

1941

*Present : Hearne J.*

UKKURALA v. EWONSIA.

170—C. R. Kegalla, 14,045.

*Kandyan law—Kandyan dies unmarried and issueless—Survived by mother and halfbrother—Mother's inheritance to paraveni property.*

Where a Kandyan dies unmarried and issueless, his father being dead and his mother alive, with no full brothers or sisters and only a half brother surviving,—

*Held*, that the mother succeeded to the paraveni property of the deceased.

**A** PPEAL from a judgment of the Commissioner of Requests, Kegalla.

*E. B. Wickremanayake*, for defendant, appellant.

*E. A. P. Wijeyeratne*, for plaintiff, respondent.

*Cur. adv. vult.*

December 9, 1951. HEARNE J.—

It is unnecessary to refer to the facts in the case under appeal, for its determination depended upon a question of law which can be stated very

shortly. When a Kandyan dies unmarried, intestate and without issue, his father being dead, his mother alive, with no full brothers and sisters and only a brother of half blood surviving, on whom does his paternal, paraveni property devolve? The answer is his mother.

In *Punchirala v. Dingiri Menika*<sup>1</sup> Lawrie J. after quoting from *Nitt Nighanduwa* and referring to Armour and the judgment of the Judicial Commissioner in 1824, said: "these lay down that the mother is sole heiress to her child, who had survived his or her father, and died without issue, and left neither full brother nor full sister; but if the deceased child left a full brother or sister, that brother or sister will be entitled to the deceased's share of his or her paternal paraveni land in preference to the mother".

A difficulty in the way of the learned Judge was a passage in *Sawer's Digest* to the effect that a mother had only a qualified life-interest in her deceased child's property. He expressed the opinion that *Sawer* must be taken to have been dealing with a mother's rights when her deceased child had left full brothers and sisters. Dias A.C.J. concurred in the judgment and in *Ukkuhamy v. Bala Etena*<sup>2</sup> Wendt J. said that he had no hesitation in accepting "the authority of Sir Archibald Lawrie". The law on this subject must be regarded as settled.

The appeal is dismissed with costs.

*Appeal dismissed.*

