

1956 Present : Basnayake, C.J., and K. D. de Silva, J.

HEEN BANDA, Petitioner, and W. H. BUS COMPANY LIMITED,
Respondent

S. C. 424—Application for Conditional Leave to appeal to the Privy Council in S. C. 23/D. C. Kandy, 3,656

Privy Council—Application for conditional leave to appeal—Respondent a Company—Mode of service of notice of application—Companies Ordinance, s. 351—Appeals (Privy Council) Ordinance, Schedule, Rule 2.

When a limited liability company is the respondent to an application for conditional leave to appeal to the Privy Council, notice as required by Rule 2 of the Rules in the Schedule to the Appeals (Privy Council) Ordinance can only be given to the Company in the manner prescribed by section 351 of the Companies Ordinance, i.e., by being left at or sent by post to the registered office of the Company. Notice left at or sent by post to an address which is given in the pleadings as the place where the business of the Company is carried on, but which is not the registered office of the Company, is not sufficient.

APPPLICATION for conditional leave to appeal to the Privy Council.

S. Sharvananda, with J. V. C. Nathaniel, for Defendant-Appellant.

H. V. Perera, Q.C., with H. D. Thambiah, for Plaintiff-Respondent.

Cur. adv. vult.

May 15, 1956. BASNAYAKE, C.J.—

This application for conditional leave to appeal to the Privy Council was opposed on the ground that notice, as required by Rule 2 of the Rules in the Schedule to the Appeals (Privy Council) Ordinance, has not been given. That Rule reads as follows :—

“Application to the court for leave to appeal shall be made by petition within thirty days from the date of the judgment to be appealed from, and the applicant shall, within fourteen days from the date of such judgment, give the opposite party notice of such intended application.”

It was contended on behalf of the respondent, a limited liability company registered in Ceylon, that notice of this application has not been given in the manner prescribed by section 351 of the Companies Ordinance. That section reads :—

“ A document may be served on a company by leaving it at or sending it by post to the registered office of the company. ”

It is admitted that the appellant sent the notice to No. 52 Malabar Street, Kandy, which is the address given by the respondent in the plaint and is the place where the business of this Company is carried on ; but it was not the registered office of the Company at the relevant date. Learned counsel for the respondent contended that whatever may be the real business place of the Company, a notice can only be given to a limited liability company by being left at or sent by post to the registered office of the Company.

A Company derives its legal status from the statute regulating the registration of Companies. When that statute prescribes a mode of service of documents on a Company that procedure should be followed. In the instant case the notice under Rule 2 of the Rules in the Schedule to the Appeals (Privy Council) Ordinance has not been left at or sent by post to the registered office of the respondent Company. The objection must therefore be upheld.

The application is refused with costs.

K. D. DE SILVA, J.—I agree.

Application refused.

