

**1975 Present : Sirimane, J., Vythialingam, J., and Sharvananda, J.**  
**GETAMANNE SARANAPALA TERUNNANSE, Appellant, and**  
**TARAPERIYA SORATHA THERO, Respondent**

*S. C. 657/69 (F)—D. C. Tangalla 1172/L*

*Buddhist ecclesiastical law—Law of pupillary succession— Rule of Sisyānu Sisyā Paramparawa—Incumbent disrobes leaving no pupils—Right of co-pupil in the same line to succeed.*

A line of pupillary succession under the rule of *sisyānu sisyā paramparawa* does not become extinct on the disrobing of an incumbent who leaves no pupils if, however, he leaves a co-pupil in the same line. For such a line of succession to become extinct the incumbent must die or “disrobe” without leaving pupil or co-pupils in the same line.

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

*H. W. Jayawardene, with Ranil Wickremasinghe and Miss S. Fernando* for the Plaintiff-Appellant.

*A. C. Gooneratne, with D. H. Panditha Goonawardene,* for the Defendant-Respondent.

*Cur. adv. vult.*

January 21, 1976, SIRIMANE, J.—

The plaintiff-appellant sued the defendant-respondent in this action for a declaration that he was entitled to the Viharadhipathiship of the temple known as Aswaththaramaya situated at Nihiluwa and the management of its temporalities and for the ejection of the defendant therefrom. The defendant-respondent denied the plaintiff's claim and prayed that the plaintiff's action be dismissed and that he be declared the Vidharadhipathi of the said temple. The learned District Judge after trial held that neither the plaintiff nor the defendant had established their claims to the Viharadhipathiship of the said temple and dismissed the plaintiff's action with costs. The plaintiff has appealed from this order.

It was the case for the plaintiff that Getamane Saranankara Thero was the controlling Viharadhipathi of the temple known as Aswaththaramaya situated at Nihiluwa (sometimes hereinafter referred to as the Nihiluwa Temple) and on his death in 1924 his senior pupil Kumbalgoda Sadatissa Thero succeeded to the incumbency of the said temple. The said Sadatissa died in 1933 leaving two pupils Getamane Ratnapala

and Getamane Dhammananda and though Ratnapala was the senior pupil Dhammananda officiated as Viharadhipathi of the temple. Ratnapala disrobed in 1954 leaving no pupils and Dhammananda his co-pupil lawfully succeeded to the incumbency and continued to officiate as the controlling Viharadhipathi till his death in May 1965. The plaintiff as the senior pupil of the said Dhammananda claims that he is the lawful successor to the said incumbency and complains that the defendant who is the junior pupil of the aforesaid Dhammananda is in wrongful and unlawful possession of the said temple and its temporalities disputing the plaintiff's rights.

The defendant in his original answer admitted that Saranankara Thero was the Viharadhipathi of this temple and on his death Sadatissa Thero succeeded him. He also stated that on the death of Sadatissa his senior pupil Ratnapala succeeded to the incumbency and the latter disrobed in 1954. He then went on to say that since 1960 he was officiating as the Viharadhipathi of this temple and was in exclusive and sole possession of its temporalities. He denied that Dhammananda was ever the lawful Viharadhipathi of this temple and claimed that in any event the plaintiff could not maintain this action as it was prescribed. The defendant however amended his answer and went back on his admission that Sadatissa succeeded Saranankara Thero but stated that Sadatissa functioned as the Viharadhipathi, though he had no right to do so, till his death in 1933. He also pleaded as a first alternative that even if Dhammananda succeeded Sadatissa to the incumbency, that Dhammananda had appointed him to succeed as Viharadhipathi. As a second alternative he pleaded that since Ratnapala the senior pupil of Sadatissa who was the rightful successor disrobed without leaving any pupils, the Sanga Sabha of the Nikaya which in the circumstances had the right to appoint a Viharadhipathi appointed the defendant as such in 1965. He therefore prayed that the plaintiff's action be dismissed and that he be declared the lawful Viharadhipathi of the said temple. The learned District Judge dismissed the plaintiff's action on the ground that Sadatissa was the junior pupil of Saranankara Thero and he could not have succeeded to the incumbency as it would be the senior pupil Indasara Thero who would have succeeded to the incumbency. He also held that even if Sadatissa succeeded Saranankara, on the death of Sadatissa it would be his senior pupil Ratnapala who would succeed and not the junior pupil Dhammananda, and since Ratnapala had disrobed leaving no pupils the line of succession became extinct

