

1963 Present : H. N. G. Fernando, J., and T. S. Fernando, J.

A. M. KIRI MENIKA, Appellant, and S. A. M. PODIRALAHAMY
and another, Respondents

S. C. 489/1962—Application for Conditional Leave to Appeal to Her Majesty's Privy Council in S. C. 147 of 1959/D. C. Kurumegala 10827

Privy Council—Application for conditional leave to appeal—Valuation of subject-matter of action.

In an application for conditional leave to appeal to the Privy Council it was shown that the subject-matter of the action, although it was originally valued in the plaint at under Rs. 5,000, was, at the date of the application, over Rs. 10,000 in value.

Held, that leave should be allowed on the usual terms.

APPPLICATION for conditional leave to appeal to the Privy Council.

H. W. Jayewardene, Q.C., with *Clarence de Silva*, for the 1st Defendant-Appellant.

Srimath B. Lekamge, for the 3rd Defendant-Respondent.

¹ *Indian Decisions (New Series) 9 Allahabad 33.*

² (1947) *A. I. R. Madras 461.*

³ (1955) *A. I. R. Andhra 1.*

May 16, 1963. H. N. G. FERNANDO, J.—

Although the property which was the subject of this action was originally valued in the plaint at under Rs. 5,000, the first defendant-appellant has now furnished a valuation report according to which the land is valued at a little over Rs. 10,000. Although the third defendant-respondent has filed an affidavit contesting the correctness of this valuation there is not before court any report from a recognised valuer other than that furnished by the first defendant-appellant. In the circumstances, we see no reason to question the correctness of the report which, in fact, has been furnished.

The first defendant-appellant has also moved that a sum of Rs. 2,000 be fixed as security for costs of appeal. I do not think there is any special reason why the normal practice of fixing the full amount of Rs. 3,000 should not be followed in this case.

Leave is allowed on the usual terms.

T. S. FERNANDO, J.—I agree.

Application allowed.

