

UPANANDA TERUNNANSE *v.* DEVAMITTA UNNANSE  
AND TWO OTHERS.

*D. C., Chilaw, 15 G.*

*Application for guardianship and curatorship—Buddhist priest and pupil in robes.*

Where a Buddhist priest applied to be appointed guardian of his pupil in robes and curator of his property—

*Held,* that he could not be appointed as such, as he was not his father, or other proper person to be appointed, and as it did not appear that the minor was in possession of any property which required to be taken care of.

THIS was an application by the petitioner, the incumbent of Ponnankania Viháré, for an order directing the grant to him of a certificate of curatorship in respect of the property of the first respondent, a minor. The petitioner also prayed to be appointed as the guardian of the minor, who was said to be the lawful pupil of the petitioner, according to Sisyanu Sisya Paramparawa, and who as such was being maintained and educated by the petitioner. A schedule of property was filed, and the Court made the following order :—

“ Most of the property included in the schedule submitted “ appears to belong to the Pikkalana temple, and is vested in the “ trustees thereof. I am not aware that the Pikkalana temple has

“ been exempted from the operation of the Buddhist Temporalities Ordinance. The incumbent priest of the temple and the trustee thereof should be made parties respondent to this application.”

They were so added, whereupon the petitioner moved for an order *nisi* under section 384 of the Civil Procedure Code. The District Judge refused an order *nisi*, holding, “ the Buddhist Temporalities Ordinance, No. 3 of 1889, is in force and cannot be ignored. Personal claims by Buddhist priests, monks, or pupils to temple property (in this case the Pikkalana Pansalawatta), which “ is by law now vested in the trustee thereof, cannot be entertained.”

The petitioner appealed.

*Bawa*, for appellant.

*Cur. adv. vult.*

2nd April, 1895. LAWRIE, A.C.J.—

I am of opinion that the petitioner has not shown good reason why a curator of the property and guardian of the person of the minor should be appointed, and certainly he has not shown good reason why he (the applicant) should be selected.

As the minor is in robes as a pupil-priest, he must be of sufficient age to be able to take some interest in this application, but so far as appears he did not go to Court to assure the Judge of his willingness to have a curator appointed.

It is I think obvious that the object in view is to bring actions. If the minor needs to vindicate his property and his rights in Court, it will be better that he should apply to the District Judge for the appointment of a next friend, and the Judge will then have the opportunity of satisfying himself whether there be a *primâ facie* prospect of success before he allows litigation in the name of the minor.

In affirming the order I must add that I am at a loss to understand why the trustee of the vihâre was made a respondent, or what he or the provisions of the Buddhist Temporalities Ordinance have to do with this application.

The application is refused, (1) because the applicant is not the father of the minor, and he has not shown that he is the proper person to be appointed ; (2) there is no property of which the minor is in possession of which it is necessary that the curator should take care. If litigation be contemplated, the interests of the minor can be looked after by a next friend.

WITHERS, J.—

I concur.