1944 *Present:* **Howard C.J. and de Kretser J.**

MEDHANANDA THERUNANSE, Appellant, *and* DHAMMANANDA THERO *et al.* Respondents.

In revision D. C. Kalutara, No. 22,026.

Petition of appeal—Absence of signature of Proctor or Advocate—Stamps cancelled by Proctor—Order abating appeal—Civil Procedure Code, s. 755.

Where a petition of appeal did not bear the signature of a Proctor or Advocate but the stamps on the petition were cancelled by the signature of the Proctor,

Held, that there was a sufficient compliance with the requirements of section 755 of the Civil Procedure Code.

THIS was an application to revise the order of the District Judge entering an order of abatement in respect of the petition of appeal.

H. V. Perera, K.C. (with him *J. G. T. Weeraratne*), for the petitioner.

E. B. Wikremanayake, for 1st and 2nd respondents.

L. A. Rajapakse, for 3rd and 4th respondents.

March 1, 1944. HOWARD C.J.—

The plaintiff appeals from an order of the District Judge in which he declined to act on a petition of appeal presented by the plaintiff. It would appear that this petition of appeal did not bear either the signature of an advocate or proctor at the end of the petition. On the other hand the stamps were cancelled by the signature of the proctor, Mr. Fonseka, and, therefore, it was obvious, that the petition had been presented by an authorised person, that, is a proctor. Moreover, the petition had been accepted by the Secretary of the court. In these circumstances, it is difficult to understand why objection was taken by the respondents to its reception and also why the District Judge listened to those objections. In our opinion it would defeat the ends of justice if the District Judge's order were allowed to stand. In these circumstances we allow this application and direct that the petition of appeal shall be received by the District Judge.

We also give the applicant his costs in order that no encouragement should be given to frivolous objections of this nature.

DE KRETSER J.—I agree.

Application allowed.