it before I gave the Power of Attorney to Chinniah. There were other people besides Alles 30 and Samaranayake whom I recommended to Plaintiff-firm. On the assignment of the Samaranayake Decree I received no payment.

(Sgd.) R. R. SELLADURAI,
A.D.J.

23.11.45.

Defence closed putting in D.1-D.22.

Mr. Nadarajah produces further documents P.36-P.38.

JUDGMENT of the District Court.

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D. C. Galle X 56.

The Plaintiff in this case is a professional money lender who resides in India. He was carrying on the business of money lending through agents at several places in India, Burma, Malaya and at Colombo. The Defendant was his agent and attorney at Colombo from about 1919 to the 28th January, 1933. Among the customers of the Plaintiff's establishment at Colombo to whom money had been lent were two persons called I. M. S. Alles
10 and C. D. A. Samaranayake both of Galle. Alles died while a sum of Rs.6,500/- and interest on a promissory note for Rs.7,000/- (P.1) was still due to Plaintiff's firm. His estate was administered by his executor Mr. W. R. de Silva in D.C. Galle 7394. Samaranayake died while a sum of Rs.7,000/- was due to Plaintiff's firm. Mr. E. C. Abeygoonewardene who had intermeddled with the estate of Samaranayake was sued by the Defendant as the agent of the Plaintiff's establishment in D.C. 27002 and a decree had been obtained on 23rd September, 1929, for a sum of Rs.8,618/20 with legal interest and costs. Of this sum Rs.2,695/- had been recovered and accounted for by the Defendant. On the 25th January,
20 1933, three days prior to his leaving the services of the Plaintiff and departing for India, the Defendant by deed 101 (P.20) assigned the decree to one A. L. A. S. M. Alagappa Chetty alias Somasunderam Chetty also referred to in the case as Sovanna Mana for an alleged consideration of Rs.3,000/-. Alagappa had himself substituted as Plaintiff in D.C. 27002 and has recovered the sum of Rs. 1,549/-. Rs. 200/-, Rs. 683/41 and Rs.3,274/40 aggregating to Rs. 5,706/81 (*vide* P.19). The Defendant has also prior to the 28th January, 1933, endorsed promissory note P.1 granted by Alles to the same Alagappa Chetty who has recovered from the executor of Alles' estate the sum of Rs.8,500/- on 3rd October, 1934. It is the
30 Plaintiff's case that the Defendant assigned the decree and endorsed the note to Alagappa without Plaintiff's authority; and with fraudulent intention that no consideration received from Alagappa has been accounted for; that the assignment and endorsement had been made for Defendant's benefit and that through Alagappa the Defendant has collected the sums mentioned above; that the Defendant is liable to pay the said sums to the Plaintiff.

The position of the Defendant is that the Plaintiff's business was failing and as he was in insolvent circumstances the Plaintiff directed the Defendant to close the business at Colombo, to assign the decree to Alagappa
40 and to endorse the note and to write off in the books the amount due on the note. The Defendant executed these directions. He received no consideration of any nature from Alagappa; nor did Alagappa pay sums recovered by him to the Defendant. After the termination of his services the Defendant rendered an account to Plaintiff of his stewardship; the Plaintiff was satisfied and gave him a written discharge dated 28th April, 1934. Therefore the Plaintiff is not entitled to maintain this action. The Plaintiff's action is prescribed. This court has no jurisdiction to try this case.

It is meet that the question of jurisdiction be examined first. The
50 Plaintiff alleges that the Defendant resides and carries on business at

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Galle and the causes of action set out in the plaint accrued to the Plaintiff at Galle. The Defendant has been carrying on the business of the firm of S. S. L. at 41 Kaluwella, Galle, for a number of years commencing 15th April, 1921, as seen from the certificate of registration D.21. As shown in P.27 he took three sons of Alagappa Chettiyar as partners on 10th March, 1927. Two of the sons of Alagappa Chettiyar retired from the business on 15th April, 1931, as shown in P.28. The third son retired on the 18th April, 1939, as shown in P.30. In addition to that business he is also carrying business under the vilasam A. R. L. at 42 Kaluwella, Galle, from 1st June, 1939, as shown in P.32. These two establishments 10
he carries on through his employees. Normally it is admitted he is resident in India with his wife and children but periodically he makes visits to Galle and during such visits he resides in a room which belongs to the Hindu temple premises and which he has rented out. The rent for that room is Rs.160/- a year. The position is not the same as that of a person who goes to Galle periodically and has been a few days at a hotel paying rent only for the period of his stay at the hotel. In this case the Defendant has the room rented out for his permanent use which he makes use of during his periodical visits. He has also an establishment under the vilasam of A. R. L. at Pussellawa ; so that he does make visits from time 20
to time to Ceylon to supervise his business in the Island. It has been held by the Supreme Court in the case of *Cassim vs. Saibo* reported in 1 Ceylon Law Journal at page 14 that though a man may have only one domicile he may have several places of residence. I am of opinion that the room he has rented out at Galle is one of his places of residence. It is also common point that the deed of assignment No. 101 of 25th January, 1933 (P.20) was executed at Galle. It was at Galle that Alagappa, who, according to the Plaintiff, was an agent of the Defendant for collection, collected the sums due on the decree. The promissory note, according to the Defendant, was endorsed at Colombo. But it was at Galle, according 30
to the evidence of Mr. W. R. de Silva and the receipt obtained by him (P.2), that payment was made on the note. It is the collection of the monies due on the decree and the note and appropriating the same by the Defendant which are wrongful acts on which the Plaintiff's causes of action are based. I am therefore of opinion that this court has jurisdiction.

The principal question in this case is whether the assignment and endorsement were made at the instance of the Plaintiff. According to the Defendant, Alagappa Chettiar arrived from India on the 23rd January, 1933, in order to take charge of the Plaintiff's business from the Defendant and he brought a letter from the Plaintiff addressed to the Defendant 40
directing the Defendant to assign the decree and endorse the note to Alagappa. This letter has not been produced. According to the Defendant it is the practice prevailing in Chetty firms for the agent to take charge of all letters received from the principal at the termination of his services and to hand them over to the principal ; that he did so accordingly and that it was thereafter that the Defendant was given the discharge dated the 28th April, 1934 (D.3). The Plaintiff denies that any letters were handed to him at the time he granted the discharge D.3. Prior to the Defendant leaving Colombo he had been writing a number of letters to the Plaintiff stating that the Defendant was doing no useful work by remaining at 50
Colombo ; that he was anxious to return to India and that he might be relieved of his charge. In letter dated 2nd November, 1932 (D.2D) (D.2 is

the press copy book of letters written by the Defendant to the Plaintiff) the Defendant writes "It is written why I should experience delay instead of having called Sovanna Mana and leaving in his charge . . . you must send Sovanna Mana." In letter D.2F of 21.12.32 the Defendant states that Sinniah alone could attend and recover the few outstandings suggesting thereby that he be allowed to return to India without waiting for Sovanna Mana. In letter D.21 of 3.1.33 the Defendant states that Sovanna Mana had written that he would be starting within a week. After his arrival the Defendant would start and return to India. In letter D.2K of 22.1.1933

10 the Defendant writes "I was all along to start after the arrival of Sovanna Mana." It is common point that the Defendant left Colombo on the 28th January, 1933. A large number of letters have also been produced written by Sinniah to Sovanna Mana addressed to Pussellawa informing him about the state of affairs with regard to Plaintiff's firm and asking for advice and guidance. Some of these letters also show that the Plaintiff had written letters to Alagappa and had forwarded them to Sinniah for transmission to Alagappa. The letters by the Plaintiff to Alagappa may be demands sent to him to pay up the debt which he owed the Plaintiff ; but the letters written by the Defendant to the Plaintiff and by Sinniah

20 to Alagappa reveal that Alagappah had been asked by the Plaintiff to exercise some degree of supervision with regard to the Plaintiff's affairs at Colombo. When the Defendant left Colombo the agency was not handed over to Alagappah. The power of attorney granted by the Plaintiff to Defendant permitted the Defendant to grant a power of attorney to any substitute he may appoint. In pursuance of that authority the Defendant had appointed Sinniah as his substitute and Sinniah was in charge of the Plaintiff's business from the time the Defendant left Colombo. Sinniah has been writing several letters to the Plaintiff also after he assumed charge. So, I think the arrangement was that after the

30 Defendant left Colombo Sinniah should be in charge and function as the agent of the Plaintiff while Alagappah should advise and assist Sinniah. When one considers that it was Sinniah who was appointed agent and that Alagappah was only to advise and assist, it is likely that the Plaintiff would direct that the assignment and endorsement be made in favour of Alagappah ? It is the Defendant's case that it was because the Plaintiff's firm was crashing and he anticipated insolvency that the Plaintiff wanted to put away these securities. It is possible that since the firm was crashing the Plaintiff may have desired to put away securities ; but to my mind it is unlikely he would choose Alagappah as the person to whom securities

40 should be entrusted. It is common point that Alagappah owes a very big debt to the Plaintiff and has been owing for a long time. The Plaintiff had been writing to the Defendant to recover these monies from Alagappah. The Defendant wrote back stating that since Alagappah was in India the Plaintiff might recover directly ; but not a cent had been recovered. In those circumstances, is the Plaintiff likely to have these securities endorsed in favour of Alagappah for Alagappah to recover them when Alagappah has not been able to pay Plaintiff any part of the old debt. Alles' debt was written off by the Defendant and transferred to the account for working expenses. This, he states, he did at the Plaintiff's instance.

50 The balance sheets and ledger totals used to be sent from Colombo to the Plaintiff at periods of two or three months. The Plaintiff had a staff at his own residence in India, to scrutinise these accounts and was in a

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position to know right along the state of affairs at the Colombo branch. P.12 is an extract from the ledger showing Alles' account. On the 1st September, 1932, the balance brought forward as due from Alles was Rs.6,500/-. Though the date is not mentioned it would appear that on the 5th December, 1932, his account was written off to working expenses. On the 29th October, 1932, as shown in D.6 the Defendant wrote to the Plaintiff sending balance sheet and extracts from the day book (apparently an error for ledger). He also sent two lists—one being the list of monies recoverable and the other of monies which may be difficult to recover. D.6A is the latter list. In it Alles' debt is mentioned and it is stated 10
"this person is dead. His properties are subject to testamentary case. It will take about two years for the testamentary case to be over. Thereafter only collecting can be attempted." It does not mention the Samaranyake decree. It was after this on the 5th December, 1932, that the Alles' debt was written off. The Defendant states that the Plaintiff directed him to write off Alles' debt and the Samaranyake debt making special mention of these debts. I do not believe that is correct. What I think is that Plaintiff wrote to him to write off irrecoverable debts without specifically mentioning any debts. In view of the fact that the Samaranyake debt is not mentioned in the list D.6A, it is not likely that the Plaintiff would 20
have directed that the debt be also written off. Letter D.2A dated 7th December, 1932, is the first letter written after the writing off. In it he states "in accordance with the letter dated 18 Aypasi from there to write off irrecoverable debts against expenses the same has been entered against expenses and I am sending herewith balance sheet and day book entries." He does not write that he has written off debts of persons mentioned by the Plaintiff. One can understand the Plaintiff writing to the Defendant to write off irrecoverable debts so that his books might not show a false state of affairs by showing as assets irrecoverable debts. But one cannot understand why he should specifically ask that Alles' 30
debt be written off when the Defendant had indicated that it was a recoverable debt though one may have to wait for a couple of years till the testamentary proceedings are completed. In D.6A against a sum of Rs.5,735/- due from K. Walter Pieris of Panadura the Defendant mentions that a decree had been entered for that amount but the amount could not be recovered for about a year. It is not suggested that the Plaintiff directed the Defendant to write off Walter Pieris' debt. On the other hand the Plaintiff has been writing to the Defendant, according to the evidence, asking the Defendant to settle up the debts payable by the Plaintiff to his creditors by assigning and endorsing debts due to the 40
Plaintiff. After the receipt by the Plaintiff of balance sheets and ledger balances subsequent to the 5th December it should have been clear to the Plaintiff had he taken the trouble to scrutinise the accounts that Alles' debt had been written off. It may be that he acquiesced in it because the amount was not considered recoverable for about two years. The evidence is that whether debts are written off or not the securities and promissory notes are preserved for a large number of years. Samaranyake debt had been transferred from the ledger account in his name to what is termed "old accounts" and they are shown in P.13 before the transfer and P.17 after the transfer. So that the last time they could have been shown in 50
ledger balances sent to the Plaintiff would be at the end of December 1931 and not after. So that one might have expected the Plaintiff to lose sight

of the amount due from Samaranayake. As I said before I am not satisfied that the Plaintiff gave special directions to write off the Alles' debt or the Samaranayake debt. It is admitted that the Defendant assigned the Samaranayake decree and endorsed Alles' note to Alagappah Chetty. That being so, the burden rests on him to prove that he did so at the instance of the Plaintiff. Alagappah is his first cousin and in 1943 after the filing of this action the Defendant's son married Alagappah's daughter. I have not forgotten that an adopted son of Plaintiff's deceased's son has also married a daughter of Alagappah; but that was some years ago. The marriage between the Defendant's son and Alagappah's daughter in 1943 suggests that the Defendant and Alagappah must be on the best of terms. The Defendant has been able to procure certain letters written to Alagappah advantageous to his case and to produce them. But he has not called Alagappah into the witness box. Summons was taken out on Alagappah who is in India but Alagappah has not come. I think it was within the power of the Defendant to have induced Alagappah to attend court or to have taken out a commission to record the evidence of Alagappah in India. It is Alagappah who can say why the Plaintiff directed the assignment and the endorsement in his favour—if that be the fact—and what Alagappah has done with the monies recovered by him. It is suggested that Alagappah had paid the monies to the Plaintiff. If so he would have proof of it. If the Plaintiff had directed the assignment and the endorsement and Alagappah after recovering has misappropriated funds which he had agreed to pay the Plaintiff one would expect the Plaintiff to have sued Alagappah and not the Defendant. If Alagappah did carry a letter from the Plaintiff to the Defendant and as a result of that letter the assignment and endorsement were made, Alagappah would know all about it. I think the failure on the part of the Defendant to call Alagappah is a serious defect. The Plaintiff's witness Sinniah stated definitely at the start that Alagappah did not arrive in Colombo till after the Defendant had left for India. Later on he was not so certain. The book kept by the Colombo Port authorities has been produced by a clerk who did not write the relevant entries but the relevant entries had been written by a clerk who attended to these matters prior to his time. The clerk was a thoroughly unsatisfactory witness who showed a lack of intelligent understanding of his own duties. The book shows as against the 23rd January, 1933, the name of A. L. A. S. M. Alagappah Chetty and the address 178 Sea Street. The number of the quarantine report form 31761 has been cut off and another number has been inserted. As against the remarks column there is the name Dr. D. R. Kitulgoda. The book shows that Alagappah Chetty did not appear before the Port Health authorities on any of the dates on which the passengers who travelled from India on the 23rd January, 1933, were required to be present. But I think the name of D. Kitulgoda indicates that he was allowed to show himself to Dr. Kitulgoda instead of the Colombo Port Health authorities. An examination of the book throughout shows that sometimes the whole length of the period in which they would show themselves to the Port Health authorities they would have been permitted to show themselves to another doctor and in some cases after two or three days' attendance at the Port Health Office they have been permitted to show themselves to some other doctor. Whether the 23rd January, 1933, is the date on which the form was entered at Mandapam or the date on which the form was received by the Colombo Port Health

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Office, it certainly indicates that Alagappah Chetty was either at Mandapam on the 23rd January or was at Colombo on the 23rd January. This book of the Port Health Office covers a long period of time. I have examined dates subsequent to the 23rd January. The name of Alagappah Chetty does not appear within the next one month of that date. But the evidence of Sinniah and also his letter D.7 of 14.2.33 to Alagappah's residence at Pussellawa shows that prior to the 14th February Alagappah was in the Island. I am of opinion that Alagappah arrived in Colombo either on the 23rd January or on the 24th January, 1933. But I am not satisfied that he carried any letter from the Plaintiff to the Defendant. As stated 10 before it was on the 3rd October, 1934, that Mr. W. R. de Silva paid Alagappah Rs.8,500/- due on Alles' note. On that same date a sum of Rs.4,500/- has been paid to the credit of the account of the firm of S. S. L. in cash at the Mercantile Bank of India, Galle—vide P.25, the bank account. It is the Plaintiff's suggestion that Alagappah cashed Mr. W. R. de Silva's cheque on that day and paid Rs.4,500/- out of that sum to the Defendant and that the sum was deposited to his credit in the bank. P.26, the account of Mr. W. R. de Silva in the Mercantile Bank of India, shows that the cheque issued by Mr. W. R. de Silva to Alagappah Chetty was cashed that day. In October 1934 the partners of the firm of S. S. L. 20 were the Defendant and Alagappah's son Sunderam. It is suggested for the Defendant that this money of Rs.4,500/- came to be deposited to the credit of the firm of S. S. L. on 3rd October on some other transaction. The books of the firm of S. S. L., if produced, would show who had paid this sum and on what transaction. But these books have not been produced. The Defendant states that the books are with Alagappah's son Sunderam and that he is on military service at Hyderabad. It is most unlikely that a man going on military service would encumber himself with books of account. Sundaram ceased to be partner on the 18th April, 1939. Just before he retired from the partnership he might have had occasion to 30 examine the books to ascertain what amount of the capital and profits are payable to him and having done so he would have had no further use for the books. He certainly could not have carried the books away on war service. If he had not returned the books after examination they must be in his parental home at the residence of Alagappah. The Defendant could not have found any difficulty in procuring these books and producing them in Court. I think it is reasonable to presume that the production of these books would not help the Defendant to show that this money was deposited by some person other than Alagappah Chetty. The Plaintiff admits that he was in straitened circumstances and that some creditor 40 had filed insolvency papers against him but he states he paid up his debts and had the proceedings annulled. With regard to the letters written by the Plaintiff, I fail to see why there should be any secrecy about them for it to be a *sine qua non* for the letters to be returned to the Plaintiff for him to grant a discharge to his agent. The Defendant states that he handed over the letters to the Plaintiff in the presence of one of the Plaintiff's creditors called Arunasalam. This Arunasalam has also not been called by the Defendant. By looking at the accounts transmitted by Defendant to Plaintiff from time to time it would not have been possible for the Plaintiff to know that the Defendant had assigned the 50 decree or endorsed the note. The Defendant believed that the Plaintiff's business was crashing; that it was being closed down and therefore it is

my opinion that the Defendant conceived the idea of collecting the amount due on the decree and the amount due on the note and assign and endorse the documents to his cousin so that the amounts may be collected for him.

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- Letter D.7 by Sinniah to Alagappah Chetty dated 14th February, 1933, shows that the employees of the firm of S. S. L. at Galle forwarded two affidavits and two copies of the deed of assignment to Sinniah for transmission to Alagappah and that he transmitted them to Alagappah. Sinniah had been in the firm for many years and he was aware of the decree against the estate of Samaranayake. It is true that it was the firm of
- 10 S. S. L. which worked up the case against the estate of Samaranayake and made recoveries on behalf of the Plaintiff's firm. Sinniah says that on that account he had no suspicion when he transmitted these papers and that he was not aware of the assignment. I am not satisfied with Sinniah's evidence. He knew that he was the authorised agent who held the power of attorney of the Plaintiff and if any steps were to be taken in the Samaranayake case he should have signed the documents. Though the documents were in English, I am sure he would have been driven by normal curiosity to ascertain their contents and it is my view that he was aware of the assignment. But that does not import knowledge to the Plaintiff. In
- 20 about 1935 Sinniah returned to India and he left the services of the Plaintiff for a time. He was re-employed and some time later he went to Galle in connection with a commission issued by an Indian Court and when he was there he met Nadarajapillai who informed him that the firm of S. S. L. had made certain recoveries of monies due to the Plaintiff's firm. Nadarajapillai states that Mr. W. R. de Silva informed him of the payment that he had made. Mr. W. R. de Silva himself had been called very early in the case and at that time no questions had been addressed to him as to whether he mentioned anything to Nadarajapillai. Mr. W. R. de Silva had been a Proctor practising at Galle for many years and Nadarajapillai
- 30 had been in the employ of the firm of S. S. L. also for many years and it is possible that they knew each other and that Mr. de Silva had mentioned to him. The letter P.4 of 19.2.1942 shows that the Plaintiff wrote to Nadarajapillai stating that he was told by Sinniah that the Defendant's people had recovered monies payable by the Plaintiff's debtors and requesting him to examine court records and to write details. P.5 of 25.2.42 shows that Nadarajapillai wrote details to Sinniah and p.7 of the same date shows that he informed the Plaintiff that he was sending the details to Sinniah. I think this correspondence was not entered into as suggested by the defence deliberately for the purpose of making up a
- 40 case against the Defendant. This leads to the question of prescription. As I stated before an examination of the accounts would not have shown that these securities had been transferred. The transfer was a fraud perpetrated on the Plaintiff. It was a concealed fraud. This correspondence shows that only in 1942 the Plaintiff became aware of the fraud. In the case of *Punchihamine Vs. Ukku Menika*, 28 N.L.R., it was held that the cause of action in a case of concealed fraud arose on the discovery of the fraud. It was also held that where a decree is entered in pursuance of an agreement induced by fraud the party obtaining property under the decree and those claiming from him as volunteers hold the property so obtained in trust for
- 50 the party defrauding. I hold that this action is not prescribed and that the Defendant holds in trust for the Plaintiff monies recovered by him from the Plaintiff's debtors.

*In the
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of the
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continued.

With regard to the point urged that by reason of the discharge D.3 of 28th April, 1934, granted by the Plaintiff to the Defendant the Plaintiff cannot maintain this action, it is clear to my mind that the discharge was granted without knowledge of the fact that the Defendant had assigned the decree and endorsed the note. That being so, I do not think the discharge can operate to prevent the Plaintiff from maintaining this action.

With regard to the question as to whether Plaintiff is estopped by reason of the alleged facts that the Defendant was induced to hand over to the Plaintiff all documents and papers by the granting of the discharge, I do not think that any letters were handed over to the Plaintiff. The evidence of the Plaintiff is that the Defendant met him at a place called Pillaimangalam at the house of the Plaintiff's son-in-law where the Plaintiff was in hiding to avoid his creditors and that the Defendant went there without any account books or documents. The account books, even if they had been carried, would not have helped the Plaintiff, as I stated before, to discover the assignment or endorsement. It is not the Defendant's case that he took with him all the notes and other securities granted by the debtors. They were at the Plaintiff's establishment in Colombo. If the account books and all notes and securities were taken, it may have been possible to check up and ascertain that all notes and securities were handed over. It was urged by learned counsel for the Defendant that the letters written by the Plaintiff to the Defendant contain secret instructions and that a matter of ordinary prudence the Plaintiff would take charge of the letters to prevent his servant from blackmailing him. But I do not see what material there could be for blackmail in letters written by a principal to his agent with regard to the money lending business. In cross-examination the Defendant was given an opportunity of setting out the reason, if any, as to why the Plaintiff should file a false action against him. The Defendant was not able to suggest any reason whatsoever. I hold that the Plaintiff is not estopped.

I answer issues (1) yes, (2) yes, (3) yes, (4) yes, (5) yes, (6) yes, for an alleged consideration of Rs.3,000/-. (7) yes, (8) yes, (9) yes, (10) Defendant did not pay over to Plaintiff Rs.3,000/-, (11) the consideration of Rs.3,000/- is alleged to have been received by the Defendant prior to the execution of the deed. It was not paid in the presence of the notary. I do not think the consideration of Rs.3,000/- was paid by Alagappa to the Defendant. It was only a colourable transaction to enable the Defendant to collect the monies due on the decree through Alagappa as his agent. Therefore it is not Rs.3,000/- but Rs.5,706/81 which the Plaintiff is entitled to recover from the Defendant, (12) yes, (13) yes, (14) yes, (15) yes, (15A) at the legal rate of 5%, (16) no; he only represented that the amount due on the note could not be recovered for a period of two years, (17) yes, (18) yes, (19) yes, (20) the said sums of Rs.8,500/- and 5,706/81, (21) Defendant realised the sum of Rs.5,706/81 through Alagappa Chetty. There is no direct evidence that Alagappa Chetty paid Defendant this sum. But it is unlikely that Alagappah Chetty double-crossed the Defendant and defrauded the Defendant of the amount collected by him on the assignment, (22) does not arise, (23A) yes, (23B) yes, (23C) the court has jurisdiction, (24) no, (25A) Defendant rendered an account to the Plaintiff of the Defendant's transactions as Plaintiff's agent but failed to disclose the fact of his assigning the decree and endorsing the note. All the account books were left with the

firm and were available to the Plaintiff. No letters written by the Plaintiff to the Defendant were handed over to the Plaintiff, (25B) yes, (25C) yes, (26) no, (27) no, (28) Plaintiff is not estopped, (29) the action is not prescribed, (30) no, (31) yes. Enter decree for Plaintiff for the sum of Rs.8,500/- with legal interest thereon at 5% from 3rd October, 1934, and the sum of Rs.5,706/81 with legal interest thereon at 5% from 15th January, 1938, and costs.

(Sgd.) R. R. SELVADURAI,
D.J.

*In the
District
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Galle.*

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Judgment
of the
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Court,
27th May
1946,
continued.

10 Pronounced in open Court on this 27th day of May 1946 in the presence of Mr. D. V. A. Gunasekera for Plaintiff and of Mr. Marikar for Defendant.

(Sgd.) S. J. C. SCHOKMAN,
D.J. 27.5.46.

No. 18.

DECREE of the District Court.

IN THE DISTRICT COURT OF GALLE.

A. T. K. P. L. M. MUTTIAH CHETTIAR of
Sirukoodal Patti Tirupattur Taluk Ramnad
District, South India Plaintiff

20

Vs.

A. R. L. LAKSHAMANAN CHETTIAR of No. 42
Kaluwella Street, Galle Defendant.

No. X 56.

This matter coming on for disposal before M. A. Samarakoon Esquire District Judge of Galle on the 11th day of December 1942, in the presence of Mr. Advocate Nadarajah K.C. with Mr. Advocate P. R. Gunasekera and Mr. Advocate Somasunderam instructed by Mr. D. V. A. Gunasekera Proctor for the Plaintiff and of Mr. Advocate Chelvanayagam with Mr. Advocate Pandita Gunawardene instructed by Mr. M. S. Marikar Proctor for the Defendant, and again before M. A. Samarakoon Esquire District Judge, Galle on the 8th day of November 1943, in the presence of the same counsels with Mr. Advocate Nadesan on the part of the Defendant and again before R. R. Selvadurai Esquire District Judge of Galle on the 5th day of October 1944 in the presence of Mr. Advocate Somasunderam and Mr. Advocate P. R. Gunasekera instructed by Mr. D. V. A. Gunasekera proctor for Plaintiff and of Mr. Advocate Chelvanayagam with Mr. Advocate Nadesan and Mr. Advocate Pandith Gunawardena instructed by Mr. M. S. Marikkar proctor for the Defendant and again on the 6th day of October 1944 in the presence of the same
30
40 counsels and again before R. R. Selvadurai Esquire District Judge of

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Galle on the 1st day of March 1945 in the presence of Mr. Advocate Nadarajah K.C. with Mr. Advocate Somasunderam instructed by Mr. D. V. A. Gunasekera, Proctor for the Plaintiff and of Mr. Advocate Chelvanayagam with Mr. Advocate Nadesan instructed by Mr. M. S. Marikar, proctor for the Defendant and again on the 2nd day of March 1945 in the presence of the same counsels and again on the 23rd day of November 1945, before R. R. Selvadurai Esquire District Judge of Galle in presence of Mr. Advocate Nadarajah K.C. with Mr. Advocate Somasunderam and Mr. Advocate Sivasubramaniam instructed by Mr. D. V. A. Gunasekera proctor for the Plaintiff and of Mr. Advocate Chelvanayagam 10 with Mr. Advocate Panditha Gunawardena instructed by Mr. M. S. Marikkar Proctor for the Defendant and finally before S. J. C. Schokman Esquire District Judge of Galle on the 27th day of May 1946 in the presence of Mr. D. V. A. Gunasekera, Proctor for Plaintiff and of Mr. M. S. Marikar, Proctor for Defendant.

It is ordered and decreed that the Defendant to pay to the Plaintiff the sum of Rupees Eight thousand and five hundred (Rs.8,500/-) together with legal interest thereon at the rate of Five (5%) per centum per annum from 3rd October 1934 and the sum of Rupees Five thousand seven hundred and six and cents eighty-one (Rs.5,706/81) together with legal interest 20 thereon at five (5%) per centum per annum from 15th day of January 1938 respectively till payment in full and the costs of this action as taxed by the Officer of this Court.

The 27th day of May 1946.

(Sgd.) S. J. C. SCHOKMAN,
District Judge.

Drawn by
(Sgd.) D. V. A. GUNASEKERA
Proctor for Plaintiff.

DEFENDANT'S PETITION OF APPEAL to the Supreme Court.

*In the
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IN THE DISTRICT COURT OF GALLE.

A. T. K. P. L. M. MUTHIAH CHETTIAR . . . Plaintiff

vs.

A. R. L. LAKSHMANAN CHETTIAR . . . Defendant.

Between A. R. L. LAKSHMANAN CHETTIAR

Defendant-Appellant

and

10 A. T. K. P. L. M. MUTHIAH CHETTIAR

Plaintiff-Respondent.

No. X 56

D.C. (F) 234M

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

This 27th day of May 1946.

The Petition of Appeal of the above-named Defendant appearing by his Proctor Mohammed S. Marikar states as follows :—

1. The Defendant-Appellant was the agent of the Plaintiff in the
20 latter's money-lending business carried on in Colombo.

2. On 28th January 1933 the Defendant ceased to be that agent and left the Plaintiff's services. In May 1934 the Plaintiff gave the Defendant a complete discharge in respect of the said agency. This discharge is marked D.3.

3. After a lapse of over nine years since the Defendant left Plaintiff's employment, the Plaintiff sued the Defendant in this case on the allegation that the Defendant had fraudulently transferred to one Alagappa Chettiar two assets belonging to the Plaintiff namely :—

(A) Decree in case No. 27002 of this Court, and

30 (B) A promissory note for Rs.7,000/- by one I. M. S. Alles.

4. The Defendant admitted the said transfers, denied any fraud and further stated that the transfers were made in accordance with the Plaintiff's instructions to Alagappa Chettiar whom Plaintiff had deputed to take charge of the said assets.

5. The case went to trial on many dates and by his judgment of 27th May 1946 the Learned Judge entered judgment for the Plaintiff for Rs.8,500/- with legal interest at 5% per annum from 3rd October 1934 and Rs.5,706/81 with legal interest at 5% per annum from 15th January 1938 and for costs.

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No. 19.
Defendant's
Petition
of Appeal
to the
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6. Being aggrieved with the said judgment and the decree thereon, the Defendant begs to appeal therefrom to Your Lordship's Court on the following amongst other grounds that might be urged at the hearing of this appeal :—

(A) The said judgment is contrary to law and the weight of evidence in this case.

(B) This court has no jurisdiction to hear this case.

(C) In any event the Plaintiff's claim is prescribed.

Once the Plaintiff had given his discharge the burden of proving the case lay heavily on the Plaintiff. This the Plaintiff had completely failed to do. 10
Further the evidence rebuts fraud very strongly. It has been established that Alagappa Chettiar was specially sent over to Ceylon for the Defendant to hand over the Plaintiff's affairs.

7. It has been proved that the Plaintiff or his agents must have known of the transfers and that no secret acts could have been done by Defendant in relation to the Note or the decree in question.

WHEREFORE THE DEFENDANT-APPELLANT PRAYS that Your Lordship's Court be pleased to—

- (i) set aside the judgment and decree of the District Court,
- (ii) dismiss Plaintiff's action, 20
- (iii) grant the Defendant his costs in both courts, and
- (iv) for such other and further relief as to this Court shall seem meet.

(Sgd.) MOHAMMED S. MARIKAR,
Proctor for Defendant-Appellant.

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**No. 20.
JUDGMENT of the Supreme Court.**

S.C. No. 234—M.

D.C. Galle No. X.56.

Present : Howard C.J. & Canekeratne, J. 30

Counsel : H. V. Perera, K.C. with C. Renganathan for the Defendant-Appellant.

F. A. Hayley, K.C. with M. Somasunderam for the Plaintiff-Respondent.

Argued on : 10th & 12th November, 1948.

Delivered on : 25th November, 1948.

HOWARD, C.J.

The Defendant appeals from the judgment of the District Court of Galle entering judgment for the Plaintiff for the sum of Rs.8,500/- with

legal interest thereon at 5% from the 3rd October, 1934, and the sum of Rs.5,706/81 with legal interest thereon at 5% from the 15th January, 1938, and costs. The Plaintiff is a professional money lender who resides in India. The Defendant was his agent and attorney at Colombo from about 1919 to the 28th January 1933. Amongst the debtors of the Plaintiff were two persons I. M. Alles and C. D. A. Samaranyake both of Galle. Alles died while a sum of Rs.6,500/- and interest was owing to the Plaintiff's firm on promissory note (P.1) for Rs.7,000/-. Alles' estate was administered by his executor Mr. W. R. de Silva. Samaranyake died while a sum of Rs.7,000/- was due to the Plaintiff's firm. One E. C. Abeygoonewardena who had intermeddled with the estate of Samaranyake was sued by the Defendant as the Plaintiff's attorney in D.C. 27002 and a decree had been obtained on the 23rd September, 1929, for a sum of Rs.8,619/20 with legal interest and costs. Of this sum Rs.2,695/- had been recovered and accounted for by the Defendant. On the 25th January 1933, three days prior to his leaving the service of the Plaintiff and departing for India the Defendant by P.20 assigned this decree to one A. L. A. S. M. Alagappa Chetty for an alleged consideration of Rs.3,000/-. Alagappa had himself substituted as Plaintiff in D.C. 27002 and has recovered a sum of Rs.5,706/81 (vide P.19). The Defendant has also prior to the 28th January, 1933, endorsed promissory note P.1 granted by Alles to the same Alagappa Chetty who has recovered from the executor of Alles' estate the sum of Rs.8,500/- on the 3rd October, 1934. It is the Plaintiff's case that the Defendant assigned the decree and endorsed the note to Alagappa without Plaintiff's authority and with fraudulent intention, that no consideration received from Alagappa has been accounted for, that the assignment and endorsement had been made for the Defendant's benefit and that through Alagappa has collected the sums mentioned and that the Defendant is liable to pay the said sums to the Plaintiff.

