1952 *Present:* **Gratiaen J. and Choksy A.J.**

A. T. P. THESIGAR, Appellant, *and* V. GANESHALINGAM *et al.*, Respondents

S. C. 451—D. C. Jaffna, 3,968

Thesavalamai—Daughter given dowry after date of marriage—Renunciation of any further rights in parents' estate.

Under the Thesavalamai a dowried daughter loses her rights to her parents' inheritance even when the dowry is given subsequent to the date of her marriage.

APPEAL from a judgment of the District Court, Jaffna.

H. W. Tambiah, with *C. Renganathan* and *A. Vythilingam*, for the plaintiff appellant.

C. Chellappah, with *A. Nagendra*, for the defendants respondents.

Cur. adv. vult.

February 20, 1952. GRATIAEN J.—

Mr. Thambiah raised only one point for our consideration in this appeal. The question had not been precisely formulated as an issue in the Court below, but the material facts are sufficiently clear to enable us to give a decision on the point.

It is common ground that " under the Tesawalamai a dowried daughter loses her rights to her parents' inheritance ". *Eliyan v. Vellan et al.*[1] Mr. Thambiah contends, however, that the effect of a more recent ruling of this Court in *Kandappu v. Veeragathy* [2] is to limit the operation of this principle to cases where the dowry has been received either before or at the time of the daughter's marriage.

I find myself unable to give the ruling in *Kandappu v. Veeragathy* (supra) such a narrow interpretation. In that case a Tesawalamai daughter who was not proved to have received any dowry from her parents on the occasion of her marriage subsequently obtained by way of gift a certain property from her father, brother and uncle. The Court decided, *upon the facts of that particular case*, that the deed of gift could not be construed as a *doty ola* so as to disinherit the donee.

As I understand the true principle, the question whether a subsequent gift by a parent to a married daughter operates and was intended to operate as a donation *simpliciter* or as a postponed fulfilment of the earlier obligation to provide her with a dowry is essentially a question of fact.

In the present case the deed of gift to the married daughter expressly purports to be " *by way of dowry* in consideration of her having married the said (Vaithialingam) as I desired ". Moreover, the gift was accepted on the face of the document in the following terms, " I the said . . . . dowry grantee with the consent of my husband . . . *do hereby accept this dowry with full satisfaction and gratitude* ".

Persons subject to the Tesawalamai are no doubt well aware of the legal incidence of the granting and acceptance of dower—and these questions cannot therefore be determined with reference only to the point of time when the gift was made. Adopting the language of Lyall Grant J. in

[1] *(1929) 31 N. L. R. 356.*

[2] *(1951) 53 N. L. R. 119.*

Eliyavan v. Velan (supra), I would say that in this instance " the acceptance of the gift *as dowry* necessarily implies the renunciation of any further rights to a share in the parents' estate ". For this reason I would reject Mr. Thambiah's submission and dismiss the appeal with costs.

CHOKSY A.J.—I agree.

Appeal dismissed.