and it was for the Chapter to which the temple belonged to appoint a Viharadhipathi. The learned District Judge also dismissed the defendant's claim on the ground that neither the alleged appointment by Dhammananda nor that by the Sangha Sabha had been proved. The defendant has not appealed against this finding nor did the learned Counsel appearing for him in appeal canvass it. Having examined the evidence on this matter and the reasons given by the learned Trial Judge we see no reason to disturb his finding against the defendant in that regard. Learned Counsel for the plaintiff-appellant contends that there is no reliable evidence that Indasara Thero was the senior pupil of Saranankara Thero and also that when Ratnapala Thero disrobed without leaving any pupils the line of succession did not become extinct but Dhammananda his co-pupil was entitled to succeed him. Learned Counsel for the defendant-respondent resisted the appeal on the ground that the plaintiff had failed to discharge the burden of proving that he was the lawful Viharadhipathi as the evidence disclosed that Indasara was the senior pupil of Saranankara Thero and in any case on the disrobing of Ratnapala the line of pupillary succession came to an end.

It was admitted at the trial that Saranankara Thero was the original incumbent of this temple and two other temples and that succession to the incumbency of this temple was governed by the rule known as *Sisyanu Sisya Paramparawa*. The two questions that arise for decision on this appeal are firstly whether Indasara Thero was the senior pupil of Saranankara Thero and secondly whether the line of pupillary succession became extinct on the disrobing of Ratnapala the senior pupil of Sadatissa.

Taking the second matter first, it was contended both at the trial and by learned Counsel for the defendant-respondent in appeal that on the authority of the cases reported in 57 N.L.R. 518 and 59 N.L.R. 79 the line of pupillary succession became extinct on Ratnapala disrobing without leaving pupils. I think these decisions could be distinguished as the facts in those cases were quite different to the facts in the instant case. In the former case *Dharmmaloka Thero v. Saranapala Thero* (57 N.L.R. 518) the admitted Viharadhipathi Rev. Ratnapala of the temple in dispute to which the rule of *Sisyanu Sisya Paramparawa* applied, by a deed gifted that temple and its temporalities to his only pupil Rev. Wanaratana and one Rev. Sobita who was not in the line of pupillary succession. Wanaratana Thero gave up his robes and Sobita Thero by another deed purported

to gift the temple and its temporalities to Rev. Piyadassi who functioned as Viharadhipathi and died leaving two pupils namely, the plaintiff and defendant in that case. The defendant in that case got himself appointed by the Mahanayaka of the Chapter to which the temple belonged. It was not disputed that the line of pupillary succession became extinct with the disrobing of Wanaratana Thero. Sobitha Thero and Piyadassi Thero were admittedly not in the line of pupillary succession and were therefore "outsiders" who could not have succeeded to a temple governed by the rule of Sisyanu Sisya Paramparawa. It was held in these circumstances that,

"Upon the extinction of the line of pupillary succession to a Buddhist temple governed by the rule of succession known as sisyanu sisya paramparawa, the temple vests in the Sangha and the right of appointing a new Viharadhipathi vests in the Mahanayake of the fraternity which has jurisdiction over it. The fact that a stranger has functioned as Viharadhipathi for a long period does not entitle him to defeat the Mahanayake's right of appointment, which is a right that cannot be lost by prescription."

It must be observed that Wanaratana Thero who disrobed had neither pupils *nor* *co-pupils* and the question for decision in the instant case is therefore quite different as though Ratnapala Thero disrobed without leaving pupils—he admittedly left a co-pupil Dhammananda Thero. It has therefore to be decided whether the line of pupillary succession came to an end with the disrobing of Ratnapala or whether his co-pupil succeeded him. The second case cited was that of *Attadassi Unnanse v. Indajothi Unnanse* (59 N.L.R. 79). It was held there.

"When the incumbent of a Vihara to which the rule of Sisyanusisya Paramparawa applies dies without leaving a pupil, the line of pupillary succession becomes extinct, and the right of appointing his successor is vested in the Sangha. It cannot be contended that the chain of pupillary succession includes not only the descending line but also, when the descending line becomes extinct, the ascending line."

The facts in that case briefly were that one Gunaratana Thero had succeeded and was admittedly the Viharadhipathi of the temples called Niyangampaya and Udawela. He had a number of pupils of whom we need notice only the senior pupil D. Piyaratna and two others H. Ratnajothi and K. Devarakkitha. Gunaratana Thero transferred the right of succession to Niyam-