30 The position of the Defendant is that the Plaintiff's business was failing and as he was in insolvent circumstances the Plaintiff directed the Defendant to close the business at Colombo, to assign the decree to Alagappa and to endorse the note and to write off in the books the amount due on the note. The Defendant executed these directions. He received no consideration of any nature from Alagappa, nor did Alagappa pay sums recovered by him to the Defendant. After the termination of his services the Defendant rendered an account to Plaintiff of his stewardship. The Plaintiff was satisfied and gave him a written discharge dated 28th April, 1934. Therefore the Plaintiff is not entitled to maintain this
40 action.

By his answers to the issues the learned Judge has held as follows :—

(1) That the Defendant wrongfully, unlawfully, fraudulently and without the consent and approval of the Plaintiff endorsed the promissory note P.1 and assigned the decree in case No. 27002 for the sum of Rs.3,000/- to Alagappa Chetty, thereby misappropriated the said note and decree or their proceeds.

(2) That the said Alagappa recovered a sum of Rs.8,500/- on P.1 and a sum of Rs.5,706/81 under the said decree and the Plaintiff was entitled to recover the said sums from the Defendant.

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(3) The frauds in connection with P.1 and the decree were discovered by the Plaintiff on or about February 1942.

(4) The Defendant neglected and failed to hand over to the Plaintiff a sum of Rs.3,000/- alleged to be paid by Alagappa as consideration for the assignment of the decree in D.C. 27002.

(5) The consideration of Rs.3,000/- alleged to have been received by the Defendant prior to the execution of the deed was not paid in the presence of the Notary. The learned Judge did not think the consideration of Rs.3,000/- was paid by Alagappa to the Defendant. It was only a colourable transaction to enable the Defendant to collect the monies due on the decree through Alagappa as his agent. Therefore it is not Rs.3,000/- but Rs.5,706/81 which the Plaintiff is entitled to recover from the Defendant. 10

(6) That the said Alagappa Chetty collected the two sums of Rs.8,500/- and Rs.5,706/81 for and on behalf of the Defendant and the latter became the trustee of these two sums for the Plaintiff who is entitled to recover the said two sums with interest thereon at 5% from the Defendant.

(7) The Defendant wrongfully and fraudulently represented to the Plaintiff that the two debts were irrecoverable and after the recovery of the same fraudulently and wrongfully concealed the fact of collection from the Plaintiff. 20

(8) Defendant realized the sum of Rs.5,706/81 through Alagappa Chetty. There was no direct evidence that Alagappa Chetty paid the Defendant this sum, but it is unlikely that Alagappa Chetty double-crossed the Defendant of the amount collected by him on the assignment.

(9) The Defendant did not endorse P.1 or assign the decree at the direction and on the orders of the Plaintiff.

(10) The Defendant rendered an account to the Plaintiff of the Defendant's transactions as Plaintiff's agent, but failed to disclose the fact of his assigning the decree and endorsing the note. All the account books were left with the firm and were available to the Plaintiff. No letters written by the Plaintiff to the Defendant were handed to the Plaintiff. 30

(11) The Plaintiff on the 28th April, 1934, gave the Defendant a complete discharge and acknowledged that the Plaintiff had no present or future claims against him.

(12) The Defendant did not hand over the books and papers to the Plaintiff relying on a representation that the Defendant was discharged from all present and future claims. 40

(13) The Plaintiff's causes of action were not prescribed.

It will be observed that the Plaintiff's case against the Defendant has been based on the contention (A) that the assignment of the decree in case No. 27002 and the endorsement of the promissory note P.1 to Alagappa Chetty were fraudulent transactions and (B) that apart from fraud the Defendant was a trustee of these sums and liable to account for the same to the Plaintiff. Both these contentions have been answered by the learned Judge in favour of the Plaintiff. With regard to (B) the decision

of the learned Judge is contained in (6) and (13). The reasons guiding him to this decision receive but scant consideration in his judgment. So far as P.1 and the decree in case No. 27002 were concerned the relationship between the Plaintiff and the Defendant was that of beneficiary and trustee. Moreover the question was one of an express trust. So far as prescription is concerned the matter is governed by section 111 of the Trust Ordinance Chapter 72. This section is worded as follows :—

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“ (1) In the following cases, that is to say—

- 10 (a) in the case of any claim by any beneficiary against a trustee founded upon any fraud or fraudulent breach of trust to which the trustee was party or privy ;
- (b) in the case of any claim to recover trust property, or the proceeds thereof still retained by a trustee, or previously received by the trustee and converted to his use ; and
- 20 (c) in the case of any claim in the interests of any charitable trust, for the recovery of any property comprised in the trust, or for the assertion of title to such property, the claim shall not be held to be barred or prejudiced by any provision of the Prescription Ordinance.

(2) Save as aforesaid, all rights and privileges conferred by the Prescription Ordinance shall be enjoyed by a trustee in all actions and legal proceedings in the like manner and to the like extent as they would have been enjoyed if the trustee had not been a trustee :

Provided that in the case of any action or other proceeding by a beneficiary to recover money or other property, the period of prescription shall not begin to run against such beneficiary, unless and until the interest of such beneficiary shall be an interest in possession.

- 30 (3) No beneficiary as against whom there would be a good defence by virtue of this section shall derive any greater or other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought such action or other proceeding and this section had been pleaded.

(4) Nothing in this section shall preclude the court from giving effect to any application by a trustee for any equitable relief to which he would otherwise be entitled on any ground recognised by the court.

- 40 (5) This action shall not apply to constructive trusts, except in so far as such trusts are treated as express trusts by the law of England.”

The claim to recover this property arose in the case of P.1 some few days prior to the 28th January, 1933, when it was endorsed to Alagappa Chetty and in the case of the decree in case No. 27002 on the 25th January, 1933, when it was assigned to Alagappa Chetty for Rs.3,000/- (vide P.20). Section 111 (2) of Cap. 72 states that save as aforesaid all rights and privileges conferred by the Prescription Ordinance shall be enjoyed by a trustee in all actions and legal proceedings and to the like extent as they

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would have been enjoyed if the trustee had not been a trustee. In these circumstances the claim comes within section 6 of Cap. 72 and action must be instituted within six years unless it is a case that comes within subsection (1) of section 111 of Cap. 72. The phraseology employed in section 111 is similar to that of section 8 of the Trusts Act, 1888, which is worded as follows :—

“ (1) In any action or other proceeding against a trustee or any person claiming through him, except where the claim is founded upon any fraud or fraudulent breach of trust to which the trustee was party or privy, or is to recover trust property, or the proceeds thereof still retained by the trustee, or previously received by the trustee, and converted to his use, the following provisions shall apply :—

- (a) all rights and privileges conferred by any statute of limitations shall be enjoyed in the like manner, and to the like extent as they would have been enjoyed in such action or other proceedings if the trustee or person claiming through him had not been a trustee or person claiming through him. 10
- (b) If the action or other proceeding is brought to recover money or other property, and is one to which no existing statute of limitations applies, the trustee or person claiming through him shall be entitled to the benefit of, and be at liberty to plead the lapse of time as a bar to such action or other proceedings in the like manner and to the like extent as if the claim had been against him in an action of debt for money had and received, but so nevertheless that the statute shall run against a married woman entitled in possession for her separate use, whether with or without a restraint upon anticipation, but shall not begin to run against any beneficiary unless and until the interest of such beneficiary shall be an interest in possession. 30

(2) No beneficiary as against whom there would be a good defence by virtue of this section, shall derive any greater or other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought such action or other proceeding and this section had been pleaded.

(3) This section shall apply only to actions or other proceedings commenced after the 1st day of January, 1890, and shall not deprive any executor or administrator of any right or defence to which he is entitled under any existing statute of limitations.” 40

The comment in Lewin on Trusts on this section is as follows :—

“ The general effect of the section appears to be that in future, whenever an action is brought by a *cestui que trust* against a trustee or any other person claiming through him, whether in respect of land or money, and whether the defendant is sought to be charged under an express or a constructive trust, there the defendant will be entitled to the protection which the section gives, unless the plaintiff can prove either (1) fraud or fraudulent breach of trust, or (2) that at the time of action brought, the trust property, which

is the subject matter of the action, or the proceeds thereof, is or are still retained by the trustee, or (3) that, previously to the bringing of the action, such property or proceeds were received by the trustee, and converted to his use. If the plaintiff brings his case within one of these three exceptions, the old law will still apply ; if not, the section will take effect."

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The section has been the subject of judicial interpretation in several cases. In *How v. Earl Winterton* (1896) (2 Ch. 626), the plaintiff under a will on the expiration of a term of fourteen years from the death of the testatrix (who died on May 20, 1875), became entitled to an annuity for her life. During the term it was the duty of the defendant, as trustee under the will, to receive the rents of certain devised estates, and after payment of some immediate annuities, to accumulate the surplus rents and invest the accumulations in the purchase of lands. The plaintiff's annuity was charged upon the accumulations and the lands to be purchased therewith, as well as upon the devised estates. Without any fraudulent intent the defendant instead of accumulating the surplus rents, applied them in keeping down interest on incumbrances and in necessary repairs.

The term expired on May 20, 1889, the plaintiff's annuity fell into arrear in November 1894 and on August 9, 1895, she brought this action for an account.

The defendant had no trust moneys in his hands at the issue of the writ, and had never converted any trust moneys to his own use ; and he relied on section 8 of the Trustee Act 1888, but admitted that within six years before the issue of the writ he had rents in his hands which he ought to have accumulated and invested :

It was held (1) that the plaintiff was entitled to an account of the moneys in the hands of the defendant six years before the issue of the writ and liable to the trust for accumulation, and also to an account of the rents which ought afterwards to have been accumulated, but not to an account from the death of the testatrix ; and (2) that the case fell either within clause (a) or clause (b) of section 8 of the Act of 1888, but (per Rigby, L.J.) preferably within clause (a) ; and that whichever clause was applicable, the defendant was protected from demands more than six years before the issue of the writ. At pages 640-641 Lindley, L.J., stated as follows :—

" Section 8 is cumbrously worded, and it is difficult to grasp the idea which underlies it ; but the short effect of section 8 appears to me to be that, except in three specified cases (namely, fraud, retention by a trustee of trust money when an action is commenced against him, and conversion of trust money to his own use) a trustee who has committed a breach of trust is entitled to the protection of the several Statutes of Limitation as if actions and suits for breaches of trust were enumerated in them."

Again the headnote of *In re Bowden ; Andrew v. Cooper* (1890) (45 Ch. 444) is as follows :—

" A newly appointed trustee of a will brought an action against an old trustee and the representatives of two deceased trustees

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to compel them to make good losses arising from investments negligently made on insufficient security more than six years before the action. R.G., the executor of D.G. one of the deceased trustees, had after D.G.'s death issued the proper statutory advertisements and administered the estate, retaining in hand two legacies which had been bequeathed to him on trust. By leave of the Court at the trial the statement of claim was amended to make it a claim against R.G. as trustee of the legacies and to follow the legacies into his hands, R.G. to be at liberty to claim the benefit of any statutes of limitation :—

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Held, that having regard to Order XVI, r. 8, the *cestuis que trust* of the legacies were not necessary parties to the action.

Held, that section 8, sub-section 1 (a) of the Trustee Act, 1888 (51 & 52 Vict. c. 59), did not apply to the case, but that section 8, sub-section 1 (b) did apply; that under it R.G. was entitled to plead the lapse of time as he might have done in an action of debt, and that, as the cause of action had accrued more than six years before the action, R.G. had a good defence."

Also in *Re Gurney, Mason v. Mercer* [1893] 1 Ch. 590 it was held that "the exception in section 8, subsection (1), of the Trustee Act 1888, which prevents a trustee relying on the Statute of Limitations as a defence to an action to recover the proceeds of trust property received by the trustee and converted to his use, 'does not, in the absence of fraud, apply where trust funds advanced on mortgage are, with the concurrence of the mortgagor, applied in payment of a debt previously charged on the mortgaged property in favour of a bank in which the trustee is a partner'."

The words "converted to his use" were considered by Kekewich J. in *Re Timmis, Nixon v. Smith* [1902] 1 Ch. 176, at pp. 185-186, in the following passage :—

"As I pointed out in the argument, the Legislature has carefully used the word 'retained' as meaning what it says, namely, money which is not merely in the eye of the law in the hands of the trustee, because he has never paid it away to a person entitled to give a discharge, but money which is really in his pocket in the sense that it is invested in his name, or in land belonging to him, or in the name of some other person as trustee for him. In order to say that it is 'retained,' you must be able to put your finger on the property or the proceeds and say that it is still under the control of the trustees. There is no suggestion that that can be done here, but it is said that the case can be brought within the succeeding words. It is said that each of the three trustees must be taken to have received one-fourth of the share belonging to the children of Ann Pointon, and to have converted such fourth to his use. I pointed out to Mr. Renshaw that in that point of view, if entitled to succeed, he is entitled to go against each trustee in respect of a fourth, and not against three trustees in respect of three-fourths, because the statute points only to the personal use by a trustee, and does not speak of the payment by one trustee to another, which, after all, is only a breach of trust just as much as a payment to a stranger who is not a trustee. Then Mr. Renshaw

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says Peter Smith (to take his case) has received and converted to his use one-fourth of this share, and therefore the case is taken out of the statute, and of course the plaintiff is entitled to an amount of that. The answer to that is, that Peter Smith was himself entitled to a one-fourth share; that this is not the case of a trustee putting into his own pocket what belongs to a *cestui que trust* so as to defraud the *cestui que trust*, but he only appropriated to himself that which the will gave him. I think that answer is complete. The point is a new one, and at first I felt some difficulty about it, but I think that when one looks at the statute there can be no doubt what was meant. The intention of the statute was to give a trustee the benefit of the lapse of time when, although he had done something legally or technically wrong, he had done nothing morally wrong or dishonest, but it was not intended to protect him where, if he pleaded the statute, he would come off with something he ought not to have i.e. money of the trust received by him and converted to his own use. That seems to me the proper construction of the words, and I think the context confirms that view. Here Peter Smith (and so with others) only received that to which he was entitled. They ought to have put one-fourth of the fund apart. Whether they did that or not could not in the least interfere with their right to receive their own shares; and it would be extremely hard to say that, having paid themselves what they were entitled to, they were not to have the advantage of the statute as to which ought to be have been paid to a *cestui que trust*.”

In my opinion this is not a claim to recover trust property or the proceeds thereof still retained by a trustee. Nor was the trust property or proceeds thereof previously received by the Defendant and converted to his use.

30 Nor in view of the learned Judge's finding referred to in (5) was part of the trust property or its proceeds converted to the use of the Defendant. In the absence of fraud or fraudulent breach of trust to which the Defendant was party or privy the claim should have been brought within six years from the 28th January, 1933. As the action was not instituted till the 29th January, 1942, the Prescription Ordinance applies and the claim is statute barred.

The next point for consideration is whether the learned Judge was right in holding that the Defendant, when he endorsed P.1 and assigned the decree in case No. 27002 to Alagappa, was guilty of fraud or fraudulent breach of trust. The following passage occurs in the judgment :—

“ It is admitted that the Defendant assigned the Samaranayake decree and assigned Alles' note to Alagappah Chetty. That being so the burden rests on him to prove that he did so at the instance of the Plaintiff.”

The burden of proof is thus placed on the Defendant. In *A. L. N. Narayanan Chettiyar and Another v. Official Assignee, High Court Rangoon, and Another* [1941] A.I.R. (P.C.) 93 it was held that fraud like any other charge of a criminal offence whether made in civil or criminal proceedings must be established beyond reasonable doubt. A finding as to fraud

50 cannot be based on suspicion and conjecture. The burden of proof in

*In the
Supreme
Court of
Ceylon.*

No. 20.
Judgment
of the
Supreme
Court,
25th
November
1948,
continued.

regard to fraud has therefore been placed by the learned Judge wrongly on the Defendant. For this reason the judgment cannot stand. Even with the burden so placed I am of opinion that the Defendant has raised a reasonable doubt as to whether he was guilty of fraud when he assigned the decree and endorsed P.1 in favour of Alagappa Chetty. It has not been established that the Defendant obtained any financial advantage for these transfers. His power of attorney ceased on the 28th January, 1933, from which date he was no longer the agent of the Plaintiff. From that date Chinniah held the power of attorney and was the agent of the Plaintiff. Again the relationship between the latter and Alagappa Chetty is a factor requiring careful consideration when one embarks on an inquiry as to whether the Defendant in making the transfers to Alagappa was acting bona fide and carrying out the Plaintiff's instructions. According to the Plaintiff the Defendant's instructions prior to handing over to Chinniah in January 1933 were "to collect whatever possible from my assets, pay as much as possible to the creditors and then hand over the remaining assets to Chinniah and come over to India. Chinniahpulle was to go on carrying on as best he could." It is quite obvious from this that the Defendant on the 29th October, 1932, informed the Plaintiff that Alles' debt was recoverable. In regard to the assignment of the decree and the proceedings for the recovery of the amount due thereon by Alagappa it is quite obvious from the letters of Chinniah, the Plaintiff's agent, to Alagappa dated the 14th February, 1933, and 8th December, 1933 (D.7 and D.8), that Chinniah was aware of the assignment and the proceedings taken by Alagappa. The fact that Chinniah was aware of the proceedings instituted by Alagappa for the recovery of the money owed by Samaranayake's estate suggests that Defendant in making the assignment to Alagappa was acting on the Plaintiff's instructions or to put this evidence at its lowest value from the Defendant's point of view it raises a reasonable doubt as to whether his conduct was fraudulent. So it may also be said of Alles having regard to the Defendant's letter. Again the relationship of Alagappa Chetty with the Plaintiff raises a reasonable doubt as to whether the Defendant has been guilty of a fraud. Plaintiff in evidence states that Alagappa is a relation of his. An adopted son of his son is married to the Plaintiff's daughter. This is what the Plaintiff states with regard to the suggestion of the Defendant that he had instructions from the Plaintiff to endorse P.1 and assign the decree in case No. 27002 to Alagappa :—

"In 1932, Alagappa Chettiar was in India. I saw him in India. I did not send him to Colombo to settle my accounts. He did not come to my firm of A. T. K. P. L. M. On one occasion when he came to my house he told me that he was going to Ceylon to see to his business in Pussellawa. So I suggested to him to settle my matters and to assist Letchimanan in settling my affairs in Colombo. I do not know whether he complied with that request. I do not know whether he stays in my firm when he stays in Colombo. The Defendant wrote to me that Alagappa Chettiar did not come to the shop in Colombo. I do not remember whether I wrote to the Defendant informing him that Alagappa Chettiar would come to the shop to assist him. I do not know whether I have got a letter written by Letchimanan stating that Alagappa did not come to my shop at Colombo. I have got several letters but I have to

examine them. That copy was in the press copy book. I will have to ask my agents and find out the date. Chinniahpulle and Velaithan Chettiar are my agents. I told Alagappa Chettiar—
 ‘when you go to Colombo assist the Defendant in settling my affairs by recovering as much as could be recovered and paying off the creditors, the Defendant was in Colombo alone; and I would like to see the affairs wound up decently.’ That was in 1932. I do not remember whether it was during the end of 1932. It was in the latter part of 1932. At that time Alagappa and I were not friends as he had failed to repay my loans. In spite of that I had confidence in him. He was my relative and my son’s adopted son was married to his daughter and therefore I requested him to do that. I therefore had confidence in him.

*In the
 Supreme
 Court of
 Ceylon.*

No. 20.
 Judgment
 of the
 Supreme
 Court,
 25th
 November
 1948,
continued.

Q. Alagappa Chettiar never deceived you ?

A. He borrowed Rs.80,000/- and arranged to pay the amount but has been paying me little from time to time. Isn’t that deception.

Still because he was my relative and my Sammandie, my son’s adopted son had married his daughter therefore I thought he would not play me false. We are even now on speaking terms. I will not trust him with regard to money matters. It may be that when I had some disputes here and there I had asked him to be a joint arbitrator with others on my behalf.”

Later in his evidence Plaintiff states that about 5 or 6 months ago in a dispute in the village he asked Alagappa to be an arbitrator. The Plaintiff concedes that Alagappa was instructed to assist the Defendant in settling his affairs by recovering as much as could be recovered. This evidence of the Plaintiff raises a reasonable doubt as to whether he is speaking the truth when he says he did not instruct the Defendant to transfer the rights in Samaranayake’s and Alles’ debts to Alagappa. I think that fraud has not been established beyond all reasonable doubt.

The appeal is allowed and judgment must be entered for the Defendant with costs in this Court and the Court below.

(Sgd.) J. C. HOWARD,
 Chief Justice.

Canekeratne, J.

(Sgd.) A. R. H. CANEKERATNE,
 Puisne Justice.

*In the
Supreme
Court of
Ceylon.*

No. 21.

DECREE of the Supreme Court.

No. 21.
Decree
of the
Supreme
Court, 25th
November
1948.

GEORGE THE SIXTH, by the Grace of God, of Great Britain Ireland
and the British Dominions beyond the Seas King, Defender of the
Faith.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

A. T. K. P. L. M. MUTTIAH CHETTIAR . *Plaintiff-Respondent*

AGAINST

A. R. L. LAKSHAMANAN CHETTIAR . *Defendant-Appellant.*

Action No. X.56.

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District Court of Galle.

This cause coming on for hearing and determination on the 10th,
12th, and 25th November, 1948, and on this day, upon an appeal preferred
by the Defendant before the Hon. Sir J. C. Howard, Kt., K.C., Chief
Justice, and the Hon. Mr. A. R. H. Canekeratne, K.C., Puisne Justice of
this Court, in the presence of Counsel for the Appellant and Respondent.

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

It is ordered that judgment be entered for the Defendant with costs
in this Court and the Court below.

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Witness the Hon. Sir John Curtois Howard, Kt., K.C., Chief Justice,
at Colombo, the 25th day of November, in the year of our Lord One
thousand Nine hundred and forty-eight, and of Our Reign the Twelfth.

(Sgd.) CLARENCE DE SILVA,
Registrar, S.C.

(Seal)

No. 22.

APPLICATION for Conditional Leave to Appeal to the Privy Council.

*In the
Supreme
Court of
Ceylon.*

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

IN THE MATTER of an APPLICATION for conditional leave to
appeal to His Majesty the King in Council.

S.C. 234 D.C. X.56.

Galle.

A. T. K. P. L. M. MUTHIAH CHETTIAR *Plaintiff-Appellant**Vs.*10 A. R. L. LAKSHAMANAN CHETTIAR . *Defendant-Respondent.*No. 22.
Application
for
Conditional
Leave to
Appeal
to the
Privy
Council,
21st
December
1948.To, The honourable the Chief Justice and the other judges of the Honourable
the Supreme Court of the Island of Ceylon.

This 21st day of December, 1948.

The humble petition of the plaintiff-appellant abovenamed appearing
by Sinniah Velauthapillai his proctor states as follows:—

1. That feeling aggrieved by the Judgment and decree of this Honourable Court pronounced on 25th of November 1948 the Plaintiff-Appellant is desirous of appealing therefrom to His Majesty the King in Council.
- 20 2. That the said judgment is a final judgment and the matter in dispute on the appeal amounts to Rs.20,278/42.
3. Due notice of this application has been given to the Defendant-Respondent by the Plaintiff-Appellant.

WHEREFORE THE APPELLANT PRAYS for conditional
leave to appeal against the said judgment of this Court dated
25th November 1948 to His Majesty in Council.(Sgd.) S. VELAUTHAPILLAI,
Proctor for Plaintiff-Appellant.

*In the
Supreme
Court of
Ceylon.*

No. 23.

DECREE granting Conditional Leave to Appeal to the Privy Council.

No. 23.

Application No. 607.

Decree
granting
Conditional
Leave to
Appeal
to the
Privy
Council,
7th June
1949.

GEORGE THE SIXTH, By the Grace of God of Great Britain Ireland
and the British Dominions beyond the Seas King Defender of the
Faith.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

A. T. K. P. L. M. MUTTIAH CHETTIAR Plaintiff-Appellant

against

A. R. L. LAKSHAMANAN CHETTIAR . Defendant-Respondent. 10

Action No. X56 (S.C. 234)

District Court of Galle.

IN THE MATTER of an APPLICATION by the Plaintiff-Appellant
dated the 21st December, 1948, for Conditional Leave
to Appeal to His Majesty the King in Council against the
decree of this Court dated 25th November, 1948.

This matter coming on for hearing and determination on the 7th day
of June 1949, before the Hon. Mr. E. A. L. Wijewardene, K.C., Chief
Justice, and the Hon. Mr. R. Windham Puisne Justice of this Court, in
the presence of Counsel for the Applicant and Respondent. 20

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

(1) deposit with the Registrar of the Supreme Court a sum of
Rs.3,000/- and hypothecate the same by bond or such other security
as the Court in terms of section 7 (1) of the Appellate Procedure
(Privy Council) Order shall on application made after due notice
to the other side approve ;

(2) deposit in terms of the provisions of section 8 (a) of the
Appellate Procedure (Privy Council) Order with the Registrar a 30
sum of Rs.300/- in respect of fees mentioned in section 4 (b) and (c)
of Ordinance No. 31 of 1909 (Chapter 85).

Provided that the applicant may apply in writing to the said Registrar
stating whether he intends to print the record or any part thereof in
Ceylon, for an estimate of such amounts and fees and thereafter deposit
the estimated sum with the said Registrar.

The applicant is entitled to the costs of this argument.

Witness the Hon. Mr. Edwin Arthur Lewis Wijewardene, K.C. Chief
Justice, at Colombo, the 7th day of June in the year of our Lord One
thousand nine hundred and forty-nine and of our Reign the thirteenth. 40

(Sgd.) W. G. WOUTERSZ,
Actg. Dy. Registrar, S.C.

No. 24.

APPLICATION for Final Leave to Appeal to the Privy Council.*In the
Supreme
Court of
Ceylon.*

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

IN THE MATTER of an APPLICATION for Final leave to Appeal
to His Majesty the King in Council.

D.C. Galle

No. X.56.

S.C. No. 234.

No. 24.
Application
for Final
Leave to
Appeal
to the
Privy
Council,
5th July
1949.

A. T. K. P. L. M. MUTHIAH CHETTIAR Plaintiff-Appellant.

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Vs.

A. R. L. LAKSHAMANAN CHETTIAR . Defendant-Respondent.

To the Honourable the Chief Justice and the other Justices of the
Honourable the Supreme Court of the Island of Ceylon On this
5th day of July, 1949.The humble petition of the Plaintiff-Appellant above-named appearing
by Sinniah Velauthapillai his Proctor states as follows :—

1. That the Plaintiff-Appellant on 7th June 1949 obtained Con-
ditional leave from this Honourable Court to appeal to His Majesty The
King in Council against the judgment of this Court pronounced on
20 25th November 1948.

2. That the Plaintiff-Appellant has in compliance with the conditions
on which such leave was granted given security in the said sum of Rs.3,000/-
as hereinafter set out for the due prosecution of the said appeal and the
payment of all such costs as may become payable to the Respondent
in the event of the Appellant not obtaining an order granting him final
leave or of the appeal being dismissed for non-prosecution of His Majesty
The King in Council ordering the Appellant to pay to the Respondent
the costs of the appeal.

3. That the Plaintiff-Appellant has deposited the said sum of
30 Rs.3,000/- with the Registrar of this Honourable Court on the 5th day
of July 1949 and executed a bond in favour of the said Registrar on the
5th day of July 1949 hypothecating the said sum with the said Registrar
and has also paid to him the necessary fees for transcribing, indexing,
and transmitting to His Majesty The King in Council a correct copy of the
record of this case.

4. That the notice of the application for Final Leave to Appeal to
His Majesty the King in Council with copy of this Petition has been given
to the Respondent.

*In the
Supreme
Court of
Ceylon.*

No. 24.
Application
for Final
Leave to
Appeal
to the
Privy
Council,
5th July
1949,
continued.

WHEREFORE THE PLAINTIFF-APPELLANT prays :—

(A) that he be granted Final leave to Appeal against the said judgment of this Court dated 25th November 1948 to His Majesty The King in Council.

(B) for such further or other relief in the premises as to Your Lordships' Court shall seem meet.

(Sgd.) S. VELAUTHAPILLAI,
Proctor for Plaintiff-Appellant.

No. 25.
Decree
granting
Final
Leave to
Appeal to
the Privy
Council,
13th July
1949.

No. 25.

DECREE granting Final Leave to Appeal to the Privy Council.

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Application No. 321.

GEORGE THE SIXTH, by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas, King, Defender of the Faith.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

A. T. K. P. L. M. MUTHIAH CHETTIAR Plaintiff-Appellant
against

A. R. L. LAKSHAMANAN CHETTIAR Defendant-Respondent.

Action No. X 56 (S.C. 234 Final).

District Court of Galle.

20

IN THE MATTER of an APPLICATION by the Plaintiff-Appellant for Final Leave to Appeal to His Majesty the King in Council against the decree of this Court dated 25th November, 1948.

This matter coming on for hearing and determination on the 13th day of July 1949, before the Hon. Mr. E. G. P. Jayetileke, K.C., Senior Puisne Justice and the Hon. Mr. A. R. H. Canekeratne, K.C., Puisne Justice, of this Court, in the presence of Counsel for the applicant.

The applicant having complied with the conditions imposed on him by the order of this Court dated 7th June, 1949, granting Conditional Leave to appeal.

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It is considered and adjudged that the Applicant's application for Final Leave to Appeal to His Majesty the King in Council be and the same hereby allowed.

Witness the Hon. Sir Edwin Arthur Lewis Wijeyewardene, Kt. K.C., Chief Justice, at Colombo, the 13th day of July in the year of our Lord One thousand Nine hundred and forty-nine, and of our Reign the Thirteenth.

(Sgd.) W. G. WOUTERSZ,
Actg. Dy. Registrar, S.C.

ORDER of His Majesty in Council extending time to serve List of Documents.*In the
Privy
Council.*

AT THE COURT AT BUCKINGHAM PALACE.

The 2nd day of November, 1950.

Present—

THE KING'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT

MR. STRAUSS

MR. WILSON

MR. MARQUAND

No. 26.
Order
of His
Majesty
in Council
extending
time to
serve list of
documents,
2nd
November
1950.

WHEREAS there was this day read at the Board a Report from the
10 Judicial Committee of the Privy Council dated the 16th day of October
1950 in the words following, viz. :—

“ Whereas by virtue of His late Majesty King Edward the
Seventh's Order in Council of the 18th of October 1909 there was
referred unto this Committee a humble Petition of A. T. K. P. L. M.
Muthiah Chettiar in the matter of an Appeal from the Supreme Court
of Ceylon between the Petitioner (Plaintiff) Appellant and A. R. L.
Lakshamanan Chettiar (Defendant) Respondent setting forth
(amongst other matters) : that on the 29th July 1942 the Petitioner
instituted proceedings against the Respondent in the District Court
20 of Galle claiming Rs.20,278/42 : that on the 27th May 1946
Judgment in the proceedings was entered in favour of the
Petitioner for the amount claimed and costs : that the Respondent
appealed to the Supreme Court which on the 25th November 1948
allowed the Appeal with costs set aside the Judgment in favour
of the Petitioner and ordered Judgment to be entered for the
Respondent and a Decree of the Supreme Court of the same date
was entered accordingly : that the matter was one in which by
virtue of Rule 1 in the schedule to The Appeals (Privy Council)
Ordinance (Chapter 85 of the Revised Legislative Enactments of
30 Ceylon) there was an Appeal as of right to Your Majesty in Council
in that the Judgment was a final Judgment and the matter in dispute
amounted to and indeed exceeded Rs.5,000/- : that the Petitioner
duly gave the Respondent notice of his intention to apply to the
Supreme Court for leave to appeal to Your Majesty in Council :
that the Petitioner thereafter applied to the Supreme Court and
was on the 7th June 1949 granted by that Court conditional leave
to appeal to Your Majesty in Council subject to the fulfilment of
the usual conditions as to lodging security for the due prosecution
of the Appeal and for transcribing the record : that the Petitioner
40 duly fulfilled all the conditions laid down by the Order of the
Supreme Court dated the 7th June 1949 and thereupon applied
for final leave to appeal to Your Majesty in Council which was
granted by the Supreme Court on the 13th July 1949 : that the
Petitioner's proctors on or about the 16th July 1949 gave instructions
orally to an officer of the Registrar of the Supreme Court as to the
preparation and transmission of the Record in the Case : that the

*In the
Privy
Council.*

No. 26.
Order
of His
Majesty
in Council
extending
time to
serve list of
documents,
2nd
November
1950,
continued.

opinion was formed that all the documents produced during the trial were necessary and the instructions were to print and transmit the entire record and in these circumstances it was thought that there was not any obligation to transmit to the Respondent a list of the documents : that the Respondent's proctor in a letter to the Registrar of the Supreme Court objected that the Appellant had failed to serve on the Respondent a list of documents as required by Rule 10 of the Appellate Procedure (Privy Council) Order 1921 and submitted that in terms of Rule 12 of the Order the Record should not be transmitted to the Privy Council until the Appellant 10 applied for and obtained from the Court an order for a transmission thereof : that the Petitioner's proctor applied under Rule 18 of the Order for an extension of time allowed for serving on the Respondent the list of the documents in the case and accordingly a motion in writing dated the 9th November 1949 was duly lodged in the Supreme Court : that the Respondent's proctor on being served with this endorsed it that he had cause to show against the application and moved that the matter be fixed for argument : that the application came on for hearing before the Supreme Court which on the 24th March 1950 dismissed it with costs without 20 giving any reasons : that the Petitioner submits that the Respondent's objection was purely technical and should not be allowed to interfere with an appeal which the Petitioner is entitled to bring as of right : And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal from the Decree of the Supreme Court dated the 25th November 1948 or alternatively to grant him an extension of time for serving a list of documents under Rule 10 and to order that the record of the proceedings in Ceylon be transmitted to the Registrar of Your Majesty's Privy Council or to make such further or other orders as to Your Majesty 30 in Council may seem just :

“ THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion (1) that the time allowed to the Petitioner for serving a list of documents under Rule 10 of the Appellate Procedure (Privy Council) Order 1921 ought to be extended and that the Petitioner ought to be allowed for such service a period of ten days from the date upon which he receives 40 notification of Your Majesty's Order in Council herein and (2) that the proper officer of the Supreme Court of Ceylon ought to be directed to transmit to the Registrar of the Privy Council an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon the payment by the Petitioner of the usual fees for the same :

“ And in case Your Majesty should be pleased to approve of this Report then Their Lordships do direct that the costs of this Petition be costs in the appeal.”

