

1922.*Present: Ennis and Schneider JJ.***CRACKLAW v. UKKURALA.***110—D. C. Kegalla, 5,895.**Lease by heir who was administrator in his capacity as heir—Right of creditor to seize and sell property.**Where a person who was heir and administrator leased a property in his capacity as heir of the deceased person to a third party—**Held, that the lease was subject to the administrator's right to sell for the purpose of the estate, and consequently that a creditor of the estate may seize and sell the same in execution.***T**HE facts appear from the judgment.*H. V. Perera, for appellant.**Keuneman, for respondent.*

September 6, 1922. ENNIS J.—

This is an appeal from an order in an action under section 247 of the Civil Procedure Code, holding that a lease which had been seized was liable to be sold in execution of a decree. The action was by the judgment-creditor against a successful claimant. It appears that the lessee was seized as being the property of Dingiri Banda, who had taken a lease in 1908. Dingiri Banda's heir and administrator executed the lease now under consideration on November 8, 1920, to defendant. This lease is D 1 filed in the case. The document shows that the lessor acted for himself, his heirs, executors, and administrators, and did not act as administrator of the estate of Dingiri Banda. The learned Judge has found that, as against the creditors, the defendant cannot claim any rights on this conveyance. The land passed to him, subject to the administrator's right to sell for the purpose of the estate, and that right includes the right of a creditor who has seized the property in payment of his debt (*Gopalasamy v. Ramasampulle*).<sup>1</sup> I would accordingly dismiss the appeal, with costs.

SCHNEIDER J.—I agree.

*Appeal dismissed.*<sup>1</sup> (1911) 14 N. L. R. 238.