gampaya to his pupil Devarakkitha and the right of succession to Udawela to H. Ratnajothi and his pupils by *Sisyanu Sisya Paramparawa*. H. Ratnajothi executed a deed in 1944 conveying Udawela to his co-pupil Devarakkitha and after Devarakkitha's death to Devananda. Devarakkitha disrobed in 1952 leaving a pupil Attadassi and Devananda disrobed in 1953 leaving no pupils. Piyaratana senior pupil of Gunaratana died leaving his pupil Indrajothi. That action was filed by the said Indrajothi against Attadassi aforesaid claiming the Viharadhipathiship of the Udawela temple. It is quite clear from the above that when Devananda disrobed without leaving pupils the line of succession became extinct in respect of Udawela and the right of appointing a successor vested in that chapter to which that temple belonged. It was there contended on behalf of the plaintiff in that case that when a line of pupillary succession became extinct, the succession notionally reverts to the original tutor and through him to his senior pupil and the senior pupil's pupil. It was there claimed that on the disrobing by Devarakkitha and Devananda the succession to the Udawela temple notionally reverts to the original incumbent Gunaratana Thero and through him to his senior pupil (Piyaratana) and his senior pupil (Indrajothi) the plaintiff in that case. This contention was rejected in that case. These cases however did not decide the question that arises in the instant case namely whether a line of pupillary succession could be said to become extinct on the death (or disrobing) of an incumbent leaving no pupils but leaving a co-pupil. Though a pupil's claim must undoubtedly be preferred to that of a co-pupil in the rule of *Sisyanu Sisya Paramparawa* it does not mean that a line of pupillary succession comes to an end when an incumbent dies leaving no pupils but leaving co-pupils. In my view a line of pupillary succession can run through any one of the pupils of the incumbent but if it descends to the next step through the senior pupil or a co-pupil, then the other co-pupils will be precluded from succeeding thereafter as it would then mean that one has to go up the ascending line to reach them. If for example an incumbent (A) died leaving a senior pupil (B) and another pupil (C), then in the absence of (A) selecting his junior pupil (C) to succeed him, the senior pupil (B) will succeed. But if (A) selects his junior pupil (C) to succeed him then the line of pupillary succession will run through (C). Then again if (B) having succeeded as senior pupil dies (or disrobes) without leaving pupils his co-pupil (C) will succeed as it cannot then be strictly said that one has to go up the ascending line to reach him, since he is really a collateral and one through whom

the line of succession could run. On the other hand if (B) having succeeded dies leaving a pupil (D) who also succeeds (B) and then dies (or disrobes) without leaving a pupil the line of succession would be at an end. Once (B's) pupil (D) succeeds the line has descended to the next step through (B) and it cannot thereafter run through (C) as that would mean that one has to go up the ascending line to reach him. All pupils of a tutor could be said to be his potential successors as the tutor could select any of them to succeed him or in case the senior pupil dies before the tutor without leaving any pupils of his own, the next senior co-pupil will succeed. Thus in the above example if (B) dies (or disrobes) without leaving a pupil of his own his co-pupil (C) will succeed to the incumbency on the death of the tutor (A). On the other hand if (B) dies (or disrobes) leaving a pupil (D) then (D) will succeed to the incumbency on the death of (A) and not (C). (See *Dammaratna Unnanse vs. Sumangala Unnanse*—14 N. L. R. 400 and 20 N. L. R. 506). Then again where a senior pupil renounces his right of succession the next senior co-pupil will succeed—see *Pandit Wathugedera Ameraseeha Thero vs. Tittagalla Sasanatilleke Thero* (59 N.L.R. 289). A co-pupil therefore is as stated earlier a potential successor and it therefore cannot be said that the line of pupillary succession comes to an end when an incumbent dies (or disrobes) without leaving a pupil if he leaves a co-pupil. In the case of *Dhamissara Thero vs. Sri Kalyanawansa Thero* (69 N.L.R. 514) it was stated that,

“Under the *sisyanu sisya paramparawa* rule of succession to the incumbency of a Buddhist temple, if a *vihara-dhipathi* dies leaving pupils and also fellow pupils, the senior pupil succeeds in preference to any of the fellow pupils. Where the succession by pupils fails and one of the co-pupils of the deceased incumbent has to succeed, ‘logic must favour the passing of the succession to the senior among the co-pupils.’

T. S. Fernando J, in referring to this question in his judgment in that case stated,

“If a co-pupil of a deceased incumbent monk is to succeed in the absence of a pupil, could any co-pupil succeed or must it not be the senior among the co-pupils so long as they are in the same *paramparawa*? No clear specific precedent was cited before us, but Mr. Jayewardene referred to the dissertation on the *Sisyanu Sisya Paramparawa* by G. W. Woodhouse (1916). At pages

32-33 of this monograph the undermentioned rule of inheritance or succession is quoted :—

‘If an incumbent of a vihara die leaving pupils and also fellow-pupils, the senior pupil succeeds in preference to any of the fellow pupils. But if he leave no pupils, the senior fellow-pupil succeeds, provided he is in the line of pupillary succession to the vihare.’