HIS MAJESTY having taken the said report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

*In the
Privy
Council.*

Whereof the Governor-General or Officer administering the Government of Ceylon for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

(Sgd.) E. C. E. LEADBITTER.

No. 26.
Order
of His
Majesty
in Council
extending
time to
serve list of
documents,
2nd
November
1950,
continued.

No. 27.

10 **ORDER of Her Majesty in Council granting Leave to enter and prosecute Appeal.**

AT THE COURT AT BUCKINGHAM PALACE.

The 1st day of August, 1953.

Present

THE QUEEN'S MOST EXCELLENT MAJESTY.

LORD CHANCELLOR.

MR. SECRETARY LYTTTELTON.

LORD PRESIDENT.

SIR THOMAS DUGDALE.

CHANCELLOR OF THE
DUCHY OF LANCASTER.

No. 27.
Order
of Her
Majesty
in Council
granting
leave to
enter and
prosecute
appeal,
1st August
1953.

20 WHEREAS there was this day read at the Board a Report from the
Judicial Committee of the Privy Council dated the 22nd day of July 1953
in the words following, viz. :—

30 “ WHEREAS by virtue of His late Majesty King Edward the
Seventh's Order in Council of the 18th day of October 1909 there
was referred unto this Committee a humble Petition of the Appellant
in the matter of an Appeal from the Supreme Court of Ceylon
between A. I. K. P. L. M. Muthiah Chettiar (Plaintiff) Appellant
and A. R. L. Lakshamanan Chettiar (Defendant) Respondent setting
forth (amongst other matters): that on the 29th July 1942 the
Petitioner instituted proceedings against the Respondent in the
District Court of Galle claiming Rs.20,278/42 ; that on the 27th May
1946 Judgment was entered in favour of the Petitioner for the
amount claimed and costs : that the Respondent appealed to the
Supreme Court of Ceylon which on the 25th November 1948 allowed
the said Appeal: that the Petitioner was granted final leave to
appeal to His late Majesty in Council on the 13th July 1949 ; that
thereafter it was alleged that the Petitioner had failed to serve on the
Respondent a list of documents as required by Rule 10 of the

*In the
Privy
Council.*

No. 27.
Order
of Her
Majesty
in Council
granting
leave to
enter and
prosecute
appeal,
1st August
1953,
continued.

Appellate Procedure (Privy Council) Order 1921 within the time stipulated and in order to meet the Respondent's technical objection application was made under Rule 18 of the Order on the 9th November 1949 for an extension of the time allowed for serving on the Respondent a list of documents in the case : that on the 24th March 1950 this application was dismissed with costs : that by Order in Council dated the 2nd November 1950 the time allowed to the Petitioner for serving a list of documents under Rule 10 of the Order of 1921 was extended and the Petitioner was allowed for such service a period of ten days from the date upon which he received 10 notification of the Order in Council : that a list of documents under Rule 10 was in fact served by the Petitioner's proctor on the Respondent and his proctor on the 18th October 1950 and the Record in the Appeal was received in the Privy Council Office on the 7th August 1951 : that on the 8th August 1951 an appearance was entered on behalf of the Petitioner : that owing to the old age and illness of the Petitioner there was delay in taking further steps in the Appeal and by Order in Council dated the 29th October 1952 the Appeal was dismissed for want of prosecution : And humbly praying Your Majesty in Council that the Petitioner's Appeal be 20 restored :

“ THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof (no one appearing in opposition thereto) Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment of the Supreme Court of Ceylon dated the 25th day of November 1948 upon depositing in the Registry of the Privy Council the sum of £400 as security for costs and upon 30 condition that the Petitioner shall pay the costs of this Petition in any event.”

HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor-General or Officer administering the Government of Ceylon for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

W. G. AGNEW. 40

No. 28.

ORDER of Her Majesty in Council granting Revivor of Appeal.

*In the
Privy
Council.*

AT THE COURT AT BUCKINGHAM PALACE.

The 17th day of March, 1955.

Present

THE QUEEN'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT.

MR. BUCHAN-HEPBURN.

CHANCELLOR OF THE

MR. HOPKINSON.

DUCHY OF LANCASTER.

No. 28.
Order
of Her
Majesty
in Council
granting
revivor
of appeal,
17th March
1955.

10 WHEREAS there was this day read at the Board a Report from the
Judicial Committee of the Privy Council dated the 14th day of March 1955
in the words following, viz. :—

20 “ WHEREAS by virtue of His late Majesty King Edward the
Seventh's Order in Council of the 18th day of October 1909 there
was referred unto this Committee a humble Petition of Nagammai
Achi Widow of A. T. K. P. L. M. Muttiah Chettiar and Palaniappa
Chettiar Son of V. R. M. T. Arunachalan Chettiar in the matter
of an Appeal from the Supreme Court of Ceylon between
A. T. K. P. L. M. Muttiah Chettiar of Sirukoodalpatti Thirupathur
Taluk, Ramnad District South India (since deceased) Plaintiff-
Appellant and A. R. L. Lakshmanan Chettiar of No. 42 Kaluwalla
Street Galle Defendant-Respondent (Privy Council Appeal No. 27
of 1953) setting forth that the above Appeal is pending before
Your Majesty in Council : that the Appellant has died as appears
from a Supplemental Record which has arrived at the Privy Council
Office from which it also appears that by an Order of the High Court
dated the 17th February 1955 it was declared that the Petitioners
were the proper persons to be substituted on the Record in the place
of the deceased Appellant : And humbly praying that they may
30 be brought on the Record in place of the deceased Appellant and
that the Appeal may be revived accordingly :

40 “ THE LORDS OF THE COMMITTEE in obedience to His late
Majesty's said Order in Council have taken the humble Petition into
consideration and the Solicitors for the Respondent having signified
in writing their consent to the prayer thereof Their Lordships do
this day agree humbly to report to Your Majesty as their opinion
that Nagammai Achi Widow of A. T. K. P. L. Muttiah Chettiar
and Palaniappa Chettiar Son of V. R. M. T. Arunachalan Chettiar
both of Sirukoodalpatti in Ramnad District South India ought to
be substituted in place of A. T. K. P. L. M. Muttiah Chettiar
deceased as Appellants and that this Appeal ought to stand revived
accordingly.”

HER MAJESTY having taken the said Report into consideration
was pleased by and with the advice of Her Privy Council to approve
thereof and to order as it is hereby ordered that the same be punctually
observed obeyed and carried into execution.

Whereof the Governor-General or Officer administering the Govern-
ment of Ceylon for the time being and all other persons whom it may
concern are to take notice and govern themselves accordingly.

50

W. G. AGNEW.

PART II.
EXHIBITS.

Certified list to enable certain exhibits to be Identified

No. 27 of 1953.

Certified
list to
enable
certain
exhibits
to be
identified,
24th April
1956.

In the Privy Council.

ON APPEAL FROM THE SUPREME COURT OF CEYLON.

BETWEEN

A. T. K. P. L. M. MUTHIAH CHETTIAR (Plaintiff) . *Appellant*

AND

A. R. L. LAKSHAMANAN CHETTIAR (Defendant) . *Respondent.*

10

EXHIBIT MARK	DESCRIPTION OF DOCUMENT	DATE
P.4	Letter from Plaintiff Muthiah Chettiar to M. Nadarajahpillai	19th February 1942
P.5	Letter from M. Nadarajahpillai to M. Chinniahpillai	25th February 1942
P.6	Envelope addressed by M. Nadarajahpillai to M. Chinniahpillai enclosing P.5	Undated 25th February 1942
P.7	Letter from M. Nadarajahpillai to Plaintiff A. T. K. P. L. M.	25th February 1942
P.8	Envelope addressed by M. Nadarajahpillai to Plaintiff enclosing P.7	Undated 25th February 1942
P.23	Telegram from Defendant to Plaintiff	28th January 1933
P.24	Letter from M. Chinniahpillai to Plaintiff	9th June 1933
P.33	Letter from Defendant to A. T. K. P. L. M. Velayutham Chettiar (employee of Plaintiff in India)	13th February 1937
P.34	Envelope addressed to A. T. K. P. L. M. Velayutham Chettiar enclosing P.33	Undated 13th February 1937
P.36	Letter from Defendant to Plaintiff	21st March 1931
P.37	Letter from Defendant to Plaintiff	27th March 1931
D.2A	Letter from Defendant to Plaintiff	7th December 1932

20

30

EXHIBIT MARK	DESCRIPTION OF DOCUMENT	DATE	Certified list to enable certain exhibits to be identified, 24th April 1956, <i>continued.</i>
D.2B	Letter from Defendant to Plaintiff	7th December 1932	
D.2C	Letter from M. Chinniahpillai to Plaintiff ..	8th March 1933	
D.2D	Letter from Defendant to Plaintiff	22nd November 1932	
D.2E	Letter from Defendant to Plaintiff	14th December 1932	
D.2F	Letter from Defendant to Plaintiff	21st December 1932	
D.2G	Letter from Defendant to Plaintiff	26th December 1932	
D.2H	Letter from Defendant to Plaintiff	29th December 1932	
10 D.2I	Letter from Defendant to Plaintiff	3rd January 1933	
D.2K	Letter from Defendant to Plaintiff	22nd January 1933	
D.2L	Letter from Chinniahpillai to Plaintiff	13th February 1933	
D.2M	Letter from Chinniahpillai to Plaintiff	20th March 1933	
D.2N	Letter from Chinniahpillai to Plaintiff	15th July 1933	
D.2P	Letter from Chinniahpillai to Plaintiff	27th May 1935	
D.2Q	Letter from Chinniahpillai to Plaintiff	4th July 1935	
D.2R	Letter from Defendant to Plaintiff	23rd September 1932	
D.4A	Letter from Defendant to Plaintiff	12th May 1932	
D.4B	Letter from Defendant to Plaintiff	6th July 1932	
20 D.4C	Letter from Defendant to Plaintiff	6th April 1932	
D.4D	Letter from Chinniahpillai to Plaintiff	5th March 1932	
D.4E	Letter from Defendant to Plaintiff	4th April 1932	
D.4F	Letter from Defendant to Plaintiff	26th April 1932	
D.4G	Letter from Defendant to Plaintiff	3rd May 1932	
D.4H	Letter from Defendant to Plaintiff	12th May 1932	
D.4I	Letter from Defendant to Plaintiff	10th July 1932	
D.4K	Letter from Defendant to Plaintiff	15th September 1932	
D.5	Letter from Plaintiff to Chinniahpillai	21 Chittai Pava	
D.6	Letter from Defendant to Plaintiff (same as 2DB)	29th October 1932	
30 D.7	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	14th February 1933	

Certified list to enable certain exhibits to be identified, 24th April 1956, *continued.*

EXHIBIT MARK	DESCRIPTION OF DOCUMENT	DATE	
D.8	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	8th December 1933	
D.9	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	20th February 1933	
D.10	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	20th February 1933	10
D.11	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	28th February 1933	
D.12	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	9th March 1933	
D.13	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	13th March 1933	20
D.14	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	8th April 1933	
D.15	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	15th June 1933	
D.16	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	19th June 1933	
D.17	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	1st July 1933	30
D.18	Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar	14th August 1933	

WE, the undersigned Proctors for Appellant and Respondent in Privy Council Appeal No. 27 of 1953 agree that the above list is a true correct and full one setting out the names and addresses of the Addressors and Addressees of the letters aforementioned.

Colombo 24th day of April 1956.

40

(Sgd.) S. DOMANATHAN
Proctor for Defendant
Respondent.

(Sgd.) S. VELAUTHA PILLAI
Proctor for substituted
Plaintiff Appellant.

I HEREBY CERTIFY that the Proctors for the Appellant and Respondent agreed to the above list of documents and signed in my presence.

Registrar, Supreme Court,
Ceylon.

24th April, 1956.

(Sgd.) ?

Registrar, Supreme Court,
Ceylon.

24th April, 1956.

Certified
list to
enable
certain
exhibits
to be
identified,
24th April
1956,
continued.

10

P.35.

Exhibits.

POWER OF ATTORNEY.

P.35

No. 625

150

Appln. No. 864.

P.35.
Power of
Attorney,
5th April
1919.

TO ALL TO WHOM THESE PRESENTS SHALL COME I MUTTIAH CHETTY
son of Palaniappa Chetty of Siricudarpaty Ramnad District
South India Nattucottai Chetty Caste Money Lender.

Send Greeting :—

Whereas I am carrying on business in the Island of Ceylon as Trader
and Merchant under the name style firm or vilasam of Avanna Thana
20 Kana Kuna Pana Lana Muna or "A. T. K. P. L. M." and am desirous
of appointing some fit and proper person as my attorney to manage and
conduct my business affairs and concerns in the said Island.

Now therefore Know Ye that I the said Muttiah Chetty son of
Palaniappa Chetty have made nominated and appointed and by these
presents do make nominate and appoint Letchumanan Chetty son of
Arunasalam Chetty of A. Thekkur Ramnad District aforesaid presently
of Sea Street in Colombo in the said Island to be the attorney of me and
of the survivors and survivor of me and of my said firm to act for and
on behalf and in the name of me and of the survivors and survivor of me
30 and of my said firm or otherwise all and each and every or any of the
following purposes that is to say :—

To mortgage and hypothecate my lands houses and property
in Ceylon or any part or parts thereof for any purpose whatsoever
or as security for the repayment of any sum or sums of money
now due or hereafter to become due or of any sum or sums of money
to be raised and borrowed by my said attorney in my name or
in the name of my said firm with such interest thereon and upon
such terms and conditions as they or he shall think fit and proper
and to sign and execute all bonds mortgages or other documents
40 necessary or requisite in that behalf.

To ask demand sue for recover and receive all and sums of
money debts legacies goods chattels effects and things whatsoever
now owing payable or which shall or may at any time hereafter

Exhibits.

P.35.
Power of
Attorney,
5th April
1919,
continued.

be due owing and payable coming or belonging to me or to my firm or which the said Attorney shall be advised that I or my firm am or is entitled to.

To give make and execute valid discharges receipts and releases to all persons delivering or paying to the said attorney and property or money.

First sheet or Power of Attorney

No. 3 of 1919

Sgd. Illegibly

Special

Third Class

Magistrate

Bench Court

Tirupattur

10

(Sgd.) in Tamil

5.4.19

Before any Court or Courts of Justice in Ceylon to appear for me or my firm either as plaintiff Defendant or intervenient and to prosecute or defend any suit or suits or other proceedings brought by or against me or my said firm and to proceed to Judgment or to suffer judgment by way of nonsuit or default to be entered against me or my said firm and to admit any claim or claims which may be brought against me or my said firm in such Court or Courts as the said attorney shall think fit and against any judgment order or decree of any of the said Courts to appeal and to prosecute such appeal before the Supreme Court to appeal to His Majesty the King in Council and to give all necessary securities and sign all necessary bonds for the prosecution of such appeals. 20

To accept any process or processes which may from time to time be issued against me from any of the said Courts.

To sign all necessary proxy or proxies to my Proctor or Proctors of any of the Courts aforesaid and the same from time to time to recall and revoke. 30

To raise or borrow money upon the security of any assignment or assignments of any Bond or bonds or other securities for money belonging to me or to my said firm and to sign all deeds necessary in that behalf.

To make draw endorse accept and discount Bills of Exchange Promissory notes cheques Drafts and orders for money.

To bind me or my firm as security to or for any person or persons and to sign all deeds necessary for that purpose.

To compromise disputes and differences refer matters to arbitration sign bonds of arbitration and execute and enforce any award. 40

To state and finally settle and adjust all accounts reckonings and demands whatsoever between me or my firm and any person or persons whomsoever and to receive or pay the balance or balances thereof if any.

To compound for and receive a part for the whole or give reasonable time for the payment of money or delivery of Property or take security as the said Attorney shall judge it advisable or expedient.

To invest moneys belonging to me or my firm upon such security as the said attorney shall consider good and sufficient and from time to time to vary such investments for other or others of the same or like nature and to release such security.

Exhibits.
—
P.35.
Power of
Attorney,
5th April
1919,
continued.

To prove any debt or debts due to me or to my firm by any person who shall be adjudged an Insolvent in any Court or Courts in the said Island and to accept any offer of composition to me made by any such insolvent and to vote in the election of the Assignee of such insolvent and otherwise to represent and act for me in such insolvency proceedings.

10 Second sheet of Power No. 3 of 1919.

(Sgd.) Illegibly
Special Third Class
Magistrate
Bench Court
Tirupattur

(Sgd.) in Tamil
5.4.1919.

152

Third sheet of Power of No. 3 of 1919.

20 (Sgd.) Illegible
3rd Class Magistrate
Bench Court
Tirupattur

To enter into and execute any covenants bonds warrants or Powers of Attorney for confessing judgments in any of the Courts in the said Island Generally to do execute and perform all such further and other acts deeds matters and things whatsoever which the said attorney shall think necessary or proper to be done in and about or concerning my said business and affairs or otherwise in and about the premises as fully and effectually as I might or could do it personally present and I authorise and empower the said attorney to nominate and appoint one or more substitute or substitutes under them or him or in their or his place or stead for all or any of the purposes aforesaid and any such appointment or appointments at pleasure to revoke and reappoint other or others I hereby ratifying allowing and conforming and promising and agreeing to ratify allow and confirm all and whatsoever the said attorney or his attorneys substitute or substitutes shall lawfully do or cause to be done in and about the premises by virtue hereof and it is hereby expressly declared and agreed that as against me my said firm and any person claiming under me or my said firm every act deed matter or thing which the said attorney or his substitute or substitutes shall execute or do or cause to be executed and done in relation to the premises subsequent to the revocation of the powers expressed to be hereby conferred or any of them shall be binding and conclusive in favour of every person claiming the benefit of such act deed matter or thing who shall not prior to the execution or doing thereof have received express notice of such revocation and it is hereby further declared that *no such* person shall be bound to inquire or ascertain whether I am living or whether the said Powers or any of them or has been revoked or otherwise determined.

Exhibits.
 P.35.
 Power of
 Attorney,
 5th April
 1919,
continued.

2nd page in line 18 or attorneys in line 25 attorneys or in line 32 Attorneys or in line 35 Attorneys 4th page in line 6 attorneys or in line 28 attorneys or in line 31 attorneys or page 6th in line 4 attorneys or in line 7 attorneys or in line 12 attorneys or or their in line 16 attorneys or or their erasure.

In witness whereof I the said Muthia Chetty son of Palaniappa Chetty have hereunto set my hand and seal the 5th day of April in the year of our Lord one thousand nine hundred and nineteen.

Signed sealed and delivered by the said)
 Muttiah Chetty son of Palaniappa) 10
 Chetty in the presence of

Witnesses

(Sgd.) Illegible.
 (Sgd.) Illegibly.

Executed in my presence this 5th day of April by A. T. K. P.
 L. M. Muttiah Chetty of Sirukudar Patti in the Tirupattur.

(Sgd.) Illegible
 3rd class Special Magistrate
 Tirupattur Bench Court
 Tirupattur. 20

Magistrate seal.

True copy on a stamp of Rs.1/-.

(Sgd.) R. MUTUSAMY,
 Notary Public.

Colombo.

The 21st day of July 1942.

(Notary's Seal.)

D.21.
 Certificate
 of regis-
 tration of
 business,
 18th April
 1921.

D.21.

CERTIFICATE of Registration of Business.

D.21 30

“ THE REGISTRATION OF BUSINESS NAMES ORDINANCE, No. 6
 OF 1918.”

CERTIFICATE OF REGISTRATION OF AN INDIVIDUAL.

Certificate No. 140.

I HEREBY CERTIFY that the following statement, made in pursuance of
 “ The Registration of Business Names Ordinance No. 6 of 1918 ” was
 registered in the office of the Registrar of Business Names for the Southern
 Province, under number 140 on the 15th day of April, 1921.

1. The Business Name : Suna Sheena Lena (alias S. S. L.)

	2. The General Nature of the business :	Money Lender and Pawn Broker	<i>Exhibits.</i>
	3. The Principal place of the Business :	House No. 41 at Kaluwella, Galle	D.21.
	4. The date of the commencement of the Business, if the Business was commenced after November 7, 1918 :	7th April 1921	Certificate of registration of business, 18th April 1921, <i>continued.</i>
10	5. Any other Business Name or Names under which the Business is carried on :	—	
	6. The present Name (in full) of the individual :	S. S. L. Letchumanan Chetty <i>alias</i> Letchumanan Chetty son of Arunasalam Chetty	
	7. Any former name (in full) of the individual :	—	
	8. The Nationality of the individual :	British	
20	9. The Nationality of origin of the Individual, if not the same as the present Nationality :	—	
	10. The usual residence of the Individual :	Avenna Theckoor in Ramnad District, India	
	11. The other business occupation (if any) of the Individual :	—	

True copy

(Sgd.) (?)

for Registrar of Business Names,
Southern Province.

30 Office of the Registrar of Business
Names for the Southern Province.

(Sgd.) H. J. L. LEIGH CLARE,
Asst. Registrar of Business Names for the
Southern Province.

Dated at Galle Kachcheri this 18th
day of April 1921.

Exhibits.

P. 27.
Certificate
of registra-
tion of
a firm,
22nd
March 1927.

P. 27.
CERTIFICATE of Registration of a Firm.

"THE REGISTRATION OF BUSINESS NAMES ORDINANCE No. 6 OF 1918 "
CERTIFICATE OF REGISTRATION OF A FIRM. Certificate No. 341.

P. 27

I HEREBY CERTIFY that the following statement, made in pursuance of "The Registration of Business Names Ordinance, No. 6 of 1918" was registered in the Office of the Registrar of Business Names for the Southern Province, under number 341, on the 22nd day of March 1927.

1. The Business Name :	Shuna Sheena. Leyna	4. The date of the Commencement of the Business, if the Business was commenced after November 7, 1918	10th March 1927
2. The General Nature of the Business :	Money Lender and Pawn Broker	5. Any other Business Name or Names under which the Business is carried on	nil
3. The Principal place of Business :	41, Colombo-Galle Road, Kaluwella, Galle		
6. The present Name, in full, of every Individual who is, and the corporate name of every corporation which is a partner in the firm	8. The Nationality of every Individual partner in the firm	9. The Nationality of Origin (if other than the present nationality) of every individual partner in the firm	10. The usual residence of every individual who is, and the registered or principal office of every corporation which is a partner in the firm
1. Letchumanan Chettiyar son of Arunasalam Chettiyar	—	British	Avenna Tekker, Ramnad District India
2. Sundaram son of Somasundaram Chettiyar	—	do.	Kandavarayappatty Ramnad Dt. India
3. Singaram son of Somasundaram Chettiyar	—	do.	do.
4. Sivalligam son of Somasundaram Chettiyar	—	do.	do.

P.13.

LEDGER EXTRACTS.

Exhibits.

P.13.

Ledger
extracts,
7th August
1927 to
4th
December
1931.

P.13.

TRANSLATION.

EXTRACTS FROM LEDGER OF A. T. K. P. L. M. COLOMBO
ACCOUNT OF C. D. A. SAMARANAYAKE OF UNNATUWA-GALLE.

FOLIO 175.

1927					
	August 7	To an on demand note	3500.00	3500.00	
10	1928				
	Jan'y. 29	By return of on demand	3500.00	—	
		To an on demand note this day ..	7000.00	7000.00	
1929					
		FOLIO 74/2.			
	Feb'y. 18	To obtain record in Testamentary case proceedings at Galle expenses ..	6.75	7006.75	
		FOLIO 51/3.			
	April 29	To stamps for affidavit	12.00	7018.75	
	May 10	To stamps to file action 38/40 clerk/85 or per S. S. L.	39.25	7058.00	
20	Sept. 27	To expenses in Galle Courts as per list per S. S. L.	35.55	7093.55	
	Dec. 30	To proctors fee for case date in Galle per S. S. L.	20.00	7113.55	
1930					
	Aug. 4	To Stamps expenses etc. to tax bill in said case per S. S. L.	39.20	7152.75	
	26	To obtain copy Testamentary case paid per S. S. L.	1.50	7154.25	
30	Sept. 10	Paid to Bill Taxer in Testamentary case and for Tamil copy as per memo per S. S. L.	13.60	7167.85	
	Dec. 31	To stamps and expenses as for the elapse of 1 year notice per S. S. L.	9.70	7177.55	
1931					
	May 21	To obtain record in Testamentary case in Galle as per S. S. L.'s letter ..	44.65	7222.20	
	Sept. 4	As per Galle S. S. L. Letter for expenses as per new account	42.00	7264.20	
40	20	To expenses to obtain 2 order in District Court	8.75	7272.95	
	30	By 2 orders in District Court on 17th ..	1587.00	5685.95	
	Dec. 4	To Court expenses as per Letter of S. S. L. Galle	14.30	5709.25	

Translated by me

(Sgd.) (?)

S.T., D.C. Colombo and Actg. Interpreter

S.C. Colombo

Colombo, 5.7.42.

Exhibits.

P.17.

LEDGER EXTRACTS.

P.17.

TRANSLATION.

EXTRACTS FROM LEDGER OF A. T. K. P. L. H. COLOMBO.

RELATING TO OLD ACCOUNT.

FOLIO 3.

1930

Jan.	31	By credit	501.00	501.00	
Feb.	4	By credit as for 31st Jan. 4363/88			10
		as for 3rd inst. 5794/- or.. ..	10157.88	10658.88	
	5	By credit as for 4th per Gallely & Co.	4872.90	15531.78	
	7	By credit as for 6th	10273.77		
		” as for this day	4604.00	30409.55	
	8	As for 7th	1926.50	32336.05	
	9	By credit	5690.75	38026.80	
		”	1400.00	39426.80	
	10	By credit as for 3rd	5167.50		
		5th	772.92		20
		6th	770.68		
		this day	2462.50		
		”	1459.50	10633.10	
		”	51.00	51.00	
	11	By credit	11427.89	61538.79	
		”	1454.62	62993.41	
	12	” as for 11th 2737/92 ; this day			
		594/63 or	3332.55	66325.96	
	13	” credit as for 12th	14374.75	80768.71	
	14	”	1236.10	81936.81	30
		”	940.00	82876.81	
	18	as for this day	32844.00	115720.81	
	19	”	483.87	116204.68	
	20	”	126.58	116331.26	
	22	” as for 21st	1939.00	118270.26	
	24	as for 22nd	8587.53	126857.79	
	26	as for 25th	15000.00	141857.79	
	27	as for 26th 8243.68			
		as for today 465.16			
		as for 20th 450.00			
		as for 23rd 425.00 or	9583.84	151441.63	40
	28	as for 21st 2468/75 as for 27th			
		4816/12 as for 18th 244/31 or			
		for 7529/18 debit as for this			
		day 600/- Balance credit	6929.18	158370.81	
March	1	as for this day credit	15100.00	173470.81	
		debit as for the day	20000.00	153470.81	
		debit as for today	125.34	153345.47	

March	4	Credit as for 3rd	6458.00	159803.47	<i>Exhibits.</i> ----- P.17. Ledger extracts, 31st January 1930 to 30th August 1932, <i>continued.</i>
		" as for today	26801.33	186604.81	
	5	" "	1904.00	186508.81	
	6	" as for 5th 4876/37, this day 1500/- or for 6378/37 debit on 5th 1000/- this day 225/- or less 1255/- balance	5153.37	193662.18	
	7	Credit as for 6th	4661.99	198324.17	
		" this day	1920.88	200245.05	
10	10	Debit as for 9th	20540.12	179704.93	
		Credit as for 9th	7443.29	187148.22	
		Debit	15000.00	172148.22	
	11	Credit as for 10th	5352.88	177501.10	
	12	" as for 11th	7251.10	184752.20	
		" this day	1817.36	186569.56	
		Debit	200.00	186369.56	
		Credit as for 11th	1920.88	188290.44	

FOLIO 50

	13	" this day	10000.00	198290.44	
20		Debit	3000.00	195290.44	
	14	" "	350.00	194940.44	
	15	" "	804.94	194135.50	
	17	Credit as for 16th	2909.88	197045.38	
		Debit as for today	450.00	196595.38	
		" "	24.75	196570.63	
1930					
March	17	Credit this day	3712.50	200283.13	
	18	Debit as for 17th	39500.00	160783.13	
		" this day	60.00	160723.13	
30		Credit	1013.40	161736.53	
		" as for 15th	663.75	162400.28	
	19	" as for this day	2500.00	164900.28	
	20	" as for 19th	2875.59	167775.87	
		" as for 19th	1926.38	169702.25	
		" as for this day	2840.47	172542.72	
	21	" as for 20th	3838.00	176380.72	
		Debit as for this day	225.00	176155.72	
		Credit as for 20th	4797.38	180953.10	
		Debit as for 20th 1000/-			
40		" this day 450/00 or	1450.00	179503.10	
	22	" as for this day	37.50	179465.60	
		Credit as for this day	1437.46	180903.06	
	23	" this day	4000.00	184903.06	
	24	Debit as for this day	536.12	184366.94	
		Credit as for this day	200.00	184566.94	
		" this day	15000.00	199566.94	
		" "	785.16	200350.10	
	25	" "	94.50	200446.60	
	26	Debit as for 25th	17300.00	183146.00	
50		Credit as for this day	349.00	183495.60	

Exhibits.
 P.17.
 Ledger
 extracts,
 31st
 January
 1930 to
 30th
 August
 1932,
continued.

