

1959 Present : Basnayake, C.J., and de Silva, J.

NARANASAMY, Appellant, and PANKAIYATCHELVAM, Respondent

S. C. 673—D. C. Point Pedro, 247

Jaffna Matrimonial Rights and Inheritance Ordinance (Cap. 48)—Proceedings under section 10 thereof—Requirement of stamp duty.

An appeal preferred under sub-section 2 of section 10 of the Jaffna Matrimonial Rights and Inheritance Ordinance is free of stamp duty by virtue of the provisions of sub-section 3. Accordingly, stamps for the decree of the Supreme Court need not be furnished.

APPPEAL from a judgment of the District Court, Point Pedro.

H. W. Jayewardene, Q.C., with *K. Sivasubramaniam*, for Respondent-Appellant.

C. Ranganathan, for Petitioner-Respondent.

V. Tennakoon, Senior Crown Counsel, with *J. W. Subasinghe*, Crown Counsel, as *Amicus Curiae* (On notice).

September 2, 1959. BASNAYAKE, C.J.—

This is an appeal under section 10 (2) of the Jaffna Matrimonial Rights and Inheritance Ordinance, and has been listed by the Registrar for directions as to whether the appeal should be listed for hearing on the ground that sufficient stamps for the decree of the Supreme Court have not been delivered to the Secretary of the District Court. Learned counsel for the appellant draws our attention to section 10 (3) of the Jaffna Matrimonial Rights and Inheritance Ordinance which provides that except on the motion filed under sub-section (1) of that section no further stamp duty shall be required for any other legal proceedings under the section. In view of that provision it would appear that all legal proceedings under section 10, subsection (2) of which also makes provision for appeal from an order under subsection (1) of that section, except the motion, are free of stamp duty. Counsel for the respondent and Senior Crown Counsel, who appears as *amicus curiae*, agree with the submission of counsel for the appellant.

We therefore hold that the decree of the Supreme Court in the instant appeal need not be stamped, and direct that this appeal be listed for hearing in the ordinary course.

DE SILVA, J.—I agree.

Appeal to be duly listed for hearing.