

1960

Present : Sinnetamby, J.

CARUPPIAH, Appellant, and COMMISSIONER FOR REGISTRATION OF INDIAN AND PAKISTANI RESIDENTS. Respondent

S. C. 121—I. P. R. C. No. 1532

Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949—Application made thereunder—~~the~~ Affidavit not properly signed—Effect.

Once an application for registration under the Indian and Pakistani Residents (Citizenship) Act has been entertained and issues have been framed under section 9 (1), it is not open to the Commissioner to reject the application thereafter on the ground that it is not in proper form inasmuch as the affidavit was not properly signed.

APPEAL under the Indian and Pakistani Residents (Citizenship) Act.

S. P. Amarasingham, for Appellant.

M. Kanagasunderam, Crown Counsel, for the Respondent.

March 3, 1960. SINNETAMBY, J.—

In this case the application for registration was accepted by the Deputy Commissioner and a notice was issued on him under Section 9 (1) followed by a notice under Section 9 (3) calling upon the applicant to satisfy the Deputy Commissioner in regard to four matters. The Deputy Commissioner was in point of fact quite satisfied in regard to all those matters on the evidence led at the inquiry but subsequently raised the question of whether the application was made in due form inasmuch as the affidavit was not properly signed. This Court has held in *S. C. 58/57—I.N.P.R. Application No. L. 6320* that it is not open to the Deputy Commissioner to accept the application after it was duly signed before a Justice of the Peace and later reject it on the ground that the application was not made in due form. If the application was not in due form he should have intimated it to the applicant in sufficient time to enable the latter to rectify the mistake. The Deputy Commissioner would be doing the applicant a grave injustice if he leads an applicant into the belief that his application is in order by entertaining it and, thereafter, after the prescribed date, before which applications are required to be sent, rejecting it on the ground that it is not in proper form. In the judgment I referred to Fernando J. held that if the Deputy Commissioner wished to raise an issue in regard to the validity of the affidavit he should have raised it before he framed the issues under Section 9 (1). In view of Fernando J.'s decision Crown Counsel is unable to support the finding of the Deputy Commissioner. On the Deputy Commissioner's own finding all the issues raised in the 9 (3) notice have been proved to the satisfaction

of the Commissioner. I therefore set aside the order of the Deputy Commissioner and send the case back for necessary steps to be taken on the basis that a prima facie case has been made out by the applicant for the registration of himself, his wife and children. Appellant is entitled to costs fixed at Rs. 105.

Order set aside.