	27	Debit as for this day	..	..	297.08	183198.52	
		Debit as for 26th	..	..	1656.00	181542.52	
	28	„ as for this day	..	..	144.45	181398.07	
		„ as for 27th	..	..	15000.00	166398.07	
		„ as for this day	..	..	85.00	166313.07	
	29	Credit as for this day	..	..	197.00	166510.07	
		„ as for 28th	..	..	1932.38	168442.45	
		„ as for this day	..	..	2000.00	170442.45	
	31	Credit as for 30th	..	..	2439.01	172881.46	
		„ as for this day	..	..	2500.00	175381.46	10
		„	..	..	4932.50	180313.96	
		Debit as for this day	..	..	400.00	179913.96	
		Credit as for this day	..	..	276.25	180190.21	
April	1	Debit as for this day	..	..	63.25	180126.96	
		Credit as for this day	..	..	5750.00	185876.96	
		„ 31st ultimo	..	..	2876.75	188753.71	
		„ this day	..	..	664.30	159418.21	
		„	..	..	130.00	159548.21	

91

		Debit this day as for current account					20
		Bank account and Miscellaneous					
		a/c and principal account	..	..	218009.75	Dr. 28461.54	
		Debit as for 17th ultimo as K. R. M.					
		T. T. S. A/c	..	..	2847.90	31309.44	
		Credit as for this day	..	..	3000.00	28309.44	
		„	..	..	5000.00	23309.44	
	2	Credit as for 1st	..	..	343.25	22966.19	
		„ as for this day	..	..	1250.00	21716.19	
		Debit as for this day	..	..	1100.00	22816.19	
	4	Credit as for this day	..	..	65.58	22750.61	30
	5	„	..	..	61.80	22688.81	
	7	Debit this day	..	..	4.00	22692.81	
	8	Credit as for this day	..	..	445.45	22247.36	
		„ as for 7th	..	..	5000.00	17247.36	
		Debit	..	..	25.92	17273.28	
		„ as for today	..	..	2.00	17275.28	
	9	„	..	..	20.00	17295.28	
		Credit as for today	..	..	1213.13	16082.15	
	10	Credit as for today	..	..	2148.67	13933.48	
		„	..	..	47.80	13885.68	40
		Debit as for today	..	..	103.11	13988.79	
		Credit as for today	..	..	500.00	13488.79	
		„ as for 8th	..	..	4000.00	9488.79	
		„ as for today	..	..	705.02	8783.77	
	11	Debit as for 9th	..	..	1577.86	10361.63	
	15	Crédit	..	..	24.36	10337.27	
		Debit this day	..	..	792.50	11129.77	
		„	..	..	30.00	11159.77	
1930							
April	15	Credit this day	..	..	758.97	10300.80	50
	17	Credit	..	..	500.00	9800.80	

		Debit	..	..	..	107.51	9908.29	<i>Exhibits.</i>
	22	Debit	..	..	..	3.75	9912.04	—
	24	Credit this day	..	..	..	6325.56	3586.48	P.17.
May	1	Credit as for 29th ult.	1000/-					Ledger	
			30	250/-		1250.00	2336.48	extracts,	
	3	as for 9th ult.	..	..	..	2812.34	Cr. 475.86	31st
	5	"	..	..	..	2.92	478.78	January
	10	Debit	..	..	..	16.75	462.03	1930 to
	6	Credit as for 9th Ult.	..	..	..	484.66	946.69	30th
10	7	Debit as for today	..	..	..	62.07	884.62	August
	10	Credit	..	..	..	2569.00	3453.62	1932,
	13	Debit this day	..	..	..	20.00	3433.62	<i>continued.</i>
	14	Credit	..	..	..	5450.00	8883.62	
		Debit	..	..	..	751.91	8131.71	
	15	Debit	..	..	..	1.00	8130.71	
	16	Debit	..	..	..	5.50	8125.21	
	21	Credit	..	..	..	66.49	8191.70	
	22	Debit	..	..	..	9.50	8182.20	
		Debit	..	..	..	5031.21	3151.99	
20		Credit this day	..	..	..	1608.37	4760.36	
—119—									
	26	Credit	..	..	..	6.75	4767.11	
	28	Debit	..	..	..	460.06	4307.05	
		Debit	..	..	..	11.05	4295.55	
	31	Credit	..	..	..	250.00	4545.00	
June	4	Credit as for 3rd	..	..	..	300.00	4845.55	
		Debit this day	..	..	..	52.50	4793.05	
	5	Debit	..	..	..	4.40	4788.65	
	7	Debit	..	..	..	618.62	4170.03	
30	10	"	..	..	..	20.00	4150.03	
	16	Credit	..	..	..	62.50	4212.53	
	30	Credit	..	..	..	795.94	5008.47	
		Credit May 29	..	..	..	592.32	5600.79	
July	1	Credit	..	..	..	250.00	5850.79	
	3	Debit	..	..	..	50.25	5800.54	
	11	. . . ? this day	..	..	..	10.50	5790.04	
	16	Credit	..	..	..	620.14	6410.18	
	17	Credit	..	..	..	2612.50	9022.68	
	30	Debit	..	..	..	20.90	9001.78	
40 Aug.	4	Debit	..	..	..	3.25	8998.53	
		" 29 ult.	..	..	..	39.20	8959.33	
	12	Credit	..	..	..	62.40	9021.73	
	13	Debit	..	..	..	10.00	9011.73	
	15	Credit	..	..	..	200.00	9211.73	
	18	Debit on 14th	..	..	..	10817.86	Dr. 1606.13	
	26	Debit as for 5th	..	..	..	1.50	1607.63	
Sept.	10	Debit	..	..	..	13.60	1621.23	
	16	Debit this day	..	..	..	10.50	1631.73	
	19	Debit this day	..	..	..	43.25	1674.98	

<i>Exhibits.</i>	20	Debit	..	..	..	..	2.50	1677.48	
	29	" as for 29th	..	..	..	..	380.91	2058.39	
P.17. Ledger extracts, 31st January 1930 to 30th August 1932, <i>continued.</i>	Oct. 3	"	..	..	..	..	26.65	2085.04	
	24	Credit this day	..	..	..	..	100.00	1985.04	
	30	Debit as for this day	..	..	..	..	36.00	2021.04	
	31	Debit	..	..	..	..	27.70	2048.74	
	Nov. 7	"	..	..	..	..	2.00	2050.74	
	12	"	..	..	..	..	22.70	2073.44	
	13	"	..	..	..	..	14.00	2087.44	
	17	"	..	..	..	..	3.55	2090.99	10
	29	Credit	..	..	..	..	27.22	2063.77	
	Dec. 6	"	..	..	..	..	100.00	1963.77	
	11	Debit	..	..	..	..	11.80	1975.57	
	20	"	..	..	..	..	26.60	2002.17	
	31	"	..	..	..	..	9.70	2011.87	
	1931								
	Jan. 12	Credit	..	..	..	..	250.00	1761.87	
	15	Debit	..	..	..	..	15.60	1780.47	
	20	Debit	..	..	..	..	5.25	1785.72	
	24	"	..	..	..	..	4.00	1789.72	20
	1931								
	Feb. 2	Debit this day	..	..	..	..	87.42	1877.14	
	FOLIO 186								
	4	Debit	..	..	..	..	79.00	1956.14	
	7	"	..	..	..	..	62.40	2018.54	
	11	Debit	..	..	..	..	31.80	2050.34	
	12	"	..	..	..	..	6.00	2056.34	
	14	"	..	..	..	..	4.31	2060.65	
	16	Credit	..	..	..	..	28.10	2088.75	
	18	Credit	..	..	..	..	9.75	2079.00	30
	23	Debit	..	..	..	..	78.05	2157.05	
	24	Credit	..	..	..	..	60.00	2097.05	
	March 10	Credit	..	..	..	..	67.00	2030.05	
	11	Debit	..	..	..	..	13.74	2043.79	
	22	"	..	..	..	..	68.60	2112.39	
	28	Credit	..	..	..	..	72.50	2039.89	
	30	Credit	..	..	..	..	33.00	2072.89	
	31	Credit interest after deducting contra interest from 1.1.30 to 31.3.31 as per Memo.					1974.78	98.11	40
		Credit this day salary to Ana Roona Lena 823/40 ; M. Sinniah 556/17 : Vena Arunasalam 388/67					1768.24	1670.13	
	May 21	Debit as for the 2nd inst : Court expenses to see record in C. D. A. Samaranatake (Galle Testa- mentary case)					44.65	1625.48	

	June	24	Credit this day as per Ana Roona Lena's a/c	3000.00	4625.48	<i>Exhibits.</i> — — P.17.
	Sept.	1	Credit this day as per H. H. A. Ismail of Galle	307.50	4932.98	Ledger extracts, 31st
		4	Debit as for 31st Ultimo. Court expenses per S. S. L. Galle on account of Galle Samaranayakes case	42.00	4890.98	January 1930 to 30th
10		20	Debit this day as per Samaranayake's account	8.75	4882.23	August 1932, <i>continued.</i>
		30	Credit on 2 District Court Kachcheri orders in Samaranayake's case	1587.00	6469.23	
			Debit—stamps to file action for balance due from M. D. Charles	18.20	6451.03	
	Oct.	29	Fees to Mr. Adv. Nagalingam for Albert Perera's case	21.00	6430.03	
	Nov.	3	To expenses to serve summons in M. D. Charles and R. S. Perera to and from Kegalle Kitulgalla Bulathkopitiya and A'Wella ..	30.45	6399.58	
20		6	Credit per I. Abraham Fernando ..	100.00	6499.58	
		27	Debit—fees paid to Mr. Proctor S. Somasunderam:— as per bill from June 1929 to December 1930 :— D.C. Nos. 33053 ; 33137 ; 33406 ; 34867 ; 34878 ; 35056 ; 39603 ; 41248 : Insolvency D.C. 4087 ; 4044 ; 4017 ; 4145	197.00	6302.58	
30	Dec.	4	Debit Samaranayake case paid S. S. L. as per letter	14.30	6288.28	
	1932					
	March	14	Debit :— paid to S. S. L. on C. D. A. Samaranayaka's case (Court expenses)	45.70	6242.58	
	May	27	Debit this day paid per S. S. L. on C. D. A. Samaranayake's case ..	55.80	6186.78	
			Credit as for this day :— per C. D. A. Samaranayaka	1108.00	7294.78	
40	June	20	Credit as per V. Arunasalam of Periyakottai	440.00	7734.78	

FOLIO 292.

1932

June	20	Debit stamps fee paid to Mr. Sivasubramaniam for the purpose of obtaining a transfer in our favour C. D. A. Samaranayake's land from Nadarasan and also Notary's fee	60.28	7674.50	
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<i>Exhibits.</i> — P.17. Ledger extracts, 31st January 1930 to 30th August 1932, <i>continued.</i>	July	5	Debit—amount paid as for C. D. A. Samaranayaka's case (Court expenses) per S. S. L.	135.50	7539.00
		21	Credit as for June 10th interest Akyab — shop account on N. S. K.'s account	598.20	8137.20
	Aug.	30	Credit on account of the sale of Samaranayaka's estate Credit as per K. P. L. S. P. L. and T. N. S. on demand account (Difference is caused by calculating the tamil wordings with regard to cents. etc. thus the difference is 10 cents carried right through.)	3500.00 4365.92	11637.20 16003.12 10

Translated by me

(Sgd.) (?)

S.T., D.C. Colombo.
Colombo 5.7.42.

P.12.
Ledger
extracts,
1st April
1930 to 1st
September
1932,

P.12.

P.12.
LEDGER EXTRACTS.

20

TRANSLATION.

EXTRACTS FROM THE LEDGER BOOK OF A. T. K. P. L. M.
COLOMBO.

ACCOUNTS OF I. M. S. ALLES OF GALLE.

FOLIO 66.

1930	April	1	To amount paid on an on demand note obtained on 31st ultimo to the 30th inst. (1 month) By aforesaid interest	5750.00 63.25 63.25	5750.00 5813.25 30 5750.00
	May	1	By return of the on demand note . . To an on demand note obtained this day To interest for current month from 1st to 31st By interest as aforesaid	5750.00 9000.00 102.00 102.00	— 9000.00 9102.00 9000.00
		25	To an on demand note this day . . To interest from date hereof to August 24th (3 months) By interest as aforesaid	1000.00 33.00 33.00	10000.00 10033.00 40 10000.00

July	13	To interest on Rs.3000/- on demand from June 1st to 30th	99.00	10099.00	<i>Exhibits.</i> — — P.12. Ledger extracts, 1st April 1930 to 1st September 1932, <i>continued.</i>
		By interest on aforesaid per S. S. L.	99.00	10000.00	
Aug.	25	To interest on Rs.1000/- from date hereof to Nov. 24 (3 months) ..	33.00	10033.00	
		By aforesaid interest	33.00	10000.00	
	26	To interest on Rs.9000/- from 1st July to 31st inst. (2 months)	198.00	10198.00	
		By interest for aforesaid per Ratnaike	198.00	10000.00	
10					
Sept.	27	By credit on Rs.9000/- on the receipt granted by Seena on 22nd both cheque and cash (Cheque on Galle Mercantile Bank cheque)	1800.00	8200.00	
Oct.	6	Cheque and cash for the Rs.9000/-	200.00	8000.00	
Nov.	28	To interest on Rs.1000/- note from 23rd inst. to Jan. 24th 1931 (2 months)	22.00	8022.00	
		By credit as per aforesaid	22.00	8000.00	
20	Dec. 31	To interest on Rs.9000/- from Sept. 1st to 30th—Rs.99/- and for the balance Rs.7000/- of the said on demand interest from Oct. 1 to Jan. 31, 1931 (4 months) 308/- or	407.00	8407.00	
		By interest as aforesaid per S. S. L. cash	407.00	8000.00	
1931					
30	Jan. 1	By a later on demand on return of Rs.9000/- on demand	7000.00	1000.00	
		To an on demand note this day ..	7000.00	8000.00	
Feb.	20	To interest on Rs.7000/- on demand from 1st to March 31st (2 months)	157.50	8157.50	
		By interest as for aforesaid per Seena cash and cheque	157.50	8000.00	
June	5	To interest on Rs.7000/- on demand from 1st April to May 30 (2 months)	157.50	8157.50	
		By interest as aforesaid per S. S. L.	157.50	8000.00	
40	17	By credit on balance due on demand per M. M. L.	500.00	7500.00	
	27	Do. per M. M. L.	500.00	7000.00	
	27	Do. per M. M. L.	500.00	6500.00	
		(Testamentary proceedings are going on and this money will come in about a year's time.)			

Exhibits.
—
P.12.
Ledger
extracts,
1st April
1930 to 1st
September
1932,
continued.

FOLIO 26.

1932	Sept.	1	Amount brought forward from folio 66 of previous Ledger ..	6500.00	6500.00
			By credit—by entering this in the folio relating to interest expenses account folio 47 without referring to Day Book	6500.00	—

Translated by
Sgd. (?) 10
S.T., D.C. Colombo and
Acting Interpreter S.C. Colombo.
Colombo, 5.7.42.

P.18.
Ledger
extracts,
1st April
1930 to 1st
September
1932.

P.18.
LEDGER EXTRACTS.

TRANSLATION.

ACCOUNT OF A. L. A. S. M. COLOMBO (LOAN ACCOUNT).

WITH

A. T. K. P. L. M. COLOMBO. 20

FOLIO 77 OF No. 4 LEDGER.

1930	April	1	To amount brought forward from earlier ledger	25000.00	25000.00
1931	March	31	To interest and Commission from April 1st 1930 to date	2345.62	27345.00
			Credit on aforesaid as per Current Account	2345.62	25000.00

FOLIO 28 OF No. 5 LEDGER.

1932	Sept.	1	To amount brought forward from folio 77 of No. 4 Ledger	25000.00	25000.00
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Translated by
(Sgd.) (?)
S.T., D.C., Colombo.
Colombo, 21.11.42.

TRANSLATION.

ACCOUNT OF A. L. A. S. M. COLOMBO (CURRENT ACCOUNT)

WITH

A. T. K. P. L. M. COLOMBO.

FOLIO 78 OF No. 4 LEDGER.

*Exhibits.*P.18.
Ledger
extracts,
1st April
1930 to 1st
September
1932,
continued.

1930

April	1	To amount brought forward from earlier ledger	35500.00	35500.00
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1931

10	March	31	To interest from 1st April 1930 to date Rs.2773.43 ; Interest on Loan Account from 1st April 1930 to date Rs.2345.63 or in all ..	5119.06	40619.06
			By cash on above account	19.06	40600.00

FOLIO 29 OF No. 5 LEDGER.

1932

Sept.	1	Brought forward as per folio 78 of earlier ledger	40600.00	40600.00
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Translated by

(Sgd.) (?)

S.T., D.C. Colombo.

Colombo, 21.11.42.

20

P.1.

PROMISSORY NOTE.

P.1.
Promissory
note, 1st
January
1931.

P.1.

(Sgd.) I. M. D. ALLES.

1.1.31.

(on -/06c. Stamp)

Colombo 1 Jan. 1931.

30 1. Capital sum borrowed
Rs.7000/-

Rs.7000/00

2. Interest, premium or
charges deducted or
paid in advance3. Rate of interest per
centum per annum

ON DEMAND I the undersigned I. M. S. Alles of Mahamodera, Galle promise to pay to A. T. K. P. L. M. Letchumanan Chettiar Colombo or order the sum of Rupees Seven Thousand only Currency for value received with interest, thereon at the rate of 12 per centum per annum from the date hereof.
(Sgd.) I. M. S. ALLES.

Intd. I. A.

Witnesses.

40

(Sgd.) (In Tamil.)

Exhibits.

P.28.

P.28.
Statement
of change
under
Business
Names
Ordinance,
20th April
1931,

P.28.

STATEMENT of Change under Business Names Ordinance.

THE REGISTRATION OF BUSINESS NAMES ORDINANCE.

No. 6 of 1918.

FORM R.B.N. 6.

(To be accompanied by the Certificate of Registration.)

NOTE.—This form should not be used when a business changes hands.

STATEMENT OF CHANGE UNDER SECTION 7.

In pursuance of the provisions of " The Registration of Business Names 10
Ordinance, No. 6 of 1918 " the following statement of a change which was
made or occurred in the particulars registered in the office of the Registrar
of Business Names for the Southern Province under number 341 on the
22nd day of March, 1927, in respect of Shana, Sheena Leyna, is made by
us/me the undersigned.

The last named two partners in the said registration i.e.
Singaram son of Somasundaram Chettiyar and Sivalingam son of
Somasunderam Chettiyar having desolved their partnership and no
more existing in the said firm.

1. Nature of Change First and second named Letchumanan Chettiyar 20
son of Arunasalam Chettiyar, are the sole
proprietors and existing partners of the said
firm hereafter.
2. Date of Change 13 April 1931.

Dated this 20th day of April 1931.

The the Registrar of Business Names for the Southern Province.

(Sgd.) (In Tamil.)

AFFIDAVIT.

I, LECHUMANAN CHETTIYAR son of Arunasalam Chettiyar do
swear (or) affirm that to the best of my belief all the particulars contained 30
in the above statement are true.

Affirmed at Colombo this sixteenth day of April 1931.

(Sgd.) (In Tamil.)

Before me :

(Sgd.)

C.O.

True copy.

(Sgd.)

For Registrar of Business Names,
Southern Province.

11th November 1942.

40

P.21.

DEFENDANTS' SALARY ACCOUNT.

P.21.

TRANSLATION.

ACCOUNT OF ANA ROONA LENA (LETCHUMANAN CHETTIAR).

SALARY—CURRENT—ACCOUNT.

WITH

A. T. K. P. L. M. COLOMBO.

FOLIO 209 OF NO. 4 LEDGER.

*Exhibits.*P.21.
Defendant's
salary
account,
30th April
1931 to
9th May
1934.

10	1931				
	April	30	To self cash	20.00	20.00
	May	24	To debit on a/c of Ramanathan's school admission, books clothes etc.	33.65	53.65
		31	To Tuition for Ramanathan ..	15.00	68.65
	June	8	To Ramanathan current month's fees	3.75	72.40
		11	To Gymkhana Ticket	5.00	77.40
		14	To matterstt etc. etc.	29.60	107.00
20		17	To remittance Home this day ..	50.00	157.00
		24	To cash this day Rs.2000/- as per old account Rs.3000/-		
			or	5000.00	5157.00
		30	To tuition for Ramanathan 10/- Boots value 8/- or	18.00	5175.00
	July	2	To Ramanathan school fees ..	3.75	5222.50
		7	To wristlet watch	30.00	5208.75
	Aug.	2	To Ramanathan's tuition fees ..	10.00	5218.75
		6	do. school fees	3.75	5222.50
30		14	To cash per Lena	1300.00	6522.50
		21	To Ramanathans tuition fees ..	7.00	6529.50
	Sept.	1	do. last month	3.30	6532.80
		4	do. school fees	3.75	6336.55
	Oct.	13	do.	8.93	6545.48
		16	To Kotahena Veerappa Achary to manufacture lamp	30.00	6575.48
		31	To Ramanathan school bag ..	3.50	6578.98
	Nov.	2	do. Tuition fees	10.00	6588.98
		4	do. school fees	4.25	6593.23
40		30	do. Dec. do.	4.25	6597.48
	Dec.	2	To electroplating lamp	15.00	6612.48
		4	To Ramanathan's tuition for Nov.	10.00	6622.48
		8	To remittance to Vedantam Iyengar of Sivaganga this year	85.00	6707.48
		13	To cash this day	400.00	7107.48
		18	To Ramanathan tuition for Dec. ..	10.00	7117.48
		19	To cash on going home	600.00	7717.48
	1932				
	July	1	To cash	160.67	7778.15

<i>Exhibits.</i>		FOLIO 41/5.			
P.21.	Sept.	1	To debit as per folio 209	7878.15	7878.15
Defendant's	Nov.	2	To self in small sums	30.00	7909.15
salary					
account,	1933				
30th April	Jan.	28	To self in small sums and price of		
1931 to			goods	38.20	7946.35
9th May	1933				
1934,	Jan.	28	By credit—salary from 1st April		
<i>continued.</i>			1932 to 28th Jan. this year (9M		
			28D) at 2,851 Viragams for 3 years	2753.33	5193.02 10
	1934				
	May	9	By credit—amount assigned to		
			K. R. K. N. A. R. for balance due		
			Rs.3000/- and set off as expenses		
			in interest account Rs.2195/02		
			or in all, as per letter dated 21st		
			(April) Siththirai Mudalali ..	5193.02	

Translated by

Sgd. (?).

S. T. D. C. Colombo.

Colombo 19.11.42.

20

TRANSLATION.

EXTRACTS FROM THE LEDGER ACCOUNT BOOK OF
K. T. K. P. L. M. COLOMBO ACCOUNT OF A. R. L.
(CURRENT ACCOUNT).

FOLIO 41/5.

1932					
	Sept.	1	As per folio 209 of earlier ledger ..	7878.15	7878.15
	Nov.	28	To self in small sums	30.00	7908.15
	1933				30
	Jan.	28	To self in small sums and also price		
			of goods	38.20	7946.35
			By credit—Salary from 1st April		
			1932 to 28th Jan. this year		
			(9M 28D) at 2,851 Viragams for		
			3 years	2753.33	5193.02
	1934				
	May	9	By credit—amount assigned to		
			K. R. K. N. A. R. for balance due		
			Rs.3000/- and set off as expenses		
			in interest account Rs.2193/02		
			or in all, as per letter dated 21st		
			Sithirai from Mudalali	5193.02	—————

Translated by

Sgd. (?).

S. T. D. C. Colombo.

Colombo. 19.11.42.

40

CERTIFICATE of Registration of Business.

“THE REGISTRATION OF BUSINESS NAMES ORDINANCE, No. 6 OF 1918.”

CERTIFICATE OF REGISTRATION OF A FIRM. Certificate No. 341.

(Including change under caga 6 notified on 20.4.31.)

I HEREBY CERTIFY that the following statement, made in pursuance of “The Registration of Business Names Ordinance, No. 6 of 1918” was registered in the office of the Registrar of Business Names for the Southern Province, under 341, on the 22nd day of April 1931.

1. The Business Names	Shuna Sheena Leyna (S. S. L.)	4. The date of the Commencement of the business, if the business was commenced after November 7, 1918	10th March 1927
2. The General Nature of the Business	Money lenders and Pawnbrokers		
3. The Principal Place of Business	41, Colombo-Galle Road, Kaluwella, Galle	5. Any other Business Name or Names under which the business is carried on	Nil
6. The present Name, in full, of every individual who is, and the corporate name of every Corporation which is, a partner in the firm	7. Any former Name in full, of every individual partner in the firm	8. The Nationality of every individual partner in the firm	9. The Nationality of Origin (if other than the present Nationality) of every individual partner in the firm
1. Lechumanan Chettiyar son of Arunasalam Chettiyar	—	Britain	10. The usual residence of every individual who is, and the registered or principal office of every Corporation which is, a partner in the firm
2. Sundaram, son of Somasundaram Chettiyar	—	Britain	11. The other Business occupation (if any) of every individual in the firm
			Avonna Tekkooor Rammad District India
			nil
			Kandayarampatiy Rammad District India
			nil

True copy
(Sgd.) (?) for Registrar of Business Names, Southern Province
11th November, 1942.

Office of the Registrar of Business Names for the Southern Province.
Dated at Galle Kachcheri this 30th day of May, 1931.

(Sgd.) N. M. MOONESINGHE
for Registrar of Business Names for the Southern Province.

Exhibits.
— — —
P.29.
Certificate of registration of business,
22nd April 1931.

Exhibits.

P.9.
 Ledger
 balance,
 1st
 October
 1932 to 5th
 December
 1932.

P.9.

P.9.

LEDGER BALANCE.

TRANSLATION.

BALANCE SHEET FROM 1ST OCTOBER 1932 TO 5TH DEC. 1932.

(16th Purattasi to 20 Karthigai Angiresa Varusha)

No. 27

LIABILITIES

By Swamigal	717.23	
Capital account	31000.00	10
M. L. Theivanet of Pillamangalam Alagapurai ..	14188.84	
P. L. M. V.	14188.84	
P. L. M. P. Janaki	21550.00	
Home firm	12790.87	
Old account	16003.02	
Galle firm S. S. L. Current a/c	5651.15	
P. A. T. of Kandaramanikam	12270.93	
S. M. A. L. Puttalam current a/c	16746.87	
S. M. A. L. Puttalam	9410.58	
National Bank loan account	10920.00	20
K. S. P. S.	16500.00	
K. N. K. N. A. R.	10000.00	
M. R. M. M. S.	4850.00	
? . . . Alles Chartered Ban Shroff	5000.00	
Land purchases	3678.31	
Share of rent of premises No. 89, 91 Sea Street ..	165.00	
Profit	71606.00	
	<hr/>	
	Total	277468.64
Liabilities over		275975.98
		<hr/>
	Assets	1492.66 30
		<hr/>

Translated by

S. T., D. C. Colombo,
 Colombo, 5.12.42.

ASSETS

To :—

A. L. M. Isadeen Nawala (Mortgage account)	3000.00	
A. L. M. Haniffa	2500.00	
M. T. Saladeen	2889.23	
K. Walter Peries Panadura	8735.85	
Avanna Leyna Ana Jaffna	2281.43	40
The Ceylon Autocarriers	3000.00	
A. M. M. Muniandipillai	844.65	

	Mohomed Thaha Cassim Jeweller	..	..	299.45	<i>Exhibits.</i>
	K. P. L. S. P. L. T. N. S. . .	..	..	4365.93	P.9.
	P. L. M. T. T. . . . .	..	..	8050.00	Ledger
	A. L. A. S. H. Loan account	..	..	25000.00	balance,
	" Current account	..	..	40600.00	1st
	R. M. V. A. L. . . . .	..	..	18723.07	October
	M. Sinniah of Thommapatty	..	..	750.00	1932 to 5th
	A. R. L. Salary—current—account	..	..	7908.15	December
	Akyab—Firm—account	..	..	598.20	1932,
10	Advance to Electric Coy.	..	..	40.00	<i>continued.</i>
	Furniture and fittings	..	..	524.00	
	Mercantile Bank cash—account	..	..	45.94	
	House rent	..	..	683.02	
	Miscellaneous expenses a/c	..	..	14787.63	
	Interest expenses a/c	..	..	130349.40	
				275975.98	
			Total debits	..	275975.98

Translated by
S.T., D.C. Colombo.
Colombo, 5.12.42.

20

D.19.

EXTRACT from Port Surgeon's Office Register.

D.19.

I HEREBY CERTIFY that A. L. A. S. M. Alagappa Chetty of 178, Sea Street, Colombo, arrived in Ceylon from India on 23rd January, 1933.

(Sgd.) K. M. R. SWAMI,
For Port Health Officer.

D. 19.
Extract
from Port
Surgeon's
Office
Register,
23rd
January
1933.

Port Health Office,
Colombo, 18th October, 1944.
(Franked) Port Health Office,
Colombo, Ceylon.

30

Exhibits.

P.20.

ASSIGNMENT in favour of Alagappa.

P.20.
Assignment
in favour
of
Alagappa,
25th
January
1933.

P.20.

" A "

This is the identical deed of Assignment marked " A " referred to in the affidavit of Ana Lana Ana Sovanna Mana Alagappa Chettiar dated this day.

(Sgd.) Illegible,
J.P.U.P.M.(P).

No. 101.

10

TO ALL TO WHOM THESE PRESENTS SHALL COME I, A. T. K. P. L. M. Letchumanan Chettiyar of Colombo Send Greeting :

Whereas de son tort of the estate of C. D. A. Samaranayake deceased, was by decree dated 23rd September 1929, entered in case No. 27002 of the District Court of Galle ordered and decreed to pay me the sum of Rupees eight thousand six hundred and thirteen and cents twenty nine (Rs.8613.29) with legal interest thereon from the date of the said decree till payment in full, and costs of suit.

And whereas the sum of Rupees two thousand six hundred and ninety five (Rs.2695/-) was recovered and drawn by me since the date of 20 the said decree.

And whereas I have agreed with Ana Lana Ana Sovanna Mana Alagappa Chettiyar of Colombo, for the absolute sale and assignment to him of the said decree and all monies due thereon together with the amount now in deposit in the said case less the sum of Rupees two thousand six hundred and ninety five (Rs.2695/-) recovered and drawn as aforesaid for the price or sum of Rupees three thousand (Rs.3000/-).

Now know ye and these presents witness that I the said A. T. K. P. L. M. Letchumanan Chettiyar, in pursuance of the said Agreement and in consideration of the said sum of Rupees Three thousand (Rs.3000/-) 30 lawful money of Ceylon well and truly paid to me by the said Ana Lana Ana Sovanna Mana Alagappa Chettiyar (the receipt whereof I do hereby admit and acknowledge) do hereby sell and assign unto the said Ana Lana Ana Sovanna Mana Alagappa Chettiyar his heirs, executors, administrators and assigns all that the said decree entered in the said suit No. 27002 of the District of Galle, and the said sum of rupees eight thousand six hundred and thirteen and cents twenty nine (Rs.8613/29) due and owing upon the said recited Decree and all interest now due and hereafter to become due for the same less the sum of Rupees two thousand six hundred and ninety five (Rs.2695/-) recovered and drawn as aforesaid together with the 40 amount now in deposit in the said suit and the full benefit and advantage thereof, and of all the right, title, and interest claim and demand whatsoever of me the said A. T. K. P. L. M. Letchumanan Chettiyar, in, to and upon the same.

To have, hold, recover and take the said premises hereby assigned or expressed so to be unto him the said Ana Lana Ana Sovanna Mana Alagappa Chettiar his heirs, executors, administrators and assigns,

absolutely together with full power warrant and authority unto the said Ana Lana Ana Sovanna Mana Alagappa Chettiyar and his aforewritten his his his or their name or names or in the name or names of me or my heirs, executors and administrators to demand, sue for, recover and receive the monies thereby assigned or expressed so to be and to give valid and effectual receipts or discharges for the same and to issue or reissue or endorse one or more writ or writs of execution founded on the said decree and to take all such proceedings and do all such things though not expressly mentioned herein as the said Ana Lana Ana Sovanna Mana Alagappa Chettiyar or his aforewritten shall think fit or be advised to take and do for the purpose of obtaining the full benefit and advantage of the aforesaid decree and of all securities for the same and otherwise to deal with the same in any manner that the said Ana Lana Ana Sovanna Mana Alagappa Chettiyar or his aforewritten shall think fit or expedient.

Exhibits.
—
P.20.
Assignment
in favour
of
Alagappa,
25th
January
1933,
continued.

And I the said A. T. K. P. L. M. Letchumanan Chettiyar do hereby for myself my heirs, executors, and administrators covenant and declare with and to the said Ana Lana Ana Sovanna Mana Alagappa Chettiyar and his aforewritten that I have good right to assign the said decree and premises as aforesaid. Provided however and it is hereby expressly declared that I do not in any manner whatsoever warrant and defend the recovery of the monies hereby assigned and that nothing herein contained shall be held to be a warranty on my part to make good or to refund to the said Ana Lana Ana Sovanna Mana Alagappa Chettiyar or his aforewritten the consideration hereby paid to me or any part thereof in the event of the said Ana Lana Ana Sovanna Mana Alagappa Chettiyar failing to recover from the said E. C. Abeyagoonewardene as Executor as aforesaid the monies hereby assigned or any part thereof in respect of any other matter or thing thereto.

In witness whereof I do set my hand hereto and to two others of the same tenor at Galle this twenty fifth day of January one thousand nine hundred and thirty three.

Witnesses.

1. (Sgd.) T. Y. AMATH.

This is the signature of
Muna Nadarajan.

2. (Sgd.) In Tamil.

This is the signature of

A. T. K. P. L. M. Letchumanan
Chettiyar.

(Sgd.) In Tamil.

(Sgd.) W. E. PERIES,
Notary Public.

I, WALTER EDWARD PERIES of Galle, Notary Public do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the within named A. T. K. P. L. M. Letchumanan Chettiyar in the presence of Tuan Yakiya Amath and Muna Nadarajan both of Kaluwella in Galle the subscribing witnesses thereto who have signed respectively as "T. Y. Amath" and in Tamil, who are known to me the same was signed by the said executant in Tamil

Exhibits.
 P.20.
 Assignment
 in favour
 of
 Alagappa,
 25th
 January
 1933,
continued.

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 Galle this twenty fifth day of January one thousand nine hundred and thirty three.

And I do hereby further certify and attest that the consideration within mentioned was acknowledged to have been previously received that two stamps of the value of rupees fifteen and a stamp of the value of rupee one supplied by me have been affixed to the duplicate and original respectively of this instrument, and that in both the original and the duplicate in lines 15 and 16 of page 1 there were erasures and the words "of Galle" altered to "of Colombo" in line 27 of the duplicate and 10 lines 28 and 29 of the original, in the former the letters "iyar" and the word "Chettiyar" in the latter were rewritten and interpolated respectively on erasures in the original in lines 11 and 12 of page 2 the words "Ana Lana Ana Sovanna Mana Alagappa Chettiyar" were written on an erasure and in lines 5 and 6 of page 3 the words "Ana Lana Ana Sovanna Mana Alagappa Chettiyar" were similarly written on erasure, in line 6 of the same page the word "Alagappa" was interpolated before the foregoing instrument was read over and explained by me as aforesaid.

Which I attest,

(Sgd.) W. E. PERIS, 20
 Notary Public.

(Sealed)

Date of Attestation
 25th January 1933.

(One rupee stamp)

True copy on a stamp of Rs. 1/-

(Sgd.) W. E. PERIS,
 Notary Public.

Galle, 10th February, 1933.

I, C. F. A. PALLIYEGURU, Actg. Secretary of the District Court of Galle do hereby certify that the foregoing is a true copy of the journal 30 entries dated 24.2.1933, 30.3.1933, 18.5.1933, 9.4.1934, 29.5.1937 and 15.1.1938, of two entries re payments of 19.4.32 and 19.5.33 and copy from true copy of deed of Assignment No. 101 of 25th January 1933 filed of record, in D. C. Galle case No. 27002.

(Sgd.) C. F. A. PALLIYAGURU,
 Secretary, D.C. Galle.

Galle, 28th May, 1942.

D. 20.

POWER OF ATTORNEY.

Exhibits.

D.20

Application No. L.2754.

No. 10.

D.20.
Power of
Attorney,
26th
January
1933.

TO ALL TO WHOM THESE PRESENTS shall come Letchumanan Chettiar son of Arunasalam Chettiar of Sea Street in Colombo in the Island of Ceylon.

