

1943

Present: Jayatileke J.

PEIRIS, Appellant, and DE SILVA, Respondent.

134—C. R. Panadure, 8,355.

Administration—Determination of value of estate—Nett value after deduction of debts and encumbrances—Civil Procedure Code s. 519.

The estate of a deceased person for purposes of section 519 of the Civil Procedure Code means the nett value of an estate after deducting debts and encumbrances.

A PPEAL from a judgment of the Commissioner of Requests, Panadure.

H. W. Jayewardene, for appellant.

G. P. J. Kurukulasuriya (with him *V. Joseph*), for respondent.

November 12, 1943. JAYETILEKE J.—

The original plaintiff died during the pendency of this action, leaving property worth Rs. 5,000 and debts to the extent of Rs. 3,500. The nett value of the estate is Rs. 1,500.

It is contended on behalf of the defendant that the estate of the deceased is one that requires to be administered and that the substituted plaintiff cannot proceed with the action without obtaining letters of administration.

I do not think there is any substance in this contention as the estate does not amount to or exceed in value the sum of Rs. 2,500 within the meaning of section 519 of the Civil Procedure Code. De Sampayo J. said in the case of *De Silva v. Lokumahatmaya*¹. “ . . . the section provides not for the case where the property of the deceased is below the value of Rs. 1,000 but for the case where the estate of the deceased is below that value. The estate must be taken to be the nett estate . . . ”.

The schedule to the Stamp Ordinance (Chapter 189) provides that the value of the estate shall be taken to be the value as determined for the purpose of estate duty. Under section 22 of the Estate Duty Ordinance (Chapter 187) allowance has to be made for debts or encumbrances incurred or created *bona fide* for full consideration in money or money's worth solely for the deceased's own use and benefit in determining the value of the Ceylon estate of a deceased person.

I would accordingly dismiss the appeal with costs.

Appeal dismissed.

¹ 22 N. L. R. v. 186.