

1955

Present : Gunasekara J. and Sansoni J.

WILLIAM SINGHO, Appellant, and REV. DHAMMAJOTHI  
ISTHAWEERA, Respondent

*S. C. 215—D. C.; Badulla, 10, 484*

*Buddhist Temporalities Ordinance (Cap. 222)—Section 23—Abandonment of robes  
bhikkhu—Pudgalika property—Devolution.*

Under Section 23 of the Buddhist Temporalities Ordinance uninherited pudgalika property acquired by a bhikkhu for his exclusive personal use and not alienated by him during his lifetime becomes, on his death, the property of the temple to which he belonged, even though he abandoned the robes and became a layman.

**A**PPEAL from a judgment of the District Court, Badulla.

*Cyril E. S. Perera, Q.C.*, with *E. R. S. R. Coomaraswamy* and *Daya Perera*, for the plaintiff appellant.

*N. E. Weerasooria, Q.C.*, with *K. C. de Silva* and *J. A. D. de Silva*, for the defendant respondent.

*Cur. adv. vult.*

May 12, 1955. GUNASEKARA J.—

This is an appeal from a judgment of the District Court of Badulla dismissing an action for declaration of title to an undivided half share of a paddy field.

The original owner of the field sold it on the 12th January, 1915, to two bhikkhus, Dhammananda Unnanse and Saranankara Unnanse, of whom the former was the chief incumbent of a temple and the latter was his pupil. In 1934 Saranankara abandoned the robes and became a layman, resuming his original name of Wijesekara Mudiyansele Appuhamy. In February, 1936, he married one Bandara Menike, and he died in April of that year. On the 5th May, 1951, Bandara Menike purported to sell to the appellant an undivided half share of the field, claiming to have inherited it from her deceased husband Appuhamy. In the meantime Dhammananda Unnanse had died in 1945 and the respondent had succeeded him as the chief incumbent of the temple. The respondent, who was in possession of the entire field claiming to possess it for the temple, refused to let the appellant take possession of the half share claimed by him upon the transfer from Bandara Menike, and the appellant thereupon instituted the action that gives rise to this appeal.

The grounds urged in support of the appeal are that the evidence has established that the half share in question was pudgalika property acquired by Saranankara Unnanse for his exclusive personal use and that upon his death it formed part of the estate that passed to his heirs. The learned judge's finding is that the field had been purchased for the benefit of the temple and its produce had always been used exclusively for that purpose, but that even if the half share had been acquired by Saranankara

Umanse for his personal use his heirs could not inherit it in view of the provisions of section 23 of the Buddhist Temporalities Ordinance (Cap. 222). In terms of this section,

“ All pudgalika property that is acquired by any individual bhikkhu for his exclusive personal use, shall, if not alienated by such bhikkhu during his lifetime, be deemed to be the property of the temple to which such bhikkhu belonged unless such property had been inherited by such bhikkhu. ”

It is contended for the appellant that the learned judge has interpreted this section erroneously and that it applies only to property acquired by a person who was a bhikkhu both at the time of the acquisition and at the time of his death. As I read the section, what it provides is that property which is not the property of a temple shall be deemed to be such property if it satisfies these conditions :

- (a) that it is pudgalika property that has been acquired by a bhikkhu of that temple for his exclusive personal use ;
- (b) that it has not been alienated by him during his lifetime ; and
- (c) that it is not property that had been inherited by him.

The argument that there is a further condition that must be satisfied is based upon the expressions “ if not alienated by such bhikkhu during his lifetime ” and “ the temple to which such bhikkhu belonged ”. It is contended that these references to a “ bhikkhu ” connote that the only property contemplated in the section is the property of a person who was a bhikkhu at the time of his death. I do not agree. It seems to me that there is nothing more in the expression “ such bhikkhu ” than a reference to the person who acquired the property. I should imagine that if more was intended by the legislature that intention would have been expressed in unambiguous language.

There appears to be no ground for interfering with the judgment of the district court. The appeal must be dismissed with costs.

SANSONI J.—I agree.

*Appcal dismissed.*