Sends Greeting :

10 Whereas Muttiah Chettiar son of Palaniappa Chettiar of Sirucudarpatti, Ramnad District, South India under and by virtue of deeds Poll or Powers of Attorney No. 3 dated 5th day of April, 1919 and No. 80 dated 15th day of June 1932 did, nominate appoint and constitute the said Letchumanan Chettiar to be his true and lawful Attorney for him and on his behalf and in his name or otherwise to do the acts and things therein contained in connection with his business in Ceylon under the name style and firm of Vilasam of "Avanna Thana Kuna Pana Lana Muna" or "A. T. K. P. L. N." and his immovable properties in the said Island and one or more substitute or substitutes to appoint and at pleasure to revoke
20 and reappoint other or others.

And whereas the said Letchumanan Chettiar being about to leave the said Island is desirous of appointing in his place a substitute to act during his absence as the Attorney of the said Muttiah Chettiar in the said Island.

Now know ye and these presents witness that the said Letchumanan Chettiar by virtue and in exercise of the authority in that behalf contained in the said two deeds of all other authorities him thereunto enabling doth hereby nominate and appoint Sinniahpillai son of Marianapillai of 164 Sea Street in Colombo aforesaid to act for and on behalf and in the name of the said Muttiah Chettiar or in the name of the said Letchumanan
30 Chettiar to do execute and perform the several authorities matters and things mentioned and contained in the said two deeds in the same manner and as fully and effectually as the said Letchumanan Chettiar or Muttiah Chettiar might or could do if personally *present* and as the said Sinniahpillai might or could have done if he had been appointed Attorney in the place of Letchumanan Chettiar in and by the said two deeds the said Letchumanan Chettiar hereby ratifying and confirming and covenanting to ratify and confirm all and whatsoever the said Sinniahpillai shall lawfully do or cause to be done in and about the premises by virtue of these presents including in such rectification anything which shall be done
40 between the revocation of these presents by reason of the return to the said Island of the said Letchumanan Chettiar or by any other means and notice of such revocation reaching the said Sinniahpillai. And the said Letchumanan Chettiar hereby declare that as against him or the said Muttiah Chettiar everything which the said Sinniahpillai shall lawfully do or cause to be done in pursuance of these presents after such revocation as aforesaid shall be valid and effectual in favour of any person claiming the benefit thereof who before the doing thereof shall not have had express notice of such revocation provided also that no person company

Exhibits.
 ———
 D.20.
 Power of
 Attorney,
 26th
 January
 1933,
continued.

corporation or bank dealing with the said Sinniahpillai shall be concerned to ascertain or enquire whether or not these presents have lapsed determined or ceased to be in force by reason of the return to the said Island of the said Letchumanan Chettiar or by any other means and that in respect of any act deed matter or thing committed or done by the said Sinniahpillai under or by virtue of these presents prior to the receipt by such person company corporation or bank of notice in writing from the said Letchumanan Chettiar of his return to the said Island or of the determination of these presents by any other means the same shall as between the said Muttiah Chettiar or Letchumanan Chettiar and such 10 person company corporation or bank be as valid and binding on the said Muttiah Chettiah or Letchumanan Chettiar as the same would have been if the said Letchumanan Chettiar had not returned to the said Island or if these presents had not lapsed determined or ceased to be in force by any other means.

In witness whereof the said Letchumanan Chettiar son of Arunasalam Chettiar has set his hand to these presents and to two others of the same tenor and date at Colombo aforesaid on this twenty sixth day of January one thousand nine hundred and thirty three.

Witnesses :—

20

- | | |
|--|--|
| <p>1. Sgd. in Tamil
 This is the signature of
 Soosapillai Santhanapillai.</p> | <p>(Sgd.) In Tamil
 (This is the signature of
 Letchumanan Chettiar son
 of Arunasalam Chettiar)</p> |
| <p>2. (Sgd.) N. NADARAJAH</p> | <p>(Sgd.) J. F. PONNAMBALAM
 Notary Public.</p> |

I, JAYARATNAM FELIX PONNAMBALAM, of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing deed of substitution having read over and explained in Tamil 30 to the within named Letchumanan Chettiar son of Arunasalam Chettiar of Colombo who signed in Tamil in the presence of Soosapillai Santhanapillai (who signed in Tamil) and Murugesapillai Nadarajah both of Colombo the subscribing witnesses, all of whom are known to me, the same was signed by the said Letchumanan Chettiar, the said two witnesses and by me in my presence and in the presence of one another all being present together at the same time at Colombo on this twenty sixth day of January one thousand nine hundred and thirty three.

I further certify and attest that in the Original in page 2 line 28 the word " of " was deleted and the word " from " was interpolated before 40 the same was read over and explained as aforesaid and that the duplicate bears two stamps to the aggregate value of Rs.2/50 and that the stamps were supplied by me.

Date of attestation.

26th January, 1933.

(Seal) (Sgd.) J. F. PONNAMBALAM
 Notary Public.

I, G. A. JAYAWARDENA, Registrar of lands of Rajageriya do hereby certify that the foregoing is a true copy of a deed of Attorney made from the duplicate filed of record in this office and the same is granted on the application of Mr. Somanathan.

Exhibits.
—
D.20.
Power of Attorney,
26th
January
1933,
continued.

(Sgd.) G. A. JAYAWARDHANA
Registrar of Lands.

Land Registry,
Rajageriya, 2nd Nov. 1943.
Copd. S/Z

10 Exd. (?)

P.25.

BANK STATEMENT.

P.25.
Bank
statement,
January to
December
1934.

P.25.

S. B. L. LETCHIMANAN CHETTIYAR IN ACCOUNT WITH
THE MERCANTILE BANK OF INDIA, LIMITED, GALLE.

Dr.				Dr.	
1934				Rs. cts.	
Jany.	3	To chq.		1933	
		No. 499445	1000.—	Dec. 31	By Balance
20	16	Postages			601.53
		Noting fees,		1934	
		PBe	1.36	Jan. 3	Cheques
	19	Chq. ret'd.	250.—	9	M.O.
	29	446	1900.—	11	Prds. chqs.
Feb.	2	447	400.—	12	M.O.
March	5	449	770.—	16	Prds. Cheq.
		448	1126.—		do.
	9	chq. bk.	1.25	27	cheque
	13	450	550.—	29	do.
30	21	501	188.40		cash
	27	chq. ret'd.	100.—		M.O.
April	10	502	300.—	30	Prds. chq.
	18	504	400.—	31	cheque
	20	503	117.27	Feb. 2	M.O.
	24	505	203.58	5	Prds. chq.
	28	506	34.38	13	Chq.
				17	do.
				19	do.
				20	do.
35		Carried forward	Rs.7342.24		

Exhibits.
— —
P.25.
Bank
statement,
January to
December
1934,
continued.

Brought forward Rs.7342.24

		Dr.	
		Prds. chq.	199.50
	21	P/o	5.-
	27	Prds. chq.	199.50
		cheq.	134.-
Mar.	5	Cash	1000.-
	9	Prds. chq.	249.37
	10	M.O.	15.-
		cheques	153.50 10
	13	do.	100.-
	17	cash	200.-
	19	Prds. cheq.	4.75
		P.O.	3.00
	20	M.O.	5.00
	22	Prds. cheq.	99.75
		Chq.	11.00
	27	do.	100.-
	28	M.O.	75.-
		P.O.	30.- 20
Apr.	4	do.	34.25
	10	Prds. chq.	99.75
	12	do.	189.52
	17	chq.	250.-
	18	do.	11
		M.O.	5
	19	chq.	129.10
		cash	200.-
	21	Prds. chq.	199.50
	24	Chq.	500.- 30
	27	do.	192.45
	28	do.	62.65
		do.	200.-
Apr.	30	Chq.	100.-
May	3	Prds. chq.	125
	5	do.	279.30
	7	P.O.	18.-
	8	Chq.	200.-
	9	M.O.	200.-

Rs.7342.24

Rs.9549.34 40

S. S. L. LETCHIMANAN CHETTYAR IN ACCOUNT WITH THE
MERCANTILE BANK OF INDIA, LTD., GALLE.

Dr.			Dr.		
1934	Bt. forward	7342.24	1934	Bt. forward	9549.34
May 12	To ch. No. 508	2000.-	May 10	Prds. cheqs.	99.75
15	510	600.-	12	do.	214.46
17	Chq. ret'd.	250.-	12	do.	99.75
	511	400.-	14	do.	99.75
31	512	700.-	15	do.	249.37
June 9	513	1350.-	16	chq.	300.- 50

		Chq. ret'd.	215.-	17	Prds. chq.	99.75	<i>Exhibits.</i>
		Chq. ret'd.	200.-	22	do.	199.50	—
13		do.	200.-	23	do.	57.75	P.25.
16		do.	35.-	26	chq.	100.-	Bank
21		$\frac{1}{2}$ year Com. & Postage	10.21	29	do.	75.-	statement,
22	514	4500.-			Prds. chq.	199.50	January to
27	515	800.-			M.O.	5.-	1934,
30		Chq. ret'd.	45.-	June 1	Cheq.	80	<i>continued.</i>
10	30	To Balance	516.20	6	Prds. chq.	213.92	
				7	do.	1048.68	
				9	Cheq.	200.-	
					Prds. cheq.	199.50	
					Cash	200.-	
				13	chq.	100.-	
				14	Prds. chq.	34.75	
					M.O.	4.-	
				16	Prds. chq.	199.50	
20				18	do.	299.25	
					Chq.	110.-	
					P.O.	25.-	
				19	Prds. chq.	99.75	
				20	do.	446.20	
				21	Chq.	93.-	
					P.Os.	13.-	
				22	Cash	3100.-	
					P.O.	3.-	
				23	chq.	300.-	
				27	do.	500.-	
30				29	Prds. chq.	269.18	
					do.	76.50	
				30	do.	199.50	
			<u>Rs.19163.65</u>			<u>Rs.19163.65</u>	
	July	4	516	500.00	June 30	To Balance	516.20
		12	517	250.-	July 5	Cheque	100.-
		13	chq. ret'd.	190.-	7	do.	24.73
		16	do.	150.-	10	Prds. chq.	97.5
		21	518	750.-	11	Chq.	22.-
40	Aug.	1	519	650.-		cash	150.-
					13	Chq.	190.-
						Prds. chq.	149.52
					14	chq.	100.-
						Prds. chq.	89.75
					16	chq.	190.-
						Prds. chq.	249.37
					18	do.	199.50
					21	do.	135.16
					30	do.	224.25
						chq.	80.00
50				<u>2490.-</u>			<u>2520.23</u>

Exhibits.

S. S. L. LETCHIMANAN CHETTYAR IN ACCOUNT WITH THE
MERCANTILE BANK OF INDIA, LIMITED, GALLE

P.25. Bank statement January to December 1934, <i>continued.</i>	Dr.		Cr.
	1934	Bt. Fd.	2490.-
	Aug. 6	To' chq. No. 514520	150.-
		9 chq. returned	201.03
		13 do.	21.33
		20 do.	131.30
		do.	119.69
		22 521	500.-
		27 Retd.	614.25
		28 522	2000.-
		30 Chq. Book	1.25
		31 523	238.-
	Sept. 3	524	600.-
		4 525	1500.-
		6 521926	2500.-
	Oct. 1	927	600.-
		4 928	1000.-
		5 929	1000.-
		16 930	2500.-
		26 rtd.	100.-
		30 931	52.50
	Nov. 3	932	528.-
		8 ret'd.	300.-
		10 935	877.10
		12 934	500.-
		26 935	300.-
		1934	2520.23
	Aug. 6	By chqs.	15.-
		Prds. Kandy chq.	200.01
		Cash	200.-
		10 Prds. chq.	149.62 10
		13 chq.	21.33
		14 do.	100.00
		15 do.	282.20
		17 Prds. chq.	130.97
		18 do.	149.62
		20 chq.	141.02
		21 do.	119.69
		22 M.O.	5.-
		24 Prds. chq.	862.09
		25 Chq.	50.- 20
		Prds. chq.	59.75
		28 do.	299.25
		Cash	1400.-
		Chq.	14.25
		29 Cash	150.-
		30 Prds. chq.	199.50
		Cash	600.-
	Sep. 1	Chqs.	61.-
		3 Chq.	3000.-
		P.O.	13.- 30
		4 Prds. chq.	313.46
		Chq.	25.-
		10 T.M.O.	10.-
		14 P.O.	4.-
		22 Prds. chq.	240.37
		25 do.	149.62
		26 P.O. & TMO	190.50
	Oct. 3	Cash	4500.-
		4 Chq.	35.-
		8 do.	75.- 40
		10 do.	40.-
		20 Prds. chq.	108.72
		22 do.	302.41
		P.O.	5.-
		24 Prds. chq.	99.50
		26 do.	99.75
		31 do.	249.37
		P.O.	10.-
	Nov. 5	Prds. chq.	299.25
		7 Cash	877.10 50

		8 Chq.	100.-	<i>Exhibits.</i>
		9 P.O.	10.-	—
		12 Chqs.	110.-	P.25.
		13 M.O.	10.-	Bank
		21 M.O.	150.-	statement,
		24 Prds. chqs.	446.62	January to
		Chq.	300.-	December
		26 do.	50.-	1934,
		M.O.	25.-	<i>continued.</i>
10		28 Chqs.	202.90	
		29 Prds. chqs.	53.25	
			<hr/>	
			18878.45	
			<hr/>	
			19844.35	

S. S. L. LETCHIMANAN CHETTYAR IN ACCOUNT WITH THE
MERCANTILE BANK OF INDIA, LIMITED, GALLE.

Dr.			Dr.		
1934	Bt. Forward	18878.45	1934	Bt. Fd.	19844.35
Nov. 29	936	900.-	Nov. 30	Prds. chqs.	94.75
Dec. 6	937	500.-	Dec. 1	M.O.	15.80
Dec. 6	Chq. ret'd.	109.-	4	M.O.	25.-
20	12	938	5	chq.	100.-
	15	939		T.M.O.	116.50
	19	chq. ret'd.	6	chq.	109.-
	20	$\frac{1}{2}$ year Com. postage		Cash	100.-
	21	940	8	Chq.	152.-
	22	941		T.M.O.	15.-
	31	By Balance	10	M.O. & chq.	249.30
		267.79		M.Os.	125.-
30			11	Prds. chqs.	498.75
			13	Chq.	30.-
			14	M.O.	15.-
			17	P.Os.	25.-
			18	Chq.	80.-
				Prds. chq.	149.62
			19	Chq.	25.-
			20	do.	1000.-
				Prds. chq.	445.88
			21	do.	199.50
40				Chq.	25.-
			22	P.Os.	25.-
					<hr/>
		<u>Rs.23465.45</u>			<u>Rs.23465.45</u>
		<hr/>			<hr/>

We certify that the statement of account contained in this and the preceding three pages is a true copy of the entries taken from the ledgers containing particulars of the current account of S. S. L. Letchimanan Chettyar : that such entries are contained in the ledgers (being the ordinary

Exhibits.
P.25.
Bank
statement
January to
December
1934,
continued.

books of the Bank) kept by the Bank and were made in the usual and ordinary course of business and that such ledgers are still in the custody of the Bank.

For THE MERCANTILE BANK OF INDIA LIMITED
(Sgd.) (?)

Agent, Galle.

THE MERCANTILE BANK OF INDIA, LIMITED (Copied).

Galle,
26th October, 1942.

D. V. A. Gunasekera, Esqr.,
No. 9, Leyn Baan Street,
Galle.

10

Dear Sir,

D.C. Case Galle case No. X56 Cheque
No. A 521503 for Rs.8500/-

With reference to your letter of 23rd instant, we regret we are unable to produce the cheque in question as the records have been destroyed.

We can however produce a certified extract of the Ledger Account wherein you will find that the relative cheque has been cashed.

Yours faithfully,
(Sgd.) (?).
Agent.

20

D.3.
Receipt,
28th April
1934,

D.3.

D. 3.
RECEIPT.

TRANSLATION.

SIVAMAYAM.

On the 16th day of Sittirai (April) in the year Bhawa Receipt written and granted by Avenna Thana Koonna Pana Lana Moona Muthiah Chettiar of Sirukoodalpatty to Ana Roona Leyna Letchumanan Chettiyar.

30

I have taken charge of all documents you had in receipt of the transaction of lending and recovering carried on by you last as Agent in our Colombo shop from January 1930 till January 1933, and have also looked into the accounts relating to the lending and recovering transaction, the amount due by you on current account and the amount drawn on salary account and all such other accounts and that the amount which was found to be due from you is settled at Rs.3000/- in full settlement. As I have received the payment of this sum of rupees three thousand on Hundial handed to me to obtain the money from Soona Seena Leyna Karuppiahpulle of Galle, and as all the accounts due to date have been 40 looked into and settlement effected, I have no connection with you nor any claim against you hereafter. I have this day returned to you your

Memo. of salary agreement (Cheetu). As I have then and there looked into the accounts relating to the lending and recovering transactions carried on by you at the aforesaid place previous to the above year and approved it and as was already settled, I have no connection with you nor any claim against you hereafter in respect of which also and that this document shall be the proof in respect thereof.

Exhibits.
—
D.3.
Receipt,
28th April
1934,
continued.

(Sgd.) A. T. L. P. L. M.
MUTTIAH CHETTY.
(In Tamil.)

10 This is written and witnessed by :—

(Sgd.) M. LETCHUMANAN CHETTIAR.
P. Alagapuri.

(Sgd.) KR. KN. ATUNACHALAM CHETTIAR.
A. Thethur.

India.
One Anna
Stamp.

Translated by

(Sgd.) N. VELUPPILLAI.

20 Sworn Translator, District Court,
Colombo, 21.9.42.

P.26.
BANK STATEMENT.

P.26.

Copied.

P.26.
Bank
statement,
October
1934.

Dr.

Dr. Mr. W. V. R. D. DE SILVA No. 2 A/c IN ACCOUNT WITH THE
MERCANTILE BANK OF INDIA LTD.

1934	1934	
30 October 3 to A. L. A.	October 2, By balance	10,465.30
S. M. Alagappa		
A 521503 ..	8,500.00	
" Balance ..	1,965.30	
	<u>Rs.10,465.30</u>	<u>Rs.10,465.30</u>

40 WE CERTIFY that the statement of account contained herein represents a true copy of the entries taken from the Ledger containing particulars of the current account of Mr. W. V. R. D. de Silva, that such entries are contained in the Ledger (being the ordinary books of the Bank) kept by the Bank and were made in the usual and ordinary course of business and that such Ledgers are still in the custody of the Bank.

For the MERCANTILE BANK OF INDIA LIMITED.
(Sgd.) (?)

Agent, Galle.
Copied.

Exhibits. S. S. L. LETCHIMANAN CHETTYAR IN ACCOUNT WITH THE MERCANTILE
BANK OF INDIA LTD.

P.26. Bank statement, October 1934, <i>continued.</i>	GELLE, 12TH NOVEMBER 1942				
	Dr.				Cr.
	1934		1934		
	Oct. 3 To Balnce ..	4518.63	Oct. 1 By balnce ..	18.63	
			3 ,, cash ..	4500.—	
		<u>4518.63</u>		<u>4518.63</u>	

WE CERTIFY that the statement of account contained in this page represents a true copy of the entries taken from the Ledgers containing 10 particulars of the current account of S. S. L. Letchimanan Chettiar, that such entries are contained in the Ledgers (being the ordinary books of the Bank) kept by the Bank, and were made in the usual and ordinary course of business, and such ledgers are still in custody of the Bank.

For the MERCANTILE BANK OF INDIA LIMITED.
(Sgd.) (?)

Agent, Galle.

P.2.
Receipt for
Rs.8,500/-,
3rd
October
1934.

P.2.

RECEIPT for Rs.8500/-.

P.2.

20

I the undersigned A. L. A. S. M. ALAGAPPA CHETTIYAR of No. 41 in Kaluwella in Galle do hereby acknowledge to have received from Mr. W. Richard D. de Silva Executor of the Estate of the late Mr. I. M. S. Alles of Galle the sum of Rupees Eight thousand five hundred (Rs.8,500/-) by cheque No. A 521503 of 3.10.34 and drawn on the Mercantile Bank of Galle Ceylon in full payment, satisfaction and discharge of the amount due namely full Principal and interest on promissory note dated 1st January 1931 and granted by the late Mr. I. M. S. Alles to the firm of A. T. K. P. L. M. Letchumanan Chettiyar of No. 164 Sea Street in Colombo and presently endorsed by the said firm in my favour and which 30 promissory note is herewith tendered by me to the said Mr. R. Richard D. de Silva on this 3rd day of October 1934.

(Sgd.) (In Tamil)

3.10.34

(on -/06 c. stamp)

Witness.

1. Sgd. In Tamil.
2. Sgd. In Tamil.

STATEMENT of Change under Business Names Ordinance.

P.30

“ THE REGISTRATION OF BUSINESS NAMES ORDINANCE,
No. 6 of 1918.”

From R. B. N. 6.

(To be accompanied by the Certificate of Registration.)

Note.—This form should not be used when a business change hands.

P.30.
Statement
of change
under
Business
Names
Ordinance,
18th April
1939.

STATEMENT OF CHANGE UNDER SECTION 7.

10 In pursuance of the provisions of Section 7 of “ The Registration of Business Names Ordinance, No. 6 of 1918,” the following statement of a change which was made or occurred in the particulars registered in the office of the Registrar of Business Names for the southern Province under number 341 on the 6th day of May, 1931 in respect of Shuna Sheena Leyna (S. S. L.).

The partner Sundram, son of Somasunderam Chettiyar, left the firm.

1. Nature of
change

2. Date of

20 Change 18th April 1930

Dated this 18th day of April 1939

To The Registrar of Business Names for the Southern Province.

(Sgd.) (In Tamil)

AFFIDAVIT.

I,
do swear (or) affirm that to the best of my belief all the particulars contained in the above statement are true.

Sworn (or) affirmed at this day of

Before me

30 (Sgd.) V. A. PETER
President, Bench of Magistrates,
Tirupater
18.4.30

(Sgd.) (In Tamil)

True copy

(Sgd.) (?)

for Registrar of Business Names,
Southern Province.

11th November 1942.

Exhibits.

P.31.

CERTIFICATE of Registration of Business.

P.31

P.31.
Certificate
of regis-
tration of
business,
24th April
1939.

THE REGISTRATION OF BUSINESS NAMES ORDINANCE No. 6
OF 1918.

CERTIFICATE OF REGISTRATION OF AN INDIVIDUAL.

Certificate No. 341.

I HEREBY CERTIFY that the following statement, made in pursuance of "The Registration of Business Names Ordinance, No. 6 of 1918," was registered in the Office of the Registrar of Business Names for the 10 Southern Province, under number 341 on the 24th day of April 1939.

- | | | |
|---|---|----|
| 1. The Business Name : | Shuna Sheena Leyna (S. S. L.) | |
| 2. The general nature of the business | Money lender and pawnbroker. | |
| 3. The principal place of the business | 41, Colombo-Galle Road,
Kaluwella, Galle. | |
| 4. The date of commencement of the business, if the business was commenced after 7.11.1913. | 10th March 1927. | |
| 5. Any other business name or names under which the business is carried on : | Nil. | 20 |
| 6. The present name (in full) of the individual | Lechumanan Chettiyar, son of
Arunasalam Chettiyar. | |
| 7. Any former name (in full) of the individual | Nil. | |
| 8. The nationality of the individual | British. | |
| 9. The nationality of origin of the individual if not the same as the present nationality | Nil. | |
| 10. The usual residence of the individual. | Avenna Tekker, Ramad District, 30
India. | |
| 11. The other business occupation (if any) of the individual. | Nil. | |

Office of the Registrar of Business Names for the Southern Province.

Dated at Galle Kachcheri this 24th day of April 1939.

(Sgd.) G. WICKREMASINGHE
Asst. Registrar of Business Names for
the Southern Province.

True copy

(Sgd.) (?)

For Registrar of Business Names, Southern Province.
11th November 1942.

40

P. 32.

CERTIFICATE of Registration of Business.

P.32.

"THE REGISTRATION OF BUSINESS NAMES ORDINANCE, No. 6
OF 1918."

CERTIFICATE OF REGISTRATION OF AN INDIVIDUAL.

Certificate No. 1257.

I HEREBY CERTIFY that the following statement made in pursuance
of "The Registration of Business Names Ordinance, No. 6 of 1918," was
10 registered in the office of the Registrar of Business Names for the Southern
Province, under number 1257 on the 5th day of June 1939.

- | | | |
|-----|---|--|
| 1. | The Business name | A. R. L. Letchumanan Chettiar
(A.R.L.) |
| 2. | The General Nature of the
business | Money lender and Pawnbroker |
| 3. | The principal place of the
business | No. 42, Kaluwella, Galle |
| 4. | The date of the Commencement
of the Business, if the Business
was commenced after Novem-
ber 7, 1918 | 1st June 1939 |
| 20 | 5. Any other business name or
names under which the busi-
ness is carried on | _____ |
| 6. | The present name (in full) of the
individual | Letchumanan Chettiar son of
Arunasalam Chettiar |
| 7. | Any former name (in full) of the
individual | _____ |
| 8. | The Nationality of the
Individual | British |
| 30 | 9. The Nationality of Origin of the
Individual, if not the same as
the present Nationality | _____ |
| 10. | The usual residence of the
individual | Athikkadu Thekkar Ramnad
District, S. India. |
| 11. | The other business occupation
(if any) of the Individual | |

True Copy.
(Sgd.) ?

40 for Registrar of Business Names,
Southern Province. 11th Nov. 1942.

Office of the Registrar of Business Names
for the Southern Province.

(Sgd.) A. KANAPATHIPILLAI.

Dated at Galle Kachcheri this 5th day of June 1939,
for Registrar of Business Names for
the Southern Province.

Exhibits.

P.32.
Certificate
of regis-
tration of
business,
5th June
1939.

*Exhibits.*D.6A.
List of
debtors.

D.6A.

LIST of Debtors.

TRANSLATION.

1932 OCTOBER.

	Rs.	
K. Walter Peries of Panadura	8735.84	
(Decree has been entered for this amount money can be recovered in about an year).		
I. M. S. Alles Galle	6500.00	10
(This person is dead—his properties are subject to Testamentary case. It will take about 2 years for the Testamentary case to be over—there-after only collection can be attempted.)		
M. D. Jalaldeen	2887.63	
(Case had been filed, a case was pending as regards the property—it was decided that the rent of Rs.55/- from the said land to be received by us as from Nov. 1932.)		
The Ceylon Autocarriers	3000.00	20
(Interest on this amount is being received—it will take about one year to recover this amount.)		
A. V. Muniandy pillai	894.65	
(This is being settled at Rs.50/- a month.)		
A. L. M. Izadeen of Nawala	3000.00	
S. L. M. Haniffa	2500.00	
(About 50 per cent. of this amount can be got—but it will take some time.)		
There is a house property in New Moor Street—it is worth about	5000.00	30
(At present vacant and untenantable.) It can be rented for Rs.30/- and when the country improves can be sold for Rs.5000/-.		
S. A. R. S. T. Negombo	4000.00 odd	
(Rs.150/- is being received monthly.)		

Besides these—there are no other amounts recoverable here amongst the various persons who owe money—this too only if conditions of the country improves.

Translated by

Sgd. (?)

S.T.D.C. Colombo.

20.11.42.

40

P.19.

IN THE DISTRICT COURT OF GALLE.

No. 27002.

A. T. K. P. L. M. LETCHUMANAN CHETTIYAR . Plaintiff

A. L. A. S. M. ALAGAPPA CHETTIYAR of Sea Street, Colombo, substituted in place of original Plaintiff.

10

Vs.

E. C. ABEYGOONEWARDENE, of Galle Executor de son tort of the Estate of C. D. A. Samaranayaka deceased Defendant.

JOURNAL.

* * * * *

20 24.2.33.—Messrs. W. E. & H. C. Peries, beg to tender their appointment as proctors for A. L. A. S. K. Alagappa Chettiyar together with deed of Assignment of the Decree supported by his affidavit and the petition and move that the Court be pleased to fix a date and issue the notice on the parties to show cause why A. L. A. S. M. Alagappa Chettiyar should not be substituted as Plaintiff.

Allowed for 13.3.33.

(Intld.) T. W. R.
D.J.

1 to Galle } issued
1 to Col. }

Intd. 24/2

* * * * *

30 30th March 1933.—Messrs. W. E. & H. C. Peries for Plaintiff move for an order of payment for Rs.1549/- in favour of the substd. Plaintiff who consents. Mrs. C. E. A. de Silva proctor S.C. certified according to the prescribed form.

(Mr. de Silva is not practising in Galle.)

Call in Court 3/4.

(Intld.) T. W. R.

* * * * *

Exhibits.
 P.19.
 Journal
 entries in
 D. C. Galle
 Case
 No. 27002,
 24th
 February
 1933 to
 15th
 January
 1938,
continued.

18th May 1933.—Messrs. W. E. & H. C. Peries for Plaintiff beg that an order of payment for Rs.1,549/- be issued in favour of the Plaintiff who consents.

Messrs. Peries certify. See their certificates.

Pay
 (Intld.) T. W. R.

P.O. C9867
 19.5.33 for 1549/- issued.

* * * * *

9.4.34.—Messrs. W. E. & H. C. Peries move that the sales under writ 10 issued in the case fixed for the 7th (?) & 10th inst. be stayed & the Fiscal informed accordingly, on payment of his charges. They also move that payment to the Pltff. by the Deft. of Rs.200/- be certified.

Plaintiff's signature identified.

Yes.
 (Intld.) A. D. J.,
 D.J.

* * * * *

29.5.37.—Messrs. W. E. & H. C. Peries for Pltff move to certify payment by Deft. to the Pltff. on 2.12.35 of the sum of Rs.683.41 being 20 part payment of Pltff's. claim & costs which payment the *late* Kanakapulle has by an oversight omitted to certify.

Certified.
 (Sgd.) G. FURSE ROBERTS,
 D.J.

* * * * *

15.1.38.—Messrs. W. E. & H. C. Peiris for Plff. move to certify payment by Deft. to Pltff. of a sum of Rs.3,274.40 in full satisfaction of Pltff.'s balance claim & costs.

They also move that writ issued by Pltff. be recalled unexecuted. 30

1. Certified.

2. Execution stayed on prepayment of Fiscal's charges, if any.

(Intld.) N. M. B.
 D.J.

* * * * *

PAYMENTS

19.4.32	Plaintiff	..	..	..	..	..	..	Rs.1108.00
19.5.33	do.	..	..	..	..	..	..	1549.00
		*	*	*	*	*	*	

Copied & Exd.
Intd. C.F.A.P.

Exhibits.

P.19.
Journal
entries in
D. C. Galle
Case
No. 27002,
24th
February
1933 to
15th
January
1938,
continued.

IN THE DISTRICT COURT OF GALLE.
No. 27002.

A. T. K. P. L. LETCHUMANAN CHETTIYAR
of Colombo Plaintiff
A. L. A. S. M. ALAGAPPA CHETTIYAR of Sea
Street, Colombo, substituted in place of original
Plaintiff

Vs.

E. C. ABEYGUNewardene of Galle Executor de
son tort of the Estate of C. D. A. Samaranayake
deceased Defendant.

D.C. Galle No. 27002.

We beg to tender herewith our appointment as Proctors for
A. L. A. S. M. A. Alagappa Chettiyar together with deed of assignment
of the decree in the above case supported by his affidavit and the petition
and move that the Court may be pleased to fix a date and issue the notices,
attached hereto on the parties to show cause, if any, why A. L. A. S. M.
Alagappa Chettiyar should not be substituted as Plaintiff in the above
case.

Galle 21st February 1933.

(Sgd.) W. E. & H. C. PEIRIS,
Proctors for Plaintiff.

Allowed for 13/3.
Intd. Illegibly.
24/2.

D.C. Galle No. 27002.

We beg that the Court be pleased to issue an order of payment in
favour of the Plaintiff for the sum of Rs.1,549/- lying to the credit of this
case, *being* the amount realised by sale of property under the writ issued
in this case.

Galle, 29th March 1933.

(Sgd.) W. E. & H. C. PEIRIS,
Proctors for Plaintiff.

I consent.
(Sgd.) In Tamil.
Plaintiff.

I HEREBY CERTIFY that the above minute of consent was signed by
A. L. A. S. M. Alagappa Chettiyar who is known to me, in my presence,
and that I explained to him the contents of the above motion and that he
appeared to understand the nature and effect thereof.

(Sgd.) CHARLES E. A. DE SILVA,
Proctor S.C.

Alld.
(Intld.) C.W.G.
30.3.33.

10

20

30

40

Exhibits.

D.C. Galle No. 27002.

P.19.
Journal
entries in
D. C. Galle
Case
No. 27002,
24th
February
1933 to
15th
January
1938,
continued.

We beg that the Court may be pleased to issue an order of payment for the sum of Rupees one thousand five hundred and forty-nine (Rs.1,549/-) being amount lying to the credit of this case realised under the writ, in favour of the Plaintiff.

Galle, 1st May 1933.

(Sgd.) W. E. & H. C. PEIRIS,
Proctors for Plaintiff.

I consent.

(Sgd.) In Tamil.
Plaintiff.

10

WE CERTIFY that the above minute of consent was signed by A. L. A. S. M. Alagappa Chettiyar, the Plaintiff, who is known to me, in *our presence* and that we read and explained to him the contents of the above motion and he appeared to understand the nature and effect thereof.

(Sgd.) W. E. & H. C. PEIRIS,
Proctors for Plaintiff.

May be allowed.

(Intld.) Illegibly.

18.5.33.

20

(Intld.)

18/5.

D.C. Galle No. 27002.

We move to certify payment by the Defendant to the Plaintiff on the 2nd day of December 1935 of a sum of Rupees six hundred and eighty-three and cents forty-one (Rs.683/41) being a part payment of the Plaintiffs' claim and costs in the above case which payment the late Kanakapulle has by an oversight omitted to certify.

Galle, 28th May 1937.

