

CHAPTER 133

KANDYAN SUCCESSION

Ordinance  
No. 23 of 1917.

AN ORDINANCE TO DECLARE THE LAW APPLICABLE TO THE ISSUE OF CERTAIN KANDYAN MARRIAGES.

[9th November, 1917.]

Short title. **1.** This Ordinance may be cited as the Kandyan Succession Ordinance.

Issue of certain marriages declared subject to Kandyan law. **2.** The issue of the following marriages, that is to say :—

- (a) a marriage contracted between a man subject to the Kandyan law and domiciled in the Kandyan provinces and a woman not subject to the Kandyan law;
- (b) a marriage contracted in *binna* between a woman subject to the Kandyan law and domiciled in the Kandyan provinces and a man not subject to the Kandyan law,

shall be deemed to be and at all times to have been persons subject to the Kandyan law.

Saving as to property dealt with on the basis of the decision in *Mudiyanse v. Appuhamy* (16 M L. R. 117-120).

**3.** (1) Nothing in this Ordinance shall affect—

- (a) the mutual rights of the parties in the case of *Mudiyanse v. Appuhamy et al.* (D. C. Kegalla, 3,236), as declared by the decision of the Supreme Court in that case, or of persons claiming through the said parties respectively;
- (b) the mutual rights of the parties in any other suit in which the said decision has been followed, or of persons claiming through the said parties respectively;
- (c) any disposition of property, or any transaction or family arrangement dealing with property which shall have been duly effected according

to law between the date of the said decision and the date of the commencement of this Ordinance on the basis of the law as declared by the said decision;

- (d) any case in which the major heirs of any person who shall have died between the said dates in the administration or management of the rents, profits, produce, or income derivable from any property of the deceased in respect of which he shall have died intestate shall, with the concurrence of the curator (if any) who shall have been appointed in respect of the estate of any minor heir, have acted upon the law as declared by the said decision:

Provided that—

- (i) the fact that such property has been so dealt with has been declared by a memorandum in writing duly executed according to law within one year from the date of the commencement of this Ordinance by all the said major heirs (or, if any of the said heirs shall have meanwhile died, by their respective legal representatives), and by such curator, if any; or
- (ii) it shall have been declared by a competent court in an action instituted within one year from the date of the

commencement of this Ordinance that the major heirs of such deceased person and such curator, if any, in the administration or management of the rents, profits, produce, or income derivable from the said property, have in fact acted upon the basis of the law as declared by the said decision.

(2) The title to any property within paragraphs (c) and (d) of the last preceding subsection shall be governed by the law which would have been applied in accordance with the said decision if this Ordinance had not been passed:

Provided, however, that the devolution of the title of any such property by way of inheritance from the persons in whom it is treated as vested under this section shall be governed by the law as declared by this Ordinance.

"Kandyan provinces" means those districts of Ceylon which are Kandyan provinces within the meaning of the Kandyan Marriage Ordinance ;\*

"marriage contracted in *binna*" includes any marriage contracted in such circumstances that if both parties were subject to the Kandyan law such marriage would be a marriage contracted in *binna*;

"domiciled" shall be interpreted in the same manner as it would be interpreted if the Kandyan provinces constituted a separate country.

(2) For the purpose of the Kandyan Marriage Ordinance,\* the Kandyan Marriage and Divorce Act, and the Kandyan Marriages (Removal of Doubts) Ordinance,\* the parties to the marriages referred to in section 2 of this Ordinance shall be deemed to be and at all times to have been persons lawfully entitled to contract marriages under the said first-mentioned Ordinance or Act.

Interpretation.

4. (1) For the purposes of this Ordinance—

\* Repealed by Act No. 44 of 1952.