(Sgd.) W. E. & H. C. PEIRIS,
Proctor for Plaintiff.

30

Received Rs.683.41 and I consent.

(Sgd.) In Tamil.

Plaintiff's kanakapulle.

WE CERTIFY to the identity and signature O. L. Sholai Pillai of Kaluwella, Galle, the Plaintiff's kanakapulle, who is known to us and signed in our presence, after we had read over and explained to him the contents of the above motion, and he appeared to understand the nature and effect thereof and he is the party entitled to this money.

(Sgd.) W. E. & H. C. PEIRIS,
Proctors for Plaintiff.

40

May be certified.

(Intld.) Illegibly.

29.5.37.

(Intld.) G.F.R.

29.5.37.

D. C. Galle No. 27002.

Exhibits.

IN THE DISTRICT COURT OF GALLE.

No. 27002.

A. T. K. P. L. M. LETCHUMANAN CHETTIAR of
Colombo Plaintiff

Vs.

E. C. ABEYGUNAWARDENE administrator of the
estate of the late C. D. A. SAMARANAYAKE deceased Defendant.

P.19.
Journal
entries in
D. C. Galle
Case
No. 27002,
24th
February
1933 to
15th
January
1938,
continued.

10 We move to certify payment by the Defendant to the Plaintiff a sum
of Rs.3274/40 cts. in full satisfaction of the Plaintiff's balance claim and
costs in the above case.

We also move that the writ issued by the Plaintiff in this case may
be recalled, unexecuted.

Received Rs.3274/40
and I consent.
(Sgd.) In Tamil
Plaintiff's Kanakapulle.

Galle, 12th January 1937.
(Sgd.) W. E. & H. C. PEIRIS,
Proctors for Plaintiff.

20 We certify to the identity and signature of O. L. Solai Pillai of
Kaluwella, Galle, the Plaintiff's Kanakapulle, who is known to us and
signed in our presence after we had read over and explained to him the
contents of the above motion, and he appeared to understand the nature
and effect thereof.

(Sgd.) Illegibly
15/1

(Sgd.) W. E. & H. C. PEIRIS,
Proctors for Plaintiff.

Compared & found
correct
Intd. D. E. W.
9.12.42.

True copies of motions dated 21.3.33,
29.3.33, 1.5.33, 28.5.37 and 12.1.37
filed of record in D. C. Galle case
No. 27002.
(Sgd.) M. N. PEIRIS,
Secretary, D.C. Galle.
9.12.42.

30

Exhibits.

P.3.

SCHEDULE in Testamentary Case No. 7394.

P.3.
Schedule
in Testa-
mentary
Case
No. 7394,
15th
August
1938.

P.3.

IN THE DISTRICT COURT OF GALLE.

IN THE MATTER of the LAST WILL AND TESTAMENT AND
CODICIL of the late Mr. IGNATIUS MARTIN SAMUEL ALLES,
deceased of Galle.

Testamentary }
Jurisdiction } No. 7394

10

W. RICHARD D. DE SILVA, Executor of the Last
Will and Testament and Codicil of the late
Mr. I. M. S. ALLES, deceased of Galle Petitioner
and

1. ALFRED C. ALLES of Ratnapura and 7 others Respondents.

SCHEDULE " B "

BEING A STATEMENT OF DEBTS DUE BY THE ESTATE AND PAID BY THE
EXECUTOR.

	Amount in		Amount paid		
	Inventory		with interest		
	Rs.	Cts.	Rs.	Cts.	
1. Pro-note dated 8.4.31 S. N. S. Odayappa Chettiyar	1,500.00		1,950.00		
2. M. M. L. Mayappa Chettiyar	1,344.69		1,770.00		
3. S. S. L. Letchimanan Chetty	1,344.69		1,770.00		
4. do.	176.00		176.00		
5. do.	150.00		174.00		
6. M. M. L. Mayappa Chettiyar	150.00		190.00		
7. A. T. K. P. L. M. Letchimanan Chetty	6,695.00		8,500.00		
8. P. R. A. R. M. Samasamy Chetty	3,209.44		3,906.19		30
9. Dr. Kunaratnam	150.00		150.00		
10. Hospital Charges	108.70		108.70		
			50.00		
11. M. David Singho	100.00		25.00		
			25.00		
12. Miscellaneous creditors	75.81		75.81		
			<u>18,600.70</u>		

Negombo, 15th August, 1938.

(Sgd.) W. RICHARD D. DE SILVA,
Executor.

40

The foregoing is a true copy of Schedule " B " dated 15th August
1938 filed with Final Account in Galle Testamentary Case No. 7394.

(Sgd.) C. F. A. PALLIYAGURU,
Secretary.

D.C. Galle.
25th May 1942.

Compared and found correct.
Intld. D. M. D.

25.5.42.

DEFENDANT'S STATEMENT in O.S. No. 29 of 1941.

P.38.

TRANSLATION.

IN THE DISTRICT MUNSIF'S COURT, SIVAGANGAI.

MUTTIAH CHETTIAR by his Agent THIRUMALAI
AIYANGAR Plaintiff

Vs.

LETCHUMANAN CHETTIYAR Defendant.

Exhibits.

P.38.

Defendant's
statement
in O.S.
No. 29 of
1941.

10 Written statement humbly submitted by the 2nd Defendant under
Order 8, Rule 1 of the Civil Procedure Code.

1. The Plaintiff's suit is disputed as follows :—The Plaintiff is not
entitled to any relief against this Defendant.

2. The Defendant denies all and singular the averments contained
in the plaint save as hereinafter admitted, and puts the Plaintiff to the
proof of his allegation.

3. This Defendant states that it is false to say that the recoveries
on documents contained in paragraph 4 of the Plaint was entrusted to the
Galle S. S. L. Firm. This Defendant was the Plaintiff's Agent in the
20 Colombo Firm. Further this Defendant states that A. L. A. S. M.
Somasunderam Chettiar alias Alagappa Chettiar who is a co-partner
with this Defendant in the Galle S. S. L. firm is also a relative (Sambanthi
which means that this Somasunderam Chettiar's daughter was given
in marriage to the Plaintiff's grandson). Taking that factor into considera-
tion and also the fact that Thirumalai Aiyangar the Plaintiff's agent
through the said Somasunderam Chettiar alias Alagappa Chettiar informed
this Defendant that balance sums of moneys are due on documents men-
tioned in para. 3 and 4 of the Plaint which amounts should be collected
and that a person to sign for and take legal proceedings for the recovery
30 of the said amounts was wanted—thereupon this Defendant states that
a Power of Attorney be granted in favour of Karuppiahpillai who is the
agent in their Galle Firm and to entrust the documents in his charge
and that he the said Karuppiahpilly will do the needful and necessary
things for the recovery of the said amounts—and that Thirumalai
Aiyangar requested that the expenses for the said purposes be paid by
the Galle Firm and debit the same in the accounts of the Plaintiff and
undertook to return the amounts so advanced with interest out of the
recoveries so made—or that they themselves repay the said advances—
and stated that it is necessary to take legal proceedings in Colombo Courts
40 and for that purpose it will be inconvenient to come down to Colombo
off and on—and hence Nadarajah of Colombo who was the agent of
Somasunderam Chettiar too will see to such proceedings. Thereupon
Karuppiahpilly was given a power-of-attorney by the Plaintiff—that being
so it is false on the part of the Plaintiff to state what he has stated in
the plaint.

Exhibits.

 P.38.
 Defendant's
 statement
 in O.S.
 No. 29 of
 1941,
continued.

4. According to the arrangements above stated it was Nadarajapilly who retained Proctors, etc., obtained the necessary signature from Karuppiahpilly—pursued the said actions—obtained decree and thereafter pursued such decree obtained. All these are matters within the common knowledge of Thirumalai Aiyangar and Somasunderam Chettiar alias Alagappa Chettiar.

5. In the meantime Karuppiahpilly on the termination of his agency period returned to his Home-land whereupon at the request of Thirumalai Aiyangar and Somasunderam Chettiar Nadarajapilly continued attending to all matters connected with the recovery matters. Thereafter it seems that Nadarajan was effecting a settlement and to effect such a settlement and for the purposes of Nadarajan to act upon Mr. Chelliah Proctor wanted a letter of authority from the Plaintiff authorising him to act upon Nadarajan's instructions and that because the Plaintiff not in his native place—both Thirumalai Aiyangar and the said Somesunderam Chettiar wanted a letter by Karuppiahpilly. Accordingly Karuppiahpilly handed a letter written by him to Thirumalai Aiyangar and Somesunderam Chettiar. They have with intents deceitful avoided mentioning this matter in the plaint. The allegation in para. 6 of the Plaint as if this Defendant persuaded the consent of Thirumalai Aiyangar for a compromise of the matter is false. 10 20

6. The 1st and 2nd Defendant do not at all know the terms of such settlements or compromise. It is learnt that Nadarajan collected the amounts on the authority granted by Karuppiahpilly and with the consent and concurrence of both Tirumalai Aiyangar and Somasunderam Chettiar.

7. The allegations contained in para. 6 to 8 of the Plaint as if the Plaintiff is not aware of the above-mentioned facts are deliberate falsehoods. They have been made so that evidence might be created. They are neither true nor binding on the Defendants. 30

8. The Plaintiff has no cause of action against the 1st Defendant when once the letter of authority was handed over to Thirumalai Aiyangar in favour of the Proctor to act on the instructions of Nadarajan. Thereafter Plaintiff has no claim against the 1st Defendant.

9. The allegation contained in para. 12 of the Plaint stating that this Defendant had received the amount from Nadarajan in such as that this Defendant is bound to pay it back with interest which is false. This Defendant denies having received any money from Nadarajan. Nadarajan never paid any money to this Defendant. The Plaintiff has no cause of action against the Defendant. 40

10. This suit is bad on account of misjoinder of parties and cause of action.

11. The Plaintiff's agent and Somasunderam Chettiar have together in collusion and at the instigation of Somasunderam Chettiar who is not in the best of terms with this Defendant and the 1st Defendant ever since the partnership business was . . . ? brought this action against these Defendants falsely without filing action against the said Nadarajan.

12. A sum of Rs.1291/- is due by the Plaintiff as for the 4th May 1938 for the amounts advanced from the S. S. L. Galle Firm towards the Colombo cases and other expenses. This suit has been filed because . . . ? of the said amount had been made from the Plaintiff. If however it be ordered that the Plaintiff's claim must be paid then this sum is subject to be deducted therefrom. The allegation that about Rs.250/- has been spent for the case is false.

Exhibits.
P.38.
Defendant's
statement
in O.S.
No. 29 of
1941,
continued.

13. The Plaintiff is not entitled to any interest. Wherefore this Defendant pray that the Court will be pleased to dismiss this action of the Plaintiff with costs and order the costs of this Defendant be paid to him.

(Sgd.) A. R. L. LETCHUMANAN CHETTIAR,
2nd Defdt.

(Sgd.) R. ANANTHANARAYANAN,
Advocate.

I declare that the statement contained above are true and I am personally aware of them.

(Sgd.) A. R. L. LETCHUMANAN CHETTIAR,
Sivagangai.

20 Translated by
(Sgd.) (?)
S. T. D. C. Colombo.
Colombo, 7.12.42.

P.36.

LETTER from the Defendant to the Plaintiff.

P.36.

Translation.

No. 164 Sea Street,
Colombo. 21.3.1931.

P.36.
Letter
from the
Defendant
to the
Plaintiff,
21st March
1931.

30 To A. T. K. P. L. M.
Kirukoodalpatty.

8th Panguni—Pimramathootha Varusha

Letter written by Letchumanan. By this letter you will know the news hence. Received your letter of the 5th inst. In order to send money to Rangoon I am making endeavours in the banks here. This is not the time to recover from those who owe us money and remit. As regards recoveries—I will try my best to recover as much as possible. Iyengar is in the Imperial Bank. I have talked the matter with him and have made him to write to Madras. In a weeks time reply from Madras will be here. Somehow or other Rs.50,000/- can be obtained from the Banks and remitted to Rangoon. Write about sending the money to there.

Exhibits.

Will Rs.50,000/- suffice the needs in Rangoon? Or will more be required—write about it.

P.36.

Letter
from the
Defendant
to the
Plaintiff,
21st March
1931,
continued.

You have written stating that there is money due to us in "Nadappu" if moneys are so due why should I retain it without meeting our needs. In the Nadappu it is mostly that we have to give always but it will be that we have to receive.

In D. E. Chandrawathie's account—there is a balance due—that too in Cash—account (Nadappu) in the 40,000/- but now it is gradually being diminished. I will see that it further be reduced.

The balance due from Mohamed Thaha Cassim is not cash—balance 10 but balances due by notes and cheks. He is a Jeweller. At the present owing to want of trade much of the stock is retained. But in April that balance can be reduced as much as possible. I will do so.

The amount lying as balance due from A. R. L. Pissellawa—I will have it settled to completion and enter up the balance-sheet for April 30th and send you.

Re A. L. A. S. M. Balance from whom can I demand here as Sovanna Mana is in India. As he is in India meet him, ask from him, and what is necessary on that matter must be done. At the present, I will not condescend lending money. I am doing all matters necessary to recover 20 the previous out-standings.

Sinniah too must be sent Home on the 20th Inst. There is an over debit to Sinniah of Rs.240/- odd. He is now asking for Rs.1,000/- (Thousand). He is a useful man, and trustworthy—what am I to do? Let me know.

Will the moneys that are being sent to Rangoon now be returned after the need there is over. If they could only return the same it will be possible to meet the banks-due-dates. Write in detail. On receipt of your letter I will be remitting the money to Rangoon.

Yours.

30

By the help of Vengadasalapathy.

If Iyengar should expect a reward for making a loan to us, what am I to do.

Translated by

(Sgd.) (?)

S.T., D.C. Colombo.

20.11.?

LETTER from the Defendant to the Plaintiff.

P.37.

P.37.

TRANSLATION.

Letter
from the
Defendant
to the
Plaintiff,
27th March
1931.

To A. T. K. P. L. M. Sirikodalapatty.

No. 164 Sea Street,
Colombo, 27.3.31.

14th day of Panguni in the Pirasopathy Varusha.

The letter by Letchumanan :—This letter and the letter and telegram
10 of the 11th and 9th would appraise you of the news here. As for the news
there your letter of the 8th is received.

The state of the country here day to day is disturbing. Hence thinking
it best to send the money collected, I sent Rs.25,000/- to Rangoon.

I will await the letter from thence and see to further remittances
there. All here are paying according to their circumstances to
Ramaiyengar and obtain loans at the Imperial Bank. When I receive
your instructions I will obtain whatever is possible and remit. He does not
accept Rs.100/- 200/- but 500/- 1000/- and they who do pay pay because
they are in need. Although the Bank has promised a loan of Rs.20,000/-
20 no suitable joint signatories are available.

You have written a monthly remittance of Rs.250/- is necessary.
What is there if a totalled lump sum be sent? How am I to write the
account for remittances to be made. It is better to remit a lump than in
small sums. I will abide your instructions.

Sinniah wants Rs.1,000/- to meet urgent demands. He must be
given only after receiving instructions from you. He is a serviceable
chap. I will give if you should write to me so. Do as you please.

Interest Rs.5,119/- is due from A. L. A. S. M. as for and up to
31st March (1 year). You have instructed to enter up the said account
30 (5,119/-) in the Galle account. There is no surplus money of theirs in the
said shop. If you want me to send their balance-sheet I will do so. If
you after going through it express you opinion and write to me, I will not
hesitate to do your bidding. You have written that in the amounts
that are sent and received from the said shop—the amount is more—It is so.
I will reduce it as much as possible in this month's balance-sheet. This
is the great help that can be done to me from our firm.

Yours.

By the help of Vengadasalapaty.

Translated by me

40 (Sgd.) (?)

S.T. D.C. Colombo.

Colombo 19.11.42.

Exhibits.

D.4D.

LETTER from Chinniahpillai to the Plaintiff.

D.4D.
Letter
from
Chinniah-
pillai
to the
Plaintiff,
5th March
1932.

D.4 D.

TRANSLATION.

Sirukoodalpatti.

A. T. K. P. L. M.

5.3.32.

20th Masi in the year Pirasot-aththy.

Sinniah writes :—This letter, letter of the 8th instant, copy of account and interest bill of A. L. A. Jaffna, letter of the 20th, and insurance for 10
Rs.250/- will convey the news of this place. Write about the news there. Today their current ledger and day book are sent under parcel post, and have also despatched telegram. No sooner the production of the account is over there than have it sent here without delay. The day book entries from 1st to 29th February 1932 and balance sheet are sent herewith. The Government here has passed in the Council for the purpose of Income Tax to send notices to all before the 31st instant to produce accounts and to assess for the year 1932 of the profits accrued in the year 1931, and have also appointed Auditors. If called upon to produce the accounts, it should 20
be done. Therefore after production of the day book and ledger there, have the same sent without delay. Received the sum of Rs.4,000/- due from A. S. S. Sangaralingam Pillai on account of "On demand," returned the On demand and effected settlement of the account.

There was the sum of Rs.2,180/- from P. L. Abdul Hamid on the mortgage guaranteed by the above named. Having received the full amount due thereon, cancelled the mortgage bond, and adjusted the account. We frequently go to the customers and demand and recover from them the amounts due. We are attending to all the affairs here efficiently. Other matters later. Write about the news there.

Yours etc.

30

SRI VENKADASALAPATHI THUNAI.

Translated by
(Sgd.) N. VELUPPILLAI,
Sworn Translator, D.C. Colombo.
3rd February 1945.

D.4E.

LETTER from the Defendant to the Plaintiff.

D.4 E.

TRANSLATION.

4.4.32.

A. T. K. P. L. M.

Sirukoodalpatti.

23rd Panguni in the year Pirasotpaththy.

Letchumanan writes :—I arrived safely today. Up to this date the financial stability of our firm is very good. There is current debt of Rs.80,000/- debt payable through self Rs.50,000/- and bank debt about Rs.20,000/-. As I requested you personally it is possible to regulate financial transactions satisfactorily if about Rs.50,000/- to Rs.60,000/- is sent to me. The country's position is worse and no recoveries done at all. Hereafter it will not be convenient to borrow on current debt and repay. Therefore send wire depicting the details of arrangement and sending money as aforesaid. As you informed me personally that if the current creditors pressed, could the customers be paid off and settled? If it were so done, the signatories to the bank will also ask for settlement. What can I do for it. But it is impossible to keep credit without receipt of money from there. Therefore inform in detail setting out these particulars. I shall have to do whatever work hereafter after perusal of your letter only. Reply immediately.

Yours etc.

(Sgd.) SRI VENKADASALAPATHI THUNAI

Translated by

(Sgd.) N. VELUPILLAI,

Sworn Translator, D.C. Colombo,

Colombo, 3rd February 1945.

30

D.4C.

LETTER from the Defendant to the Plaintiff.

D.4C.

TRANSLATION.

6.4.32

A. T. K. P. L. M.

Sirukoodalpatti.

25th Panguni in the year Pirasotpaththy.

Letchumanan Writes :—You will know on receipt of this letter, letter of the 23rd, and the telegram of the 24th demanding immediate reply to the request to send Rs.60000/- and if not sent and received that I will not be able to keep up credit. Received the telegram from there to-day stating that money could not be sent over from there and to put into right all the affairs here as informed personally.

Rs.7500/- should be deposited in the Imperial Bank to-morrow. There is no money also in hand to deposit. Must ask for postponement

Exhibits.

D.4E.

Letter
from the
Defendant
to the
Plaintiff,
4th April
1932.

D.4C.

Letter
from the
Defendant
to the
Plaintiff,
6th April
1932.

Exhibits.
—
D.4C.
Letter
from the
Defendant
to the
Plaintiff,
6th April
1932,
continued.

How am I to adjust the payments for the current and bank debts? You shall have to inform definitely as to how I should carry out. Whatever I do will be done only after receipt of reply from there. Other matters later.

Yours etc.,

SRI VENKADASALAPATHI THUNAI.

Translated by
(Sgd.) N. VELUPPILLAI,
Sworn Translator, D.C. Colombo.
3rd February 1945.

10

D.4F.
Letter
from the
Defendant
to the
Plaintiff,
26th April
1932.

D.4F.

LETTER from the Defendant to the Plaintiff.

D.4F.

TRANSLATION.

A. T. K. P. L. M.
Sirukoodalpatti.
26.4.32.

14th Sithirai in the year Ankirasa.

Letchumanan writes :—This letter will convey the news of this place. Received letter of the 11th regarding the news there. Here, N. R. M. N. 20
also has failed to keep credit. It is said that the debt due to the bank, current debt together with the debt payable through self will aggregate to about 10 lakhs. All the creditors are at his house demanding payments. There is much dissatisfaction prevails owing to it. The firm of N. R. M. N. have signed in the Banks as guarantors for us for Rs.92500/-. We have signed as guarantors for them for Rs.57500/-. As the firm of N. R. M. N. have failed, the bankers request us to cause a settlement of the sum of Rs.57500/- being the amount outstanding from them. We have told the bankers to ensure payment of the above sum is an impossible task on our part and that we can only effect settlement of the amount due 30
by us. As far as possible, I am taking the necessary steps in order that we may not sustain loss in any event. There is no possibility here to settle the claim in any way of S. M. A. L. Here, except the loan obtained through self, there is a debt of about Rs.310000/-. As against that, there is the aggregate sum of about Rs.275000/- to Rs.280000/- including the irrecoverable amounts from customers. In it, the outstandings from Insolvents and irrecoverable debts amount to about Rs.40000/-. The position is that no creditor will accept the above customers. I have written the above details in all the letters written from here. When matters are such, you wrote that if the irrecoverable debts were also assigned, the whole debt will be annulled. At this juncture, the country's situation is that even the well-afforded customer is trying to alter the amounts. As such, all know that the amounts due from the customers who have been adjudicated insolvents, are not recoverable. Who will accept such accounts? This is not an unfamiliar matter there. As you have written that you are disposed not to give more or less to anyone and that the creditors should be paid in full, I too am trying to effect settlement with the creditors by payment of the full amount. I will effect settlement in two or three days and inform the result. It will not be consistent to 40

obtain receipt for settlement of the full amount if a proportionate amount is paid instead of the full sum. Therefore as you have written to effect payment in full and settle with the creditors, I shall endeavour my utmost and perform to the satisfaction barring any claim hereafter. For the balance amount, arrangements should be made at the native place. Other matters later.

Yours etc.,
VENKADASALAPATHI THUNAI.

Exhibits.
— —
D.4F.
Letter
from the
Defendant
to the
Plaintiff,
26th April
1932,
continued.

10 I perused the contents of the letter too, forwarded to A. L. S. A. M. from there.

Yours

Translated by
(Sgd.) N. VELUPPILLAI,
Sworn Translator, D.C. Colombo.
3rd February 1945.

D.4G.

LETTER from the Defendant to the Plaintiff.

D.4.G.

TRANSLATION.

20

A. T. K. P. L. M. N.
Sirukoodalapatti.
3.3.32.

D.4G.
Letter
from the
Defendant
to the
Plaintiff,
3rd May
1932.

21st Sithirai in the year Ankirasa.

Letchumanan writes:—This letter will convey the news of this place, Regarding the news there, received letter of the 16th instant, and the telegram of the 20th instant, I will, after settlement with the creditors within 4 or 6 days inform the result. If we voluntarily offer settlement with the creditors, they will not come to agreeable terms. Therefore it is advisable to let the creditors adopt their course. I will however see
30 out interest is not jeopardised and have the matter put through. The Imperial Bankers filed action against us and N. R. M. N. on the 13000/- Rupees On demand made by us and N. R. M. N. jointly and have served summons yesterday. We need not fear about it. N. R. M. N. will however have the same settled. N. R. M. N. have given over their assets and the customer's dues and are effecting settlement with other creditors as shall seem to them advisable. In regard to the above matter,
40 continuing. To such person you write personal letter and disclose the real state of our firm. If you give up writing to the abovenamed even now, everything will be highly profitable here. You may be personally aware of these matters after the arrival of our Sovanna Mana there. Others later. Yours etc.

Translated by
(Sgd.) N. Veluppillai,
Sworn Translator,
D.C. Colombo.
3 Feb. 1945.

VENKADASALAPATHI THUNAI,

Exhibits.

—
 D.4A & H.
 Letter
 from the
 Defendant
 to the
 Plaintiff,
 12th May
 1932.

D.4A & H.

LETTER from the Defendant to the Plaintiff.

D.4 A & H.

TRANSLATION.

A. T. K. P. L. M.
 Sirukoodalpatti.

12.5.32.

30th Sithirai in the year Ankirasa.

Letchumanan writes :—You will receive this letter. Received letter
 from there. You have written to pay off the creditors without delay. 10
 The delay is not on my part to pay off but that of the creditors who do
 not come to agreeable terms. The matter cannot be out through if we
 insisted. In effecting settlement by assignment of the customers' dues,
 we shall have to convince them and obtain their approval. We owe to
 K. S. P. S. Rs.103000/- including interest. Received all the On Demands
 signed in the Bank for accommodating the abovenamed, and got them to
 pay the full amount due by us. Received all the on demands, and
 obtained receipt that they shall pay on the due dates and claim of
 Rs.15000/- payable by them and by us to the Imperial Bank. For the
 above sum of Rs.103000/- odd due by us, we have settled by assignment 20
 of the mortgages, purchased properties, and unsecured On Demands and
 for the balance, we gave our own On Demand for Rs.16500/- agreeing to
 repay within a period of one year and obtained receipt in full settlement
 of all the claims. Out of the properties granted to the abovenamed, about
 Rs. 10000/- have been undervalued for the Fibre Mill. The above Mill
 is worth that amount in the present condition of the country. None of
 the other creditors intended to take the Mill. Besides this, the properties
 and claims due from customers which were given over to K. S. P. S. can
 be estimated to realise only three quarter of the total. As the claim
 payable is large and as you have written frequently from there that it 30
 deserves settlement in any way and that it should be done without delay
 it is mutually concluded. We are not losers in the reduction of Rs.10000/-
 for the Mill. For the amount due to K. R. M. T. T. A. L. we have assigned
 the amounts due from customers and obtained receipt. The abovenamed
 also made publicity about us in many ways. Thereby we anticipated
 trouble in our affairs. He insisted vehemently that about Rs.5000/-
 more should be given in regard to the claims due from customers. There-
 after with the help of Sovanna Mana who put forth *many* reasonable
 suggestions, Rs.1500/- have been paid more. If it was not so done,
 there is no way to settle the above claim. You may think over. 40
 Rs. 2100/- have been paid against the claim of O. A. O. K. R. M. of
 Rs.3300/-. I will collect and pay the balance. Rs.15500/- have been
 paid to K. R. K. N. A. R. of Thekkalur. Still Rs.18000/- due and owing
 to him. The sum of Rs.18000/- odd is due and owing to M. R. M. M. S.
 The abovenamed expressed willingness to take the property. They
 offer for half of its present value. If we agree to their terms, we lose
 very much. They ask to grant them On Demand for their claim in the
 event of not granting the property to the offer made. I have informed
 that I cannot give on demand without instructions from you.

Therefore may I give on demand? Or else what should be done. Write details. S. M. A. L. of Avinipatti did not agree either to accept the customers' credit or the properties. I told him to the best of my ability but that he refused hearing and said that he would go to the native place and have it settled there and left for Puttalam. In regard to the claim payable by N. R. M. N., if we alone pay and settled their debt with the Bank we will not be able to settle the payments due on our signatures set on their behalf. Therefore we must safeguard our interest and then settle the Bank's transactions. I will do likewise. In the action filed 10 by the Imperial Bank against N. R. M. N. and us, N. R. M. N. have filed statement that they would pay Rs.500/- a month. I will write what happens on the date of hearing. I think to file statement tomorrow that we signed on behalf of N. R. M. N. and that we did not obtain money and the above-named are entitled to pay the amount due. I will remit Rs.250/- within a week. There is no possibility to collect cash and send. The delay is therefore due to it. Other matters later. Write about the news there.

Exhibits.
—
D.4A & H.
Letter
from the
Defendant
to the
Plaintiff,
12th May
1932.
continued.

Yours etc.

VENKADASALAPATHI THUNAI.

20 Translated by
(Sgd.) N. VELUPPILLAI.
S.T.D.C. Colombo.
3.2.45.

D.4B.

LETTER from the Defendant to the Plaintiff.

D.4 B.

TRANSLATION.

A. T. K. P. I. M.
Sirukoodalpatti.

D.4B.
Letter
from the
Defendant
to the
Plaintiff,
6th July
1932.

30

23rd Ani in the year Ankirasa.

6.7.32.

Letchumanan writes :—This letter will convey the news of this place. Received letter of the 18th instant for the news there. Having negotiated settlement of the action filed by the Chartered Bank the same is concluded by delivering over the property situate at Maradana and purchased for Rs.30,000/- fixing Rs.40,000/- as its value, and a property purchased for Rs.1,500/- fixing Rs.5,000/- as its value, and an On demand made by us and N. R. M. N. for Rs.5,000/- payable within a period of one year. It is agreed that the action filed by them will be withdrawn as soon as possession 40 is delivered. We will do accordingly. The claim of P. & O. also is settled. We have obtained letter and receipt from the Bank stating that we are released from payment of the On demand for Rs.40,000/- made jointly

Exhibits.
 — —
 D.4B.
 Letter
 from the
 Defendant
 to the
 Plaintiff,
 6th July
 1932,
continued.

by N. R. M. N. and by us for accommodating them. The firm of N. R. M. N. have filed objections in the action filed by the Imperial Bankers against us and N. R. M. N. for Rs.15,000/- restraining them from taking further steps. In the above objections they have stated that they could pay Rs.500/- only every month but no more. The Court will make similar order. The case is fixed for 26th August. We need not pay attention to the above case. The above claim was due by N. R. M. N. Out of the loan obtained by us and N. R. M. N. jointly from the National Bank, there was the sum of Rs.26,000/- odd due and payable by both of us jointly. The Bankers demanded the immediate payment of same. We 10 said that we were unable to do so. They have filed action against both of us as they were unwilling to accept assignment of the customers' dues. In this action also we have filed objection stating that we are able to pay only Rs.250/- monthly. N. R. M. N. also have filed a similar statement. That matter is fixed for 29th July. I also believe that the order will be made to pay Rs.250/- monthly. Terms of settlement have been effected in the case filed by K. R. K. N. A. R. that each party to bear his own costs and assigned the customers' dues and properties, and for the balance sum we have given our own on demand for Rs.10,000/- and concluded 20 settlement. There is on account and accounts payable on fixed dates Rs.28687/72 which have been credited including interest up to the 31st March, 1932. If settlement of the above sum also is to be effected there, 10 per cent. of the interest should be withheld against income tax account. I will send the interest bill for the above account tomorrow. I will also send the balance sheet details. Document relating to the native place and a property here have been given over to M. R. M. M. S. There is still due to the above named Rs.4,000/- odd. Should make arrangements for that also. The Kandavarayanpatti Sivan Temple dues have been remitted, in full. I have written and granted fresh letter to P. A. T. Except the amounts due on the On demand made afresh and given here 30 now. There are no other amounts due. The particulars of the accounts already settled are sent herewith. Without any setback in our affairs regarding the deficiency in the price of the land given over to the creditors, it is almost over. Sovanna Mana also has this day left for native place. I too have work to attend here. It will do if Sinniah alone were to be for some days. Other matters later. Write about the news there.

Yours etc.

VENKADASALAPATHI THUNAI.

Translated by

(Sgd.) N. VELUPPILLAI,
 Sworn Translator, District Court,
 Colombo, 3rd February 1945.

40

D.4I.

LETTER from the Defendant to the Plaintiff.

TRANSLATION.

D.4I.

A. T. K. P. L. M.
Sirukoodalpatti.

10.7.32.

Exhibits.

D.4I.

Letter
from the
Defendant
to the
Plaintiff,
10th July
1932.

27th Ani in the year Anikrasa.

- Letchumanan writes :—This letter and the letter of the 23rd instant
- 10 will convey the news of this place. Write about the news there. The balance Sheet is sent herewith. As the action filed by the Chartered Bank has not been withdrawn from court, the account of the properties given over to them and the Bank's account have not been entered yet. I will deliver over possession of the properties and after having adjusted, will write to you. A fresh On demand is made and delivered over in respect of the sum of the sum of Rs.4,850/- due to M. R. M. M. S. of Thekkanur and have obtained receipt as having settled the previous amounts due. P. A. T. of Kandaramanikkam also requests for a hand-written and signed letter to pay on demand without a period of 12 months.
- 20 In the previous letter, the period of 12 months is written there. They state that this account could be settled with the shortest delay and it is not possible for them to obtain writing inserting 12 months' time. Write as to what steps I should take. The interest bill and copy of account relating to S. M. A. L. of Avinipatti are sent herewith. Herewith also sent list pertaining to the customers. As the state of the country is not promising, even the accounts which are sure will be delayed in recovery. Nothing could be done in haste. The house tenancy agreement of the house here elapses at the end of December this year. Thereafter we should enter into agreement at a new rental. We have chest almirahs and others.
- 30 I too have no work at attend here. It will suffice if Sinniah alone were to be here for some days. Other matters later. Write about the news there.

Yours etc.

VENKADASALAPATHI THUNAI.

Translated by

(Sgd.) N. VELUPILLAI,
Sworn Translator, D.C. Colombo,
3rd February, 1945.

Exhibits.

D.4K.

LETTER from the Defendant to the Plaintiff.

D.4K.
Letter
from the
Defendant
to the
Plaintiff,
15th
September
1932.

D.4K.

TRANSLATION.

A. T. K. P. L. M.
Colombo.

A. T. K. P. L. M.
15.9.1932
Sirukoodalpatti.

31st Avani in the year Anikrasa.

Letchumanan writes :—This letter, and the letters of the 18th, 19th and 23dr instant will convey the news of this place. Write about the news there. The case of K. S. P. S. is fixed for 20th September this year. Am I to contest the action? or allow judgment to be entered? Even by contesting we can prolong a month's time at least but judgment will be entered. I have written all these details in the letter of 23rd ultimo also. How is it that I am not favoured with a reply up to date. No further date could be obtained. Wire before that date intimating as to what I should do. I will do as required. Rs.800/- have been paid to the National Bank also for 2 months. Document also has been executed undertaking to give security. We will sign and deliver day after to-morrow. When I wrote that I intended to go to my native place, you had written to leave after the arrival of Sovanna Mana of Kandavarayapatti. The above-named had not even written letter up to date that he would be coming. My presence is not required here to attend to any work. There is no benefit at all in delaying me to stay here. I have received notice from the Karakudi Income tax office to produce the accounts on the 28th September (current month) I got dates three times previously. This is the last date. On failure to produce the accounts at this date, they would fix the assessment. No further date will be given. Therefore, I shall have to be there on the aforesaid date at Karaikudi and return. You shall order me to go there and return. Other matters later.

Yours etc.

30

VENKADASALAPATHI THUNAI.

Translated by

(Sgd.) N. VELIPILLAI,
Sworn Translator, D.C. Colombo.

3.2.45.

D.2R.

LETTER from the Defendant to the Plaintiff.

Exhibits.

D.2R.

Letter
from the
Defendant
to the
Plaintiff,
23rd
September
1932.

D.2R.

TRANSLATION.

Colombo.

A. T. K. P. L. M.

Sirukoodalpatti.

A. T. K. P. L. M.

23.9.32.

8th Puraddasi in the year Ankirasa.

Letcumana writes : This letter will convey the news of this place.
 10 Regarding the news there, received letter of the 5th instant and the telegram intimating to obtain a long date in K. S. P. S.'s case. The above case was fixed for 20th September (current month). We filed our objections on the said date stating that we gave over the On Deman promising to pay the money in two years' time and that the action is premature and that there are witnesses to substantiate the said arrangements. For that, the case was postponed for 5th October and on the said date the Court has made order to give security of property and to contest the action. We have no property of any kind here to give security. If no security is given no matter we argue to any extent, judgment will be
 20 entered. What can the said K. S. P. S. do here. They will issue writ against boxes, chest. It will not do any good to them except an act wilfully done. They think that I have cheated them in several ways.

If I do not continue to stay here they cannot do anything. We will contest the action as far as it enables us. The Chartered Bank case has not been withdrawn yet. It depends on the arrival of Sovanna Mana to conclude. I had written that the firm of N. R. M. N. have concluded settlement in the case filed by the Imperial Bank against N. R. M. N. and us. The Bank did not agree to the terms of settlement and are again proceeding with their case. That is fixed for 3rd October.

30 Received Rs.150/- from S. A. R. S. T. of Negombo for the current month.

Yours etc.

VENKADASLAPATHI THUNAI.

Translated by
 (Sgd.) J. N. VELUPPILLAI.
 Sworn Translator, D. C. Colombo.

3rd February 1945.

D.6.

Exhibits.

D.6.

Letter
from the
Defendant
to the
Plaintiff,
29th
October
1932.

D.6

LETTER from the Defendant to the Plaintiff.

TRANSLATION.

A. T. K. P. L. M.

Colombo.

To A. T. K. P. L. M.

29.10.32.

Sirukulapatty.

13th day of Ipassi year Angiresa.

10

Letter by Letchumanan. I am in receipt of your letter of the 30th ultimo. You want that Balance Sheet and extracts of the day-book to be sent to you monthly. Which are herewith sent. If moneys are coming in here we would be sending but there are no comings-in. What is being done at present matters connected with Courts etc. That particulars too I will post to you monthly. Herein are enclosed two lists—one being the list of moneys recoverable the other of moneys not possible to be recovered. Besides the particulars entered therein—there is no other work for me here. I have often written to you that I wish to go home but you have no mind to ask me to come. What can I do being here— 20 what is further to be done—when then delay my going? I will be there only when you feel that I should come there.

Regarding the balance due from Sovanna Mana please meet him and find out as regards my personal account. I will abide by what you say when I come home.

Rest later.

By help of Vengadasalapathy.

P.S.—As you have written that about K. S. P. S. Chartered Bank case you will settle after Sovanna Mana's return. I did not take interest on that matter. It does not seem that Sovanna Mana will soon come 30 to Colombo although you have so written.

D.2B.

LETTER from the Defendant to the Plaintiff.

Exhibits.

D.2B.

TRANSLATION.

A. T. K. P. L. M.
Colombo.A. T. K. P. L. M.
Sirukoodalpatti.

29.10.32.

D.2B.
Letter
from the
Defendant
to the
Plaintiff,
29th
October
1932.

13th Ayppasi in the year Ankirasa.

10 Letchumanan writes : Received letter of the 30th ultimo. It is
written to send monthly day book entries and balance sheet. Herewith
sent day book entries and balance sheet. If we have amounts to be
recovered here, we will be sending day book entries and balance sheet.
We have nothing of that kind here. Now we are only entering the legal
expenses, etc. I will send that also every month. Herewith list is written
and sent of the amounts of which recoveries are remote and which are
recoverable. We have no business whatever here except in regard to the
particulars herein contained. I have written several times of my intention
to go to native place. But you have not the pleasure to write to me to
come. What use is there of my being here. For what reason I am
20 delayed and kept here. I can come there whenever you are pleased to
write to come. What amount is due from Sovanna Mana should be
known from him. As regards my account, I shall adhere to your request
after my arrival to the native place. Other matters later.

Yours, etc.,

VENKADASALAPATHI THUNAI.

Translated by

(Sgd.) J. N. VELUPILLAI.
Sworn Translator, D.C. Colombo.
3rd February 1945.

30

(Same as D.6).

Exhibits.

D.2D.

LETTER from the Defendant to the Plaintiff.

D.2D.
Letter
from the
Defendant
to the
Plaintiff,
22nd
November
1932.

D.2D.

TRANSLATION.

A. T. K. P. L. M.
Colombo.

A. T. K. P. L. M.
Sirukoodalpatti.

22.11.32.

7th Karthigal in the year Ankirasa.

Letchumanan writes :—Received letter of the 4th instant from there. It is written that why I should experience delay instead of returning there 10 after having called Sovanna Mana and leaving in his charge. The delay is not for anything but because you have not written to come. Sovanna Mana is not the person who will come if I write to him to come. If you consider that I shall return after the above-named had come, you must send the above-named. I am not subjected to any delay whatever to go to native place I am awaiting your writing only. It is agreed to pay to K. R. K. N. A. R. within a period of one year. In the case of K. S. P. S. they have called upon to give security on the 10th instant. I will see on that date and write the result. The sum of Rs.400/- payable by us to the National Bank for November has been paid. Recoveries also amount to 20 more or less. It is not likely to achieve anything for immediate demand owing to no better position of the country. You will know everything if you will look into the customers' list sent by me previously. I have no objection whatever to give evidence if I am summoned as witness in K. R. M. T. T. A. L.'s case. I do not say I cannot. He has come there and made uncalled for statements. If he sometimes loses his case, he cannot proceed against us. It is evidence. Other matters later.

Yours, etc.,

VENKADASALAPATHI THUNAI.

Translated by
(Sgd.) J. N. VELUPILLAI.
Sworn Translator, D.C. Colombo.

30

3rd February 1945.

D.2A.

LETTER from the Defendant to the Plaintiff.

Exhibits.

D.2.A.

Letter
from the
Defendant
to the
Plaintiff,
7th
December
1932.

D.2A.

TRANSLATION.

A. T. K. P. L. M.
Colombo.A. T. K. P. L. M.
Sirukoodapatti.

7.12.32.

22nd Karthigai in the year Ankirasa.

10 Letchumanan writes: You will receive this letter and the letter of the 7th instant. In accordance with the letter dated 18th Ayppasi from there to write off the irrecoverable debts against expenses, the same has been entered against expenses and am sending herewith balance sheet and day book entries. We had written that K. S. P. S. case was fixed for the 10th. Thereafter it was fixed for the 17th, and then the 20th, and 22nd. It was not inquired into on that date. Now it is fixed for 7th Markali. I think it is possible that the case will be inquired into on the aforesaid date. Other matters later.

Yours etc.,

SRI VANKADASALAPATHI THUNAI.

20 Translated by
(Sgd.) J. N. VELUPPILLAI,
Sworn Translator, D.C. Colombo.

3rd February 1945.

Exhibits.

D.2E.

LETTER from the Defendant to the Plaintiff.

D.2.E.
Letter
from the
Defendant
to the
Plaintiff,
14th
December
1932.

D.2E.

TRANSLATION.

A. T. K. P. L. M.
Colombo.

A. T. K. P. L. M.
Sirukoodalpatti.

Press Copy Book page 138.

14.12.32.

29th day of Karthigai in Ankirasa Year.

Letchumanan writes :—You will come to know the news of this place 10 on receipt of this letter, the letters of the 7th and 22nd, copy of Day Book, and Balance sheet. Write news of that place.

K. S. P. S. says that if Rs.2000/- or Rs.3000/- are paid, they could grant time for payment of the balance. In any event the case will be decided on the 7th of December, i.e. the date fixed for hearing. They will not proceed further if the amount is paid as said above. There are no means for it. We have contended to pay by monthly instalments. The court will order to give security. If we say that we are not in a position to give security, then judgment will be entered for the full amount. I will inform the result of the case after the decision on the 7th. 20

The Chartered Bank have called upon to pay any amount, in respect of the "On Demand" for Rs.5000/- given to them, otherwise they say that they will have to file action. Their action wherein they claimed Rs.50000/- also is pending. We are not in a position to recover the money due to us from customers owing to the unhealthy state of the country. It will take some time for it. Even the recoveries are not sufficient for the expenses. We are paying punctually on the due dates the sum of Rs.400/- to the National Bank. Other matters later.

With blessings.

VENKADASALAPATHI THUNAI. 30

Translated by
(Sgd.) J. N. VELUPILLAI,
Sworn Translator, D.C. Colombo.

27.11.45.

D.2F.

LETTER from the Defendant to the Plaintiff.

Exhibits.

D.2F.

D.2F.

TRANSLATION.

A. T. K. P. L. M.
Colombo.A. T. K. P. L. M.
Sirukoodalpatti.

Press Copy Book page 139.

Letter
from the
Defendant
to the
Plaintiff,
21st
December
1932,

21.12.32.

7th day of Markali in Ankirasa Year.

10 Letchumanan writes :—You will come to know the news of this place on receipt of this letter, the letters of the 7th, 22nd and 29th Karthigal, copy of Day Book and Balance Sheet.

Write news of that place.

Judgment has been entered to-day in this action filed by K. S. P. S. ordering to pay the sum of Rs.2000/- on 21st January 1933, and Rs.500/- and interest monthly from 1st February for a period of 12 months and thereafter on the thirteenth month the remaining full balance and also of consent that the property in India should be given as security for payment of their claim. It is not possible to pay the money in this manner, from the amounts recovered at present. It is better if arrangement is made for money to pay the claim. It is left to your wishes. If any one instalment is not paid, steps could be taken for recovery of the full amount. Please note. I am not having and work to attend here. Sinniah alone can attend and recover the few outstandings. Other matters later.

With blessings.

VENKADASALAPATHI THUNAI.

Translated by
(Sgd.) J. N. VELUPPILLAI,
Sworn Translator, D.C. Colombo.

30 27.11.45.

Exhibits.

D.2G.
Letter
from the
Defendant
to the
Plaintiff,
26th
December
1932.

D.2G.

LETTER from the Defendant to the Plaintiff.

D.2G.

TRANSLATION.

A. T. K. P. L. M.
Colombo

A. T. K. P. L. M.
Sirukoodalpatti.

Press copy book page 139.

26.12.32.

12th day of Markali in Ankirasa Year.

Letchumanan writes :—You will come to know on receipt of this 10 letter, the letters of the 7th, 22nd and 29th Ultimo and the letter of the 7th instant, copy of Day Book and Balance Sheet. Write news of that place.

I have not received any reply up to date for my request to go to my native place. The amounts which are due to us from customers here are such that cannot be recovered to pay off creditors. Further owing to the unhealthy state of the country the recovery will get delayed. The moneys collected are not sufficient to meet the expenses. What purposes is there of my being here with Sinniah ?

I am not to be delayed because of recovering the aforesaid outstandings. 20 Sinniah's presence alone will be sufficient. There must be some benefit of my delay here. Why should then delay be unnecessarily caused ? I am also suffering from Asthma for the last one week which gives physical pain. I therefore ask you to order me to come. I am awaiting reply. There is no money in hand to pay the January instalment to the National Bank and no possibility also to recover and pay.

With blessings,

VENKADASALAPATHI THUNAI.

Translated by
(Sgd.) J. N. VELUPILLAI,
Sworn Translator, D.C. Colombo.

30

27.11.45.

D.2H.

LETTER from the Defendant to the Plaintiff.

Exhibits.

D.2H.

Letter
from the
Defendant
to the
Plaintiff,
29th
December
1932.

D.2.H.

TRANSLATION.

A. T. K. P. L. M.
ColomboA. T. K. P. L. M.
Sirukoodalpatti.

Press copy book page 140.

29.12.32.

15th day of Markali in Ankirasa Year.

- 10 Letchumanan writes :—This letter, letters of the 7th, 22nd, 29th ultimo, and 7th and 12th instant, will convey the news of this place.

No reply is received up to date to any one of the aforesaid letters.

What Sinniah and myself to do here without having any work to attend ?

I am also like before suffering too much from cough and Asthma for the last one week. I suffer too much without sleep in the nights. I am taking medicine from Doctors. I have no objection to be here if there is any urgent work. I write to you frequently because of my ill-health. I am therefore asking you to order me to come.

- 20 Just enough moneys even are not collected to meet the expenses. There is no money in hand to pay the January instalment to the National Bank, and no possibility also to recover and pay. I have not been favoured with any reply to my letter regarding K. S. P. S. As the telegraphic address has been removed, telegrams in future must be sent giving full address. Others later.

With blessings,

VENKADASALAPATHI THUMAI.

Translated by
(Sgd.) J. N. VELUPILLAI,

- 30 Sworn Translator D.C. Colombo.

27.11.45.

Exhibits.

D.2I.

LETTER from the Defendant to the Plaintiff.

D.2I.
Letter
from the
Defendant
to the
Plaintiff,
3rd
January
1933.

D.2.I.

TRANSLATION.

Colombo
A. T. K. P. L. M.

Sirukoodalpatti
A. T. K. P. L. M.

3.1.1933.

20th Markali in the year Ankirasa.

Letchumanan Writes :—This letter will convey the news of this place. Regarding the news there, received both letters dated 15th and 10 17th instant. Sovanna Mana has written from Kandavarayanpatti that he will be starting within a week. After his arrival I will start and come there. As I am suffering too much from Asthma, and perhaps if delay occurs for the abovenamed to come, I shall start within a week and reach there. I will inform before leaving. In the letter of the 17th instant from there, it is written to write and send day book entries for the period from March 1932 to this date. The day book and ledgers for the period up to August 1932 have been forwarded to Rangoon. Only the day of the month of September 1932 is left here. Copies of the above have already been forwarded. If you require one for this, we will write another 20 and send. Therefore write to Rangoon and call for the Day Book. Other matters later.

Yours etc.,

VENKADASALAPATHI THUNAI.

Translated by
(Sgd.) J. N. VELUPILLAI,
Sworn Translator, D.C. Colombo.

3rd February 1945.

D.2K.

Exhibits.

LETTER from the Defendant to the Plaintiff.

D.2 K.

D.2K.

TRANSLATION.

Letter
from the
Defendant
to the
Plaintiff,
22nd
January
1933.

Colombo.

Sirukoodalpatti.

A. T. K. P. L. M.

A. T. K. P. L. M.

22.1.1933.

10th Thai in the Year Ankirasa.

10 Letchumanan writes :—This letter and the letter of the 20th Ultimo will convey the news of this place. Write about the news there. I was all along to start after the arrival of Sovanna Mana. The above named has not come till this date. Day by day my suffering of Asthma increases. I am taking medicine. I am unable to start when I am in such state of health. Therefore I will wait for another 4 or six days and when I feel little better I will start and come there. Other matters later.

Yours etc.

VENKADASALAPATHI THUNAI.

Translated by

(Sgd.) J. N. VELUPILLAI,

20 Sworn translator, D.C. Colombo,

3rd February 1945.

P.23.

TELEGRAM from the Defendant to the Plaintiff.

P.23.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

(Franked) :—

Tirupattur-Ramnad.

28 Jan. 33.

P.23.
Telegram
from the
Defendant
to the
Plaintiff,
28th
January
1933.. . . .
. . . .30 11/1.
Handed at (Office of Origin).

	Date	Hour	Minute
Colombo	27	19	30
Service instructions.			Words
.....			19
Received here at 9H. 50M.			

To A. T. K. P. L. N. Muthiahchettiar,
Sirukudappatty,
express Tirupattur.
—Starting tomorrow
Letchumanan.

40

(In Tamil.)

Exhibits.

D.2L.

LETTER from Chinniahpillai to the Plaintiff.

D.2L.
Letter
from
Chinniah-
pillai
to the
Plaintiff,
13th
February
1933.

D.2L.

TRANSLATION.

Colombo.

Sirukodalpatti.

A. T. K. P. L. M.

A. T. K. P. L. M.

13.2.33.

2nd Masi in the Year Ankirasa.

Sinniah writes :—This letter and Leyna's telegram informing that he is leaving for native place will convey the news of this place. Write for 10
the news there. Leyna has left to go there. Decree has been entered in
K. S. P. S.'s case, and as having made default in the payment, issued writ,
seized premises Nos. 89/91 Sea Street and No. 232 New Moor Street and
they have registered the seizure desisting us from taking further steps.
I will write what further steps are taken. The National Bankers also
knew of the seizure of K. S. P. S. and they also have taken out writ. They
have not done anything yet. There are no moneys recovered to pay the
monthly instalment of the said Bank. It is impossible to pay the sum
of Rs.500/- due and payable on the 15th instant. I will write what further
steps they are taking. The Chartered Bank demanded payment for the 20
3,000/- Rupees. On Demand made and delivered to the Shroff of the
said Bank. I have said that it would take about a month's time to pay.
They said that they are filing action. Action has not been filed yet.
Perhaps if action is filed, I will inform. I went twice to Negombo and
demanded from S. A. R. S. T. of Negombo the sum of Rs.150/- payable
this month, but they have said that they would pay at the end of this
month. I went to Panadura on two or three occasions and demanded
payment from K. Walter Pieris against whom decree is entered for
Rs.8,700/- odd. He says that all his properties are under mortgage, that
he has filed action for amounts due to him and are pending without decree 30
being entered, that money is due from a certain person on the sale of a
property, that he will pay and settle our claim within a month and not to
take further steps and also he says to do whatever we decide. All his
properties have been mortgaged. If we take out writ and seize the said
properties the mortgagees also will not be able to realize their amount.
If warrant is taken out, it will not alter his position. Therefore I shall
try and recover whatever possible, and thereafter will take further steps
if necessary. Owing to the present state of the country the other sundry
amounts due are not forthcoming. It is necessary to file action in Court
and recover. The moneys recovered will not suffice even for legal and other 40
expenses. Sovanna Mana has this day left for Pussellawa. Other matters
later. Write for the news there.

Yours etc.

SRI VENKADASALAPATHI THUNAI.

Translated by

(Sgd.) J. N. VELUPILLAI,

Sworn Translator, D.C. Colombo.

3rd February 1945.

D.7.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar.

D.7.

TRANSLATION.

Colombo,
A. T. K. P. L. M.

Pussellawa
A. R. L.

14.2.33.

Exhibits.

D.7.

Letter from Chinniahpillai to the firm of A. R. L. Pussellawa which belongs to Alagappa Chettiar, 14th February 1933.

10 Sinniah writes :—now this letter will convey the news of this place. Write for the news there.

They have sent two affidavits and two copies of deed from Galle in connection with the case of Samaranayake.

The aforesaid two affidavits and two copies of deed are sent herewith. You will have to sign the two affidavits before a J.P. either at Gampola or at Kandy and also get the J.P. to sign thereof as well as in the two copies of deeds and send same directly to Galle.

The letter written from Galle is sent herewith.

Other matters later.

Yours etc.

20 Translated by
(Sgd.) N. VELUPPILLAI,
Sworn Translator, D.C. Colombo.

3rd February 1943.

D.9.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa.

D.9.

TRANSLATION.

Colombo.
A. T. K. P. L. M.

Pussellawa.
A. R. L.

30

20.2.33.

9th Masi in the year Ankirasa.

Sinniah writes :—This letter and the letter written to-day before this will convey the news of this place. Write for the news there.

The letter written by the proprietor from the native place is sent herewith. Other matters later.

Write for the news there.

Yours etc.

40 Translated by
(Sgd.) N. VELUPPILLAI,
Sworn Translator, D.C. Colombo.

3rd February 1945.

Exhibits.

D.10.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa.

D.10.
Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa, 20th
February
1933.

D.10.

TRANSLATION.

Colombo.

Pussellawa.

A. T. K. P. L. M.

A. R. L.

20.2.33.

9th Masi in the year Ankirasa.

Sinniah writes :—This letter will convey the news of this place. For the news there, received letter dated 15.2.33 together with the sum 10 of Rs.100/- Rupees one hundred forwarded through Meyna Muna Leyna Chettiar of Galle.

Further the cheque from Kurunegala for Rs.50/- has been cashed and paid off for Proctor's fees and for miscellaneous debts.

The sum of rupees one hundred from P. R. S. P. Athappa Chettiar has not been repaid yet. I will pay it when the money is collected.

The money has not yet been received from V. Ariyakuddy. I will try to get before 5th proximo and will inform you. In the letter written by K. R. K. N. A. R. Chettiar to his firm he has mentioned that the rent is high and that only rupees twenty can be paid and to write to you for a 20 reduction of the rent which Muttu Raman has requested me to write and know from you. I shall act in terms of the letter from there.

K. S. P. S. issued writ and seized the two properties at Sea Street and New Moor Street and had the seizure registered. The above-named have published in the Government Gazette of the 17th instant fixing the sale at 10 a.m. on the 18th March. The National Bank also have seized the above two properties under their writ. I will write what takes place at the sale held at the instance of K. S. P. S.

I have got 54 pillow cases, 12 skirts, and two gowns in all 64 stitched from Rawugee. The power of Attorney forwarded there for registration 30 has not been received yet. On receipt, will be sent.

The other matters later. Write for news there.

Yours etc.

Translated by
(Sgd.) N. VELUPPILLAI,
Sworn Translator, D.C. Colombo.

19th February 1945.

D.11.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa.

Exhibits.

D.11.

Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa, 28th
February
1933.

D.11

TRANSLATION.

Colombo.

A. T. K. P. L. M.

Pussellawa.

A. R. L.

28.2.33.

Sinniah writes : This letter will convey the news of this place. For the news there received letter dated 26.2.33.

10 I will pay to P. R. S. P. Athappa Chettiar also when money is collected.

Mr. Nadaraja said that he would be leaving by 8 a.m. train tomorrow there. I will send through him the power of Attorney there.

I have told K. R. K. N. A. R. that they should pay the rent of Rs.25/-, if they are not agreeable to do what they please. Muttu Ramn also said that he will write to the Proprietor at the native place and will pay if he sanctions.

20 I had written to the Proprietor at the native place that K. S. P. S. have fixed the sale for the 18th March, that the Bankers have also seized the two properties under their writs and that owing to there being no monies collected that the monthly instalments of Rs.500/- have not been paid to them and what takes place at the date of sale. No reply for that till date hereof. The sale notice of the above K. S. P. S. is annexed herewith. I will inform you when I receive money from Mr. Ariyakuddy.

A copy of Power of Attorney has been typed and sent to Leyna to be executed in the native place in respect of the Galle firm.

30 I too went to Negombo and demanded money from S. A. R. S. T. but he said that he had not so far collected money and that he would remit on the 4th of March. K. S. P. S. has said not to pay the sum of Rs.150/- which they are paying and that they have given us a list embodying the statement of claim payable to you and that we have sued for recovery of the claim due to us from them and fixed the sale of the properties and after the sale of the properties situated here they will proceed to the native place and sell the properties situated there.

40 *For that* S. A. R. S. T. told me when I went to Negombo that he has informed that the claim payable by us to A. T. K. P. L. M. has not been incurred here but it relates to a transaction arose at the native place and that also we have paid in full and that the interest only remains to be paid which also he would pay to A. T. K. P. L. M. also he has told that in regard to the sum of Rs.150/- which they are paying monthly,

Exhibits.

D.11.
Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa, 28th
February
1933,
continued.

even if delay occurs for four or six days that he will pay to us and get back the On demand I will get it accordingly. Other matters later. Write for news there.

Yours etc.

Translated by
(Sgd.) N. VELUPPILLAI.
Sworn Translator, D. C. Colombo.
19th February, 1945.

D.2C.
Letter
from M.
Chinniah-
pillai
to the
Plaintiff,
8th March
1933.

D.2C.

LETTER from M. Chinniahpillai to the Plaintiff.

10

D.2C

TRANSLATION.

Colombo.
A. T. K. P. L. M.

Sirukoodalpattai.
A. T. K. P. L. M.

8.3.33.

25th Masi in the year Ankirasa.

Sinniah writes : This letter and the letter of the 9th instant will convey the news of this place. In regard to the news there, received letter of the 4th instant together with the letter forwarded to Sovanna Mana. The above letter has already been sent to Sovanna Mana at Pussellawa. S. A. R. S. T. of Negombo from whom Rs.150/- is due for the current month, has paid. Received and have credited same. Mappillai Moona Leyna of Keshaseevalupatty arrived here safely yesterday along with S. S. R. M. of Makipalanpatti. As K. S. P. S. has fixed the sale of both the properties at Sea Street and New Moor Street for the 18th instant, the said sale could be stayed if any portion of the sum is paid. Without making payment, it cannot be stayed. Anyone could purchase at the Auction sale. The National Bank also has seized the above properties. Therefore the aforesaid two will get proportionate share. We cannot oppose. The day Book entries for the period from 28th January 1933 to 29th February, and Balance Sheet are sent herewith. The sundry dues too have not been recovered. We can recover if we file action in Court. The state of the country is such that day by day prices are going down, no exports, depreciation in business and generally all are left with no means of recovery. Other matters later. Write about the news there.

Yours etc.

SRI VENKADASALAPATHI THUNAI.

Translated by
(Sgd.) J. N. VELUPPILLAI.
Sworn Translator,
D. C. Colombo.

40

3rd February 1945.

D.12.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa.

Exhibits.

D.12.

D.12.

TRANSLATION.

Colombo.

A. T. K. P. L. M.

Pussellawa.

A. R. L.

9.3.33.

Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa, 9th
March
1933.

Sinniah writes :—This letter will convey the news of this place. For the news there, received letter dated 4.3.33.

- 10 According to the above letter, all the required information is furnished to Mr. Nadarajah. I will give whatever asked for expenses also. I will also send medicine when the above-named leaves for there.

The proprietor's son-in-law Moona Leyna of Keelaseevalpatti arrived here two days ago in company of Seena Savanna Ramasamy Chettiar of Mahipalanpatti and M. T. T. K. L. Kasi Chettiar and are staying at M. T. K. L.'s house. I also went and saw Mr. Leyna and said that it would be appreciable to have his meals and such others at our place. He said "alright." He did not inquire anything concerning the shop.

- 20 With regard to the auction sale put up by K. S. P. S., the National Bankers say that they are opposing it but nothing so far happened.

- 30 N. R. M. S. S. P. came yesterday and asked whether it was necessary to sign and deliver to the National Bankers. I asked whether it will be in order to sign when seized under writ and sale fixed in addition to the seizure effected by the National Bankers. For that Seena Pana exchanged views with the National Bankers and consulted Advocate who expressed his opinion that it could be signed but could be disputed. Thereupon they asked to sign. I have told that I will be able to tell them after writing to you and obtaining reply from you. N. R. M. N. S. P. has said that even if the signature was put in and the creditors know that they will get only the *pro rata* share that all the creditors should jointly bid and purchase and that one should not be allowed to bid and purchase and that he will consult with the National Bankers for everything and let us know.

Accordingly I will find out and write to you what he proposes to do.

Other matters later.

Yours, etc.

Translated by
(Sgd.) N. VELUPILLAI.
S.T.D.C. Colombo.

40 3.2.45.

Exhibits.

D.13.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa.

D.13.
Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa,
13th March
1933.

D.13.

TRANSLATION.

Colombo.

Pussellawa.

A. T. K. P. L. M.

A.R.L.

13.3.33.

Sinniah writes :—This letter will convey the news of this place.
Write for news there.

Mr. Nadarajah came there two days ago. He is given medicine and 10
also he is paid cash Rs.15/- which is entered in Suspense account.

The house rent for the month of February has been paid.

Soona Pana told me that when N. R. M. N. S. P. asked the National
Bankers, their Proctor Mr. Saram said that he was willing to speak to
them to stay the sale if we sign the security and that in one or two previous
cases which went up to the Privy Council it is favourably decided and
that we should sign and give them, that we should pay the stamps and
deeds expenses and Proctor's fees. Also that a third person told him
that K. S. P. S. would nominate a person to bid and purchase at the
reduced price of Rs.1000/- or Rs.2000/- and that it should not be allowed 20
to be so purchased.

Then I told that if K. S. P. S. wanted to buy at a lower price and as
the property is a valuable one the Bankers could bid to the extent of their
claim and that it is not justifiable to allow them to buy at a lower price
and that you also can tell the National Bankers but Soona Pana gave no
reply to it.

It is better that you come two days earlier before the sale.

The proprietor's son-in-law Mr. Leyna did not ask me anything
concerning the shop. Other matters later. Write for news there.

Yours, etc.

30

Translated by
(Sgd.) N. VELUPPILLAI.
Sworn Translator, D.C. Colombo.

20th Feb. 1945.

D.2M.

Exhibits.

LETTER from Chinniahpillai to the Plaintiff.

D.2M

D.2M.

TRANSLATION.

Colombo

Sirukoodalpatti

A. T. K. P. L. M.

A. T. K. P. L. M.

20.3.33.

Letter
from
Chinniah-
pillai
to the
Plaintiff,
20th March
1933.

7th Panguni in the year Ankirasa.

Sinniah writes :—This letter and the letter of the 9th and 25th ultimo
 10 will convey the news of this place. Write about the news there. At the
 sale on the 18th instant, K. S. P. S. party thought of deputing some others
 to bid and purchase the two properties for lower sums not exceeding 1,000/-
 and 2,000/-. I approached the National Bankers in order to make them
 bid and at the sale so as not to allow for a lower bid and Mr. Sabhanayagam,
 Shroff of the National Bank purchased the Sea Street property for
 Rs.3,500/- and the New Moor Street property for Rs.2,700/- which sums
 aggregate to Rs.6,200/-. When the above-named made his bid,
 K. S. P. S. did not make the offer. The sale for Rs.2,700/- of the New Moor
 Street property is above the present value. The Sea Street property, the
 20 title of which is not good and subject to life-interest. We are entitled to
 get half share of rent in the above property. Cannot sell the property.
 If partition action is filed, those who have interest will oppose. Expenses
 will run high. It will take three years to finish the case. But having
 considered that the expenses will accrue more than the value of half share
 of property. I was satisfied. No one did bid at the sale as the defect in
 title to the property was known as the claim was due to the National Bank,
 they bade and purchased for this price. As no information was received
 from there, and even if you think that both the properties were sold at a
 lower price, the purchasers are ready on receipt of cash Rs.6,200/- to deliver
 30 the properties. If money is deposited within a month of 30 days, the
 same shall be assigned. After that period, conveyance will be executed
 in favour of the purchaser by Court. Sovanna Mana also came from
 Pussellawa, was present at the sale and went back. Write particularly to
 the above matters. As the state of the country day by day is becoming dull
 the amounts due on sundry accounts have *not been* recovered. Valuable
 town properties cannot at the present position of the country be sold even
 for half of its worth. To what extent there was demand for properties
 when the country was in a flourishing state to such level it came down now
 without anyone wanting to buy owing to financial embarrassment. Other
 40 matters later. Write for news there.

Yours etc.,

VENKADASALAPATHI THUNAI.

Translated by

(Sgd.) J. N. VELUPILLAI,

Sworn Translator, D.C. Colombo.

3rd February 1945.

Exhibits.

D.14.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa.

D.14.
Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa,
8th April
1933.

D.14

TRANSLATION.

Colombo

A. T. K. P. L. M.

Pussellawa.

A. R. L.

8.4.33.

Sinniah writes :—You will receive this letter from here. For the news there, received the card dated 1.4.33 and the letter dated 5.4.33.

In terms of the letter from there took both the deposits and sent to 10 Mankudi.

Before the receipt of the letter K. R. K. N. A. R. left for the native place. When I asked for rent affair as he was leaving he said that he has spoken to W. P. L. S. Arunachalam. The said person has said that he will speak to Sovanna Mana and settle. He has left for the native place having told Muttu Raman of our shop to pay the rent as stipulated by him.

When I asked N. P. L. S. N. R. that K. R. K. N. A. R. had told you regarding the debt affair and gone away and asked him to let me know what it was he said persistently that he was not agreeable to pay Rs.25/- as rent. Then I said it is not proper, that the house is occupied for a long time, 20 that the place was occupied by our own kith and kin and that our insistence is not proper and that I will arrive at a settlement with Sovanna Mana either by letter or by personal contact and as you also persist it should be paid at the rate of Rs.25/- monthly including light, and if Sovanna Mana is not agreeable I will induce him to agree, and asked to leave word with Muthuraman before he leaves. Accordingly when A. R. was leaving for native place he was asked to do so as requested by N. P. L. S. A. R. N. P. L. S. A. R. told me this and also asked me to write to Sovanna Mana that I have made settlement in this manner, that Sovanna Mana will agree and on receipt of his reply that he will cause rent to be paid, which 30 A. R. wanted me to write to you.

The proportionate share of K. R. K. N. A. R. for the light will not exceed Rs.2/40 a month. When I said to A. R. about the amount payable for the light he required me to write that one or two rupees will not produce any benefit and that they were inhabiting there for a long time. As A. R. says that Sovanna Mana will agree, I will carry out instructions from there.

Mr. Ariacutty has only paid Rs.10/-. Thereafter nothing is paid. They had written from Galle to have printed and sent early, Ledger containing two quires and Day Book containing two quires. Robert Press is being given the order to print at the rate of Rs.4/25 per quire. On 40 completion, I will take it and send to Galle. Other matters later. Write for news there.

Yours etc.

Translated by
(Sgd.) N. VELUPPILLAI,
Sworn Translator, D.C. Colombo.

25th February 1945.

P.24.

LETTER from Chinniahpillai to the Plaintiff.

P.24.

TRANSLATION.

Vide D.2 Press copy Book.

A. T. K. P. L. N. Sirikudalpatty.

A. T. K. P. L. N. Colombo.

9.6.33

(27th Vykani Sthrimuruga Varusha.)

Exhibits.

P.24.

Letter
from
Chinniah-
pillai
to the
Plaintiff,
9th June
1933.

10 This is what Sinniah writes.

This letter will contain the news hence. As for news thence yours of the 22nd is received. I have despatched to Rangoon the Day Books and Ledgers up till August, 1932, earlier. Enclosed herein is the Home-shop account from 1st September 1932 to 7th April 1933. Hence as regards the earlier accounts write to Rangoon and get them down.

Here too, account books are necessary to be produced for cases here. We are obtaining postponements of such cases. The trial of the case against Mr. B. Thambiah of the Autocarriers is fixed for the 10th July, and hence for that case accounts have to be produced. If not the Proctor
20 informs me that the Judge might dismiss the action. He too is filing different sorts of answer. It is after taking all these into consideration I wrote to Lena to get the account books and sent them here. You too wrote stating that you will send them. Yet, you have not done so. Therefore do not delay any further but cause the account books to be sent here, on receipt of this. As soon as the case is over and if you need them I will send them back.

Sovana Mana came here and waited here for about a week. He said that on the matter of mortgaging the properties there that he had sent emissaries to discuss the matter with those who were discussed earlier
30 and that they had replied that at moment it is not possible that they could not recover the moneys they had lent out and that if he could wait for yet one or two months he would be granted his request for Rs.50,000/- and that my Mudalali (yourself) had written, 2, 3 letter and that it is not fair to just reply without making arrangements about the money and therefore he did not reply and that even if there be a month or two delay he would go to India only after making arrangements about the money. I myself can vouch for his endeavours. And, they who promised are just postponing owing to the times. He is yet persisting in his endeavours to somehow conclude the matter. He further told me that a certain person
40 had asked him to come at the end of this English month and promising to do so he left for Pussellawa today.

I told Sovanna Mana as far so I could that he should settle theMudalali who helped him when in distress because that Mudalali too is now in

Exhibits.
P.24.
Letter
from
Chinniah-
pillai
to the
Plaintiff,
9th June
1933,
continued.

distress. The price of rubber was 10 cents and now for about a month it has come up to 16 cents. Which is better position. I understand that the price will yet go up. And, if it so happens both the country and trade will flourish.

Rest later, Write.

By the help of Vengadasamy.

Translated by
Sgd. (?)
S.T.D.C. Colombo.

23.11.46.

10

D.15.
Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa,
15th June
1933.

D.15.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa.

D.15

TRANSLATION

Pussellawa,
A. R. L.

15.6.33.

Colombo

A. T. K. P. L. M.

2nd Ani in the year Srimuka.

20

Sinniah write :—This letter will convey the news of this place. For the news there, received letter of the 11.6.33. As written from there, Madras Notes, umbrella and goods were purchased and sent through Suppiah. As Suppiah came on Sunday evening, and as the shop here were not opened, I have purchased the goods on the following day, and sent.

You had written that the handle of the umbrella purchased by you and taken there is not good, and wanted to buy one of Lion Mark with the handle made of horn. The handles made of horn are not available. As there were coloured handles, and if such are required, I have told Suppiah that it would be sent when Mr. Nadaraja comes there.

30

Money has not been realised yet for the jewellery. The sum of Rs.350/- realised at the sale of the pendant will be received after four or five days. The bangle which was delivered on offer being made, was returned as it was not wanted. That was given over to Pattanam Achari, the stones were removed and asked to make Thodu etc. Mr. Nadaraja said that on getting it made, he will sell and pay Rs.500/- for the bangle and Rs. 350/- for the pendant aggregating to Rs.850/- within four or

five days, and the brilliants which were removed from the bangle weigh four carats and twenty-two cent. On receipt of the money, I will send the balance to Galle after payment to Suppiah.

One of the 6 bottles of Ghee sent from there, two bottles were given over to Suppiah. As none required the remaining four bottles one bottle only was sold for Rs.2/- and the remaining 3 bottles are in my possession. If anyone required, I will give.

10 The On demand for Rs.3,000/- which was given to F. J. Alles Shroff of the Chartered Bank was put in suit and summons is served yesterday on N. R. N. N. Suppiah Chettiar as he has signed on the said note. I am not served with the summons. The said Suppiah Chettiar brought the said summons and having shown it said " he has filed action, I have told you to the extent I can, that if 400/- or 500/- were paid he would have deferred action for some days, and what I can do for the action already filed now and I should file answer ".

20 I said humbly " We do not deny liability, and shall pay in any event We have not recovered from those due to us. You will exercise patience till repayment. We will pay when moneys are collected ". Then he said emphatically he will not listen to anything after having filed the action, that unless 1,000/- or 500/- is paid there is no use in any one approaching for time, and to write to your proprietor and to you for instructions and to inform him two or three days earlier and " we should file answer, and if the answer is not filed judgment will be entered." I consented to do so.

I have written this day to the Proprietor also about this. I will inform Soona Mana as written from there also.

30 In connection with the Galle Gymkhana Club Ticket applied for by Mr. Nadaraja, the Supreme Court Mudaliyar retained Proctor and discussed at great length at the meeting but the application was refused, as there are innumerable members in Colombo and it is not proper to issue afresh ; which information you have written from Galle to convey to Mr. Nadaraja. Accordingly I have told Mr. Nadaraja.

Other matters later.

Yours etc.

SRI VENKADASALAPATHI THUNAI.

Translated by
(Sgd.) N. VELUPPILLAI
Sworn Translator, D.C. Colombo.

25th February 1945.

Exhibits.

D.15.

Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa,
15th June
1933,
continued.

Exhibits.

D.16.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa.

D.16.
Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa,
19th June
1933.

D.16.

TRANSLATION.

Pussellawa.

A. R. L.

19.6.33.

Colombo.

A. T. K. P. L. N.

Sinniah writes :—On receipt of this letter you will be aware of the 10 news here. Received letter dated 16.6.33 from there.

Walter Pieris of Panadura called over two days ago. When I informed him of the above matter and asked him to give either Rs.1,000/- or Rs.500/- he said emphatically that he has no money in hand, that the action is pending in regard to the properties seized by him and fixed for sale and that after the case is over that he will be able to sell the above properties and pay. When I told him that steps will be taken and writ issued, he says "you may do what it pleases you."

Suppiah Chettiar also is informed to await the reply from the Proprietor. The Proprietor has written in the letter received yesterday 20 that the account books are filed in the Pudukottai Court in connection with the case of A. L. A. of Jaffna, that the court is closed and is unable to withdraw the books, that the court will be reopened in the month of July and will obtain them and send it.

Mr. Nadaraja has said that he will within two days obtain and pay money for the jewellery. No one has made offer for the three bottles of ghee. I have in my possession. Here also people bring from the villages bottles of ghee and offer to give for 1/-, 1/25. No one is willing to buy as it gives the smell of coconut oil. Our bottle also, if unused, will become rot. May I melt it and send to Galle? I will carry out instructions from 30 there.

The interest bill from K. R. M. T. T. A. L. is sent herewith. When making payment for the interest bill, cross interest should be deducted. When money is remitted the interest bill also should be annexed and sent. I will pay the interest bill deducting cross interest and obtain the On Demand and send. A card and a letter are sent herewith. The letter addressed to K. R. K. N. L. had been handed to the abovenamed.

The Chartered Bankers also sued us and have served us with summons today. We should file answer within seven days. Otherwise judgment will be entered. I will carry out as written from there. No replies have 40 come from the proprietor.

Others later.

Yours etc.

Translated by
(Sgd.) N. VELUPPILLAI,
Sworn Translator, D.C. Colombo.

25th February 1945.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa.

D.17

TRANSLATION.

Pussellawa.

A. R. L.

1.7.33.

Colombo.

A. T. K. P. L. M.

D.17.
 Letter
 from
 Chinniah-
 pillai to
 the firm
 of A. R. L.
 Pussel-
 lawa,
 1st July
 1933.

10 Sinniah writes: This letter will reach you. Received letter dated 29.6.33 together with the letter addressed to Mr. Nadaraja.

As the date of the notice to you in regard to the income tax received from India expires today, I showed it to the Auditor yesterday who said that it is useless to write letter and that as the date has expired they would not take notice of the letter, that a telegram should be forwarded requesting to grant a month's time and it will not matter even if letter is written after the expiry of four or six days.

20 Accordingly, I obtained a telegram written from the Auditor and wired to the Income Tax Office at Karaidudi and also retains a copy of the telegram. I will get a letter also written by the Auditor and will send through Suppiah when he comes there.

Mr. Nadaraja has not paid money yet. He puts off day to day. The Pattanam Achary who was asked to make Thodu has not yet finished. The pendant's money also has not been recovered. Suppiah has been informed by letter and telegram to call over for his wedding.

30 He asked to allow him to go to his native place on Monday 3.7.33, as he should perform his marriage ceremony this month owing to delay might occur as the following is the month of July; and he wanted to go to Pussellawa and return. He is informed that he can go after receipt of reply. It appears that the recovery of the money due from Mr. Nadaraja will be delayed. I will do as written from there as to cause him to go over there or to call for money from Galle and provide him with it.

The letter has been handed to Mr. Nadaraja. He said that he would write letter there.

40 In the *Chartered Bank's* case, the date for answer due by N. R. M. N is the 28th instant. The above-named N. R. M. S. P. came and asked "is it possible to pay anything here and arrive at a settlement? and may I go to native place, meet your proprietor there, and effect settlement and come?" I said that you would be here by all means by the 12th or 13th. He said to let him know within two days for that he does not intend to go to the native place if he were to come and make any arrangements and in the event of there being no such possibility that he should go and return. It can be deferred a little if Rs.1,000/- or Rs.500/- are paid.

Exhibits. No reply up to this date has been received from the proprietor regarding the above matter. On receipt of this letter write particularly to all matters.

D.17.
Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa,
1st July
1933,
continued.

Others later.
Your etc.

Translated by
(Sgd.) N. VELUPPILLAI,
Sworn translator, D.C. Colombo.
25th February 1945.

D.2N.
Letter
from
Chinniah-
pillai
to the
Plaintiff,
15th July
1933.

D.2N.

10

LETTER from Chinniahpillai to the Plaintiff.

D.2N

TRANSLATION.

Colombo

A. T. K. P. L. M.

Sirukoodalpatti.

A. T. K. P. L. M.

15.7.33.

32nd Ani in the year Srikmuka.

Sinniah writes :—This letter and the letter of the 2nd instant will convey the news of this place. For the news there, received letter of the 31st ultimo. Judgment is entered in the case of Thambiah of the Ceylon Attocarriers. I will take out writ in that case and proceed with the necessary steps. I have written that Mr. F. J. Alles Shroff of the Chartered Bank has sued the On Demand for Rs.5,000/- and served summons previously on N. R. M. N. and that they have filed answer. In addition to that they have served summons on us today. If answer is not filed within a week from date of service of summons, judgment will be entered. If we file answer, we will be called upon to furnish security. Accordingly the Judge will make order to contest the action after furnishing security. If we disclose in the answer the amounts due to us, and the amounts due on the decree in the action filed by us, they will not accept. We will be asked to furnish security of immovable property. We have no properties. Therefore send telegram as to what steps should we take for filing answer. I shall act on receipt of reply from there. As the answer due date in N. R. M. N.'s case is at the end of July this year, I understand that the above-named along with Suppiah Chettiar have come there in connection with the above matter to arrive at a settlement and to return within four days. To think of paying little by little from what we get by way of collections, it appears that recovery of the amounts due from action filed in Court and the sundry amounts due, will be subjected to delay. I had written to Sovanna Mana regarding the above matter to Pussellawa. He had written that he would be coming here. He had not come till this date. Write for all matters particularly. Other matters later. Write about the news there.

Yours etc.

SRI VENKADASALAPATHI THUNAI.

Translated by
(Sgd.) J. N. VELUPPILLAI.
S.T., D.C. Colombo.

3.2.45.

D.18.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa.

Exhibits.

D.18.

D.18.

TRANSLATION.

Colombo.
A. T. K. P. L. M.Pussellawa.
A. R. L.Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa,
14th
August
1933.

14.8.33.

Sinniah writes: Received telegram at 2 o'clock today intimating that my son is seriously ill and to start today itself and come there.

10 I have this day wired to the Proprietor giving details of the above telegram and soliciting his reply enabling me to start tomorrow. Therefore wire so that I may start tomorrow, and return as early as possible. As I thought that this letter will perhaps reach you late, I am alone sending a telegram tomorrow. Grant permission.

Others later.

Yours etc.

Translated by
(Sgd.) N. VELUPPILLAI,
Sworn Translator, D.C. Colombo.

20 25th February 1945.

D.8.

LETTER from Chinniahpillai to the Firm of A. R. L. Pussellawa.

D.8.

D.8.

TRANSLATION.

Colombo.
A. T. K. P. L. M.Pussellawa.
A. R. L.Letter
from
Chinniah-
pillai to
the firm
of A. R. L.
Pussel-
lawa, 8th
December
1933.

8.12.33.

23rd Karthigai in the year Srimuka.

30 Sinniah writes: This letter will convey the news of this place. Received letter of 27.11.33.

The four bottles of ghee sent through Conductor's son have been received and forwarded to Galle. I received from the Income Tax office one day book and two ledgers—the total number of books 3, and have them here as the Conductor's son has not called over.

40 I received Rs.50/- from Messrs. Suppiah and Angusamy of the Hotel and remitted to Galle. The delay is due as the above two persons had been to the native place. Both of them have returned. I told them emphatically. They say that they would pay and settle before the end of the current month. Accordingly I will get it and send. Three months' arrears of house rent are due from them. They said that they would pay

Exhibits.
 - -
 D.8.
 Letter
 from
 Chinniah-
 pillai to
 the firm
 of A. R. L.
 Pussel-
 lawa, 8th
 December
 1933,
continued.

it before the 10th instant. I will also obtain it and pay for the house rent also. The proprietor had written from the native place that the case of A. L. A. which is pending at Pudukottai is fixed for the 5th instant, that the books are required on the aforesaid date and to forward the books to reach before the said date and at the conclusion of the case that it will be again forwarded here.

In the letter written from here, I have stated that the books are produced in Court, and as the date is for the 5th of February that the books can be withdrawn after the finality of the case and that if a date is obtained, the books could be sent for that date. On receipt of the above letter, the proprietor sent wire from native place stating that the books are urgently required on the date fixed for the 5th and that in the absence of the books the case will be dismissed and to send wire after withdrawal of the books and sending same. 10

On receipt of the above telegram, I went to Galle and looked into the Day Books and ledgers and found that the books relating to G. D. A. Samaranayake's accounts were the previous ones and that it contained no entries relating to the account of A. L. A. but the subsequent ledgers. I therefore having retained the Day Books and Ledgers which are necessary to be produced in Court on the 5th February, sent the Day Books and Ledgers relating to A. L. A. packed up under parcel post this 2nd day of the current month from Galle to Sirukoodalpatti, and forwarded telegram also to the proprietor. 20

I have written in the letter sent from here to return the books here after shewing them in Court on the 5th instant being the date fixed. There are in Galle the books Ledgers and Day Books which are specially required for Samaranayake's case. The books which are now sent to the Proprietor's home will not be useful.

The P. N. S. Iyer firm which was occupying our upstairs removed all the goods by the 30th November and handed the key saying that the Fort Office alone would be sufficient for them and the upstairs are not required. 30

When told them "if you suddenly close on the 30th without giving us notice, you are liable to pay rent for the month of December, and if you give us notice a month earlier we could have let out to someone without undergoing loss", they said that when they spoke personally to Leyna that they will quit at any moment when they do not want to continue tenancy, Leyna also agreed. They have also informed that they will speak to you personally on your arrival from Pussellawa. The rent for the upstairs from the current month will be a loss. "To Let" is put up, to rent out the upstairs. 40

Others later.

Yours etc.

SRI VENKASASALAPATHI THUNAI.

Translated by
 (Sgd.) N. VELUPPILLAI
 Sworn Translator, D.C. Colombo.
 27.2.45.

D.2P.

LETTER from Chinniahpillai to the Plaintiff.

Exhibits.

D.2P.

D.2P.

TRANSLATION

Singapore,
A. T. K. P. L. M.

27.5.35.

Letter
from
Chinniah-
pillai to
the
Plaintiff,
27th May
1935.Colombo,
A. T. K. P. L. M.

10 14th Vaikasi in the Year Yava.

Sinniah writes :—This letter and the letter of the 18th Sithirai will convey the news of this place. Write for news there. They have written to me with deep sorrow that my wife is seriously suffering from a boil in the abdomen and that she is unable to bear the pain caused by it, that I should be there to remove her to Madure hospital and to start immediately on receipt of this letter without expecting a telegram, and on failure thereof that they will wire. Therefore without replying to all the letters I received I wrote to you there. No reply has been received till this date. You will grant me permission to go without any further delay after leaving the accounts in charge of A. L. A. S. M. in terms of the letter of the 18th Sithirai from here relating to my salary Rs.750/- house rent and meals expenses Rs.400/- aggregating to Rs.1,150/- and to obtain from the abovenamed the aforesaid sum to defray the expenses also let A. L. A. S. M. be informed of this and ask him to see that I am sent off. If a statement of outstandings due on their account is furnished to them they will recover at their expense. We have no money in hand to spend. The monthly expenditure for a month in respect of salary, house rent and meals amount to over Rs.100/- when there is no business done.

It will not matter if any recovery comes in. Without recovery how to spend? There is no possibility to borrow on temporary loan from anybody here. How long can I continue to stay putting off payment of house rent and meals expenses. It is impossible to ask further time. Therefore grant permission immediately treating this letter as a telegram enabling me to give in charge of Sovanna Mana as aforesaid and to go to my native place and return. Order immediately. On receipt of reply from there, after sending a telegram there I will go and return. I am expecting reply from there for all. If delay occurs in receiving letter from there I will send telegram from here. Give orders.

Yours etc.

40

SRI VANKADASALAPATHI THUNAI,

Translated by
(Sgd.) J. N. VELUPILLAI,
Sworn Translator, D.C. Colombo.

3rd February 1945.

Exhibits.

D.2Q.

LETTER from Chinniahpillai to the Plaintiff.

D.2Q.

D.2Q

TRANSLATION.

Colombo.

A. T. K. P. L. M.

Sirukoodalpatti.

A. T. K. P. L. M.

4.7.35.

Letter
from
Chinniah-
pillai
to the
Plaintiff,
4th July
1935.

20th Ani in the year Yuva.

Sinniah writes :—You will receive this letter from this place. Received
from there letter of 14th Vaikasi and the letter of the 4th together with the 10
letter addressed to Sovanna Mana. In accordance with the letter from
there to leave after entrusting with Sovanna Mana and making arrange-
ments, it was not possible to have the letter delivered and done accordingly
as he was staying here for a week in connection with Income Tax case and
left urgently to his native place on an important business. I am returning
herewith the letter signed and forwarded by you. In the letter received
from the native place on the 14th Ani it was stated to bring all the account
books to the native place, and to leave in charge all recoverable on demands
and documents with S. S. L. of Galle firm and to write and give a statement
of accounts in a book and to grant a written authority to recover, also a 20
letter to Karuppiahpillai the Agent at Galle was annexed from Leyna
requesting him to accept in accordance thereof. Accordingly all the
accounts here were packed and despatched to our Sovanna Mana at
Karaikudi. The current account books and cash boxes etc. are left to be
taken by me and I wrote and gave a statement of recoverable accounts and
also furnishing with the necessary documents and I obtained from the
above-named a hand written letter setting out the terms hereof. I am also
taking it to be mentioned in the letter you obtained from Leyna at the
native place and sent. I was unable to have my account settled and go.
The temporary loan I obtained here amounts to Rupees Five hundred and 30
thirty-two odd and my travelling expenses rupees one hundred odd
aggregating to Rupees six hundred and twenty-five. I have disposed the
almirah, iron safe and goods which are here for cash Rs.150/-. As the
rubber shares cannot be sold now, the Company said it was Rs.9/- for a share.
Accordingly Leyna was entrusted with the sum of Rs.450/- and the
accounts were squared. The sum of Rs.575/- obtained previously as
temporary loan from S. S. L. firm, Galle and Rs.23/- obtained in cash this
day aggregating to Rs.600/- and having arrived at such account and also
having made all arrangements I am leaving for the native place today.
Proctor advises me that I cannot appoint another in terms of the power 40
granted to me by Leyna in order to appoint Karuppiah Pillai of Galle
for executing a power of attorney to recover and therefore I will get a fresh
power in favour of Karuppiahpillai for the purpose of recovery alone
typewritten and will take it to the native place and get it sent over there.
On receipt of have the same signed and registered and forward directly to
S. S. L. Karuppiahpillai of Galle without delay. The two properties at
Nawala should be put in suit in court here before August 10th. Otherwise
it will become prescribed. The matter is important. Therefore use your
discretion. My salary account including travelling expenses which I shall
take up to this date less amount received the balance due is Rs.538/20. 50

As I want to go to my native place and remove my wife to Madura and look after her illness the expenses will come to over Rs.400/- or Rs.500/- I can't get from anybody at my native place. There I request you will graciously pleased either to remit from there or to authorise payment at the native place. You will be aware of the fact that it is not opportune for me to go to my native place and there to obtain temporary loans and spend. Therefore issue instructions to native place to pay me. Other matters later.

Exhibits.
D.2Q.
Letter from Chinniah-pillai to the Plaintiff, 4th July 1935, *continued.*

Yours etc.

10

SRI VENKADASALAPATHI THUNAI.

Translated by
(Sgd.) J. N. VELUPPILAI,
Sworn Translator, D.C. Colombo.

3.2.45.

P.33.

LETTER from Defendant to A. T. K. P. L. M. Velayutham Chettiar (employee of the Plaintiff in India).

P.33.

TRANSLATION.

20

A. T. K. P. L. M. Sirukudalpatti.

13.2.37.

S. S. L.
Galle.

On this Tamil Year of Thathu month of Masi 2nd to my dear Veyanna.

I Letchuman write and inform as follows :—

The letters sent from there has been received. The decree has been entered in the land case of the Defendants of Nawala up to Rs.300/- has been expended up to this. The land is life interest property until the parties who signed the bond survive we can take the income of the land after their death. The interest of the property will go to their surviving heirs we would not get anything. We cannot make the property our own. We have to proceed against the income. We are making arrangements to do that. When that comes to end and the management come under our control we could expect an income of Rs.20/- or Rs.30/-. That also with difficulties. The co-owners of the land are offering amicable settlement for Rs.1,000/-. If that come to right I think that is much better.

There is no likelihood of making recovery of the balance amount due from Walter Peries of Panadura. The reason is he has filed actions against those parties to whom he lent loans and has taken decree entered against them he has got to take steps and recover those debts he has no

P.33.
Letter from Defendant to A. T. K. P. L. M. Velayutham Chettiar (employee of the Plaintiff in India), 13th February 1937.

Exhibits. fund to meet the expenses to do that. Taking the courage to ourselves if we lend a sum of Rs.1,000/- to him and give him assistance to take steps in those cases we might be able to get something.

P.33.
Letter
from
Defendant
to A. T. K.
P. L. M.
Velayu-
tham
Chettiar
(employee
of the
Plaintiff
in India),
13th
February
1937,
continued.

We might be able to recover from Muniandipillai and M. G. Perera the balance due from them to do that we must remain in Colombo for 2 months. Because those individuals are travellers all over it is therefore very hard matter to meet them. When I happen to go Colombo I give some attention to this matter too.

A. L. S. M. is sick for the past one month he is unable to eat anything he has entered hospital I will go to India on 20th instant. As regards the 10 rest will talk on personally.

Wishing you for all prospects.

Address

A. T. K. P. L. M. VELAYUTHAM CHETTIAR,
Sirukudalpatti.

Translated by
(Sgd.) (?)
Sworn Translator,
District Court Colombo.

20th November 1945.

20

P.34.
Envelope
addressed
to A. T. K.
P. L. M.
Velayu-
tham
Chettiar
enclosing
P.33.

P.34.

ENVELOPE addressed to A. T. K. P. L. M. Velayutham Chettiar enclosing P.33.

P.34.

(Envelope)

. . . (In Tamil) . . .
Sirukudapatti Post,
Via Tiruppattur,
Rammad District,
S. India.

13.2.37
. . . In Tamil.
17.2.37.

30

Galee.
13 Fe 37.

(Franked on 06c. stamp)
(Two other Indian Post marks)

P.4.

LETTER from the Plaintiff to Nadarajahpillai.

P.4.

TRANSLATION.

(Sealed). In the care of Sivan.

19.2.42.

M. Nadarajah Pillai of Udugama.

The 8th of Mashi of the Tamil year " Vishu."

Written by Muthiah Chettiar to Nadarajah Pillai.

- 10 I was told by our Sinniah, that when he came there, you have told him that A. R. L. Letchiman Chettiar's people has recovered monies from A. T. K. P. L. M. firm's people. So look into the Court records full description of the same and write to me.

We shall send you by money order the expenses incur on the matter.

The rest will be written later.

With the help of Sivn Venkadasalapathy.
Translated by

Sgd. (?)
Galle 6 May 1944.

Exhibits.

P.4.

Letter
from the
Plaintiff to
Nadarajah-
pillai, 19th
February
1942.

20

P.5.

LETTER from M. Nadarajahpillai to Chinniahpillai.

P.5.

TRANSLATION.
Muna Nona Nadarajapilly.

Udugama 25.2.1942.

To Mana Seena Themmapatty.

The letter written by Nadarajan :—

You will on receipt of this letter come to know of the news. As for the news there, the letter from your mudalali at Srikoodalpatty is received.

- 30 It is good that yourself and our Sethu reached home (India) safely.

I have perused the details of Samaranayake's and I. M. S. Alles Punchi Mahatmaya's Court cases—the details and particulars are herewith written.

I have written to your Mudalali too, that I have written to you this day the full details and particulars of the said cases. Please write to me in details whether it rained in my native place and other particulars therewith connected.

P.5.

Letter
from M.
Nadarajah-
pillai to
Chinniah-
pillai, 25th
February
1942.

Exhibits.

P.5.

Letter
from M.
Nadarajah-
pillai to
Chinniah-
pillai, 25th
February
1942,
continued.

In Alles Punchimahatmaya T. 7394 (Testamentary Case) the principal Rs.6,500/- from 1.6.31 and interest Rs.2,000/- or Rs.8,500/- (total).

In Samaranayaka's case—No. 27002 D.C. is assigned in favour of A. L. A. S. M. on 10.2.33.

Particulars of money received.

On 19.5.33 credit Rs. 1,549.00.

„ 9.4.34 „ 200.00.

„ 29.5.37 „ 683.41.

„ 13.1.38 „ 3,274.40 or Rs.5,706.81.

11. On 19.4.32. When the case was proceeding on behalf of 10 A. T. K. P. L. M. an order of payment has been issued for Rs.1,108/-. Please see and verify if that amount is credited in the account.

The rest later.

By the help of Sri Murugan P. S. Rs.8,500/- from Punchimahatmaya & Rs.5,706/81 Samaranayake or total Rs.14,206/81 has been received and recovered by them.

Yours.

Translated by me

Sgd. (?)

S. T., D.C. Colombo . . .

S. C. Colombo.

Colombo, 20.7.42.

20

P.6.

Envelope
addressed
by M.
Nadarajah-
pillai
enclosing
P.5.

P.6.
(Envelope)

P.6.
ENVELOPE addressed by M. Nadarajahpillai enclosing P.5.

From M. N. Nadarajah Pillai,
General Merchant and
Oilman Stores,
Udugama,
(Ceylon).

30

(Addressed in Tamil),
Tiruppattur Post,
Ramnad pt.
S. India.

(Post mark on 10c. Stamp) : Udugama 25 Feb. 42.

(Another Post Mark) : Tiruppattur Ramnad.

P.7.

LETTER from M. Nadarajahpillai to the Plaintiff.

P.7.

TRANSLATION.

Muna Nana Nadarajapilly,
Udugama.

25.2.1942.

To. A. T. K. P. L. M. Srikoodalpatty.

This fourteenth day of the Month Massi in the Vishu Varusha—The
10 letter written by Nadarajan :—

You would on receipt of this letter come to know of the news from here. As for the news (thence) the letter of the 8th instant is received and perused.

When Sinniah Anna had been here under his instructions in person, I have had all the records in the Court perused, and have written to aforesaid (Sinniahannan) full details and particulars. The sum of Rs. 5/75 expended therefor is debited to your account.

The rest on receipt of your letter.

Yours

By the help of Sri Murugan.

20

Translated by me.
(Sgd.) (?)
S.T., D.C. Colombo.
Colombo, 20.7.42.

P.8.

ENVELOPE addressed by M. Nadarajahpillai to the Plaintiff enclosing P.7.

P.8.

(Envelope)

30

From M. N. Nadaraja Pillai,
General Merchant and Oilman Stores,
Udugama.
(Ceylon).

(Addressed in Tamil)
Sirigudal Patti Post,
Ramanad Dt.
S. India.

(Post Mark on 10c. Stamp) : Udugama
25 Feb. 42.

(another post mark) : Tiruppattur Ramnad
28 Feb. 42.
1 P.M.

40

Exhibits.

P.7.

Letter
from M.
Nadarajah-
pillai
to the
Plaintiff,
25th
February
1942.

P.8.

Envelope
addressed
by M.
Nadarajah-
pillai
to the
Plaintiff
enclosing
P.7.

Exhibits.

D.5.

LETTER from the Plaintiff to Chinniahpillai, 21 Chittai Pava.

D.5.
Letter
from the
Plaintiff to
Chinniah-
pillai,
21 Chittai
Pava.

D.5

TRANSLATION.

A. T. K. P. L. M.
Sirukoodalpatti.

Colombo.
A. T. K. P. L. M.

21st Sithirai in the year Pava.

Now this letter is written to Sinniah who will come to know receipt of it, from this place. The registered letter from there dated the 4th and the On demand made by S. AR. ST. have come to my hand. Now the above 10
On demand has been given over to K. R. K. N. firm there as against the claim due to them and effected settlement. As against the claim of Rs.5,193/03 due by A. R. L. on account of salary and current account it is agreed that the sum of Rs.3,000/- as the amount arrived in settlement of same, and the said sum of Rs.3,000/- has been assigned over to K. R. K. N. A. R. for the claim due to them. Accordingly, credit the sum of Rs.3,000/- against A. R. L. and debit same to the account of K. R. K. N. A. R. and write off the balance sum of Rs.2,193/03 against expenses, and write to me. When I asked the above-named Letchumanan 20
for the claim of Rs.550/- due by P. L. M. T. T. he says that the amount was paid by him and is lying in credit in the Chittai and which also will be now be paid in full, and there will be no claim left. Write particulars relating thereto. Make little further effort and sell the rubber coupon at an increased price and pay off the outstanding temporary loans and also file in Court whichever necessary to be filed and continue to recover. Make frequent demands from Muniandipillai for the claim due and on receipt pay off the temporary loans obtained there. In addition to your writing and sending in detail the Balance Sheet relating to statement of account there up to the 30th Panguni in the year Srimuka, also write and send particularly the claims due from customers. M. L. Letchumanan of 30
Sivalpatty has fixed the 15th Aikasi to perform an auspicious ceremony. He will write to you to purchase and send him apple and grape fruits for that occasion. Accordingly purchase and send to the station to which Leyna writes you to send, and reply. Other matters later.

Yours etc.,

VENKADASALAPATHI THUNAI.

Translated by
(Sgd.) N. VELUPILLAI,
Sworn Translator, D.C. Colombo.

27.2.45.

In the Privy Council.

ON APPEAL FROM THE SUPREME COURT OF CEYLON.

BETWEEN

NAGAMMAI ACHI, widow of A. T. K. P. L. MUTTIAH
CHETTIAR and PALANIAPPA CHETTIAR son of
V. R. M. T. ARUNACHALAN CHETTIAR both of
Sirukoodalpatti in Ramnad District South India
(Plaintiffs) substituted in place of the late A. T. K. P. L.
MUTTIAH CHETTIAR pursuant to Order in Council
dated the 17th March 1955 *Appellants*

AND

A. R. L. LAKSHAMANAN CHETTIAR of No. 42,
Kaluwella Street, Galle (Defendant) *Respondent.*

RECORD OF PROCEEDINGS

DARLEY CUMBERLAND & CO.,
36 JOHN STREET,
BEDFORD ROW, W.C.1,
Solicitors for the Appellant.

HY. S. L. POLAK & CO.,
20/21 TOOKS COURT,
CURSITOR STREET, E.C.4,
Solicitors for the Respondent.