The acceptability of the earlier part of this rule is evidenced by many decisions of our courts, e.g. *Gunanda Unnanse v. Devarakkita Unnanse* and *Fernando v. Jinalankara Tissa Thero*. In regard to the latter part of the rule, I have examined the old cases cited by the learned author but am unable to say that this part of the rule as quoted above is culled verbatim from any of them. I am, however, bound to observe that the rule has the virtue of being complementary to the allied rule that the senior of the pupils succeeds to the tutor. Where the succession by pupils fails and one of the co-pupils of the deceased has to succeed, logic must favour the passing of the succession to the senior among the co-pupils. Moreover, there is nothing impracticable in the working of a rule such as that as no monk is obliged to accept office.”

In an earlier case *Fernando et al vs. Jinalankara Tissa Thero* (46 N.L.R. 219). It was held.

“Where an incumbent of a temple dies leaving no pupils his fellow pupil succeeds.”

In a still earlier case. *Sumana Terunanse vs. Kandappuhamy* (3 Ceylon Law Reports page 14) Lawrie A. C. J. (with Withers J. agreeing) held that

“Under the law of pupillary succession to a Buddhist vihare, if the last incumbent leaves no pupil, and has not nominated a successor by deed or will, the incumbency can pass to his co-pupils only if their common tutor was himself in the line of succession from the founder or original grantee of the vihare.”

It would thus appear that a line of pupillary succession under the rule of *sisyanu sisya paramparawa* does not become extinct if an incumbent dies (or disrobes) leaving no pupils, if he leaves a co-pupil in the same line. For such a line of succession to become extinct the incumbent must die (or disrobe) without leaving pupils or co-pupils in the same line

I am therefore of the view that in the instant case when Ratnapala disrobed without leaving a pupil but leaving a co-pupil, Dhammananda, the latter rightly succeeded to the incumbency and functioned as such till his death in 1965 when the plaintiff as his admittedly senior pupil would be entitled to succeed him.

The other matter for decision is as to the rightful successor of the original Viharadhipathi Saranankara Thero. The defendant claimed that it was Indasara Thero who was the senior pupil of Saranankara Thero and that Sadatissa Thero was the junior pupil. The learned Trial Judge came to the conclusion that Indasara Thero was the senior pupil of Saranankara Thero. He based this conclusion mainly if not entirely on what he called an admission by the plaintiff that he had "heard that Indasara was the senior pupil" and also a statement later in his evidence that "Indasara was the senior pupil"—the plaintiff however also stated in his evidence that he had neither known nor seen either Indasara or Sadatissa. The learned Trial Judge apart from saying that the admission by the plaintiff supports the suggestion of the defendant did not refer to or place any reliance on the other evidence led by the defendant on this point. After coming to the conclusion that Indasara is the senior pupil and rightful successor to Saranankara Thero he refers to Indasara being succeeded by his pupil Pallattara Pannatissa and states,

".....so that according to the defendant's position Court will have to hold that Pallattara Pannatissa appeared to be the lawful incumbent of this temple. But it is to be clearly understood that court is not deciding this matter but merely commenting on the evidence led.....".

Taking into consideration all the evidence and the circumstances in this case it seems to me that the finding of the learned Trial Judge on this point was not based on reliable evidence. Be that as it may, even assuming that Indasara was the senior pupil of Saranankara the evidence reveals that the latter was the Viharadhipathi of many temples including the Nihiluwa Temple and the Gangodagama Sri Sudharsanaramaya Temple with which we are here concerned. After the death of Saranankara Thero in 1924 Sadatissa succeeded him as Viharadhipathi of Nihiluwa Temple whilst Indasara succeeded as the Viharadhipathi of Sri Sudharsanaramaya which was admittedly the bigger and more important temple. On the death of Sadatissa in 1933 his pupil Dhammananda officiated as Vihara-



radhipathi of Nihiluwa Temple and continued so to function after Ratnapala the senior pupil of Sadatissa disrobed in 1954 and up to Dhammananda's death in 1965. Indasara who succeeded to the Viharadhipathiship of Sri Sudharsanaramaya was succeeded on his death by his pupil Pallatara Panratissa who continues to function as the Viharadhipathi of that temple up to the present time. It would therefore be seen that after the death of Saranankara Thero there were two lines of succession—one under Sadatissa and his pupils in respect of the Nihiluwa Temple and the other under Indasara and his pupils in respect of the Sri Sudharsanaramaya. From 1924 onwards the respective incumbents of the said two temples made no claims to the other and even the present incumbent of Sri Sudharsanaramaya, Pallatara Pannatissa, who was on the list of witnesses for the defendant and present at the trial in this case, was not called and made no claim to the incumbency of the Nihiluwa Temple. It must also be observed that the defendant himself had accepted the line of succession to the Nihiluwa Temple under Sadatissa and even in his amended answer lays a claim to the Viharadhipathiship of Nihiluwa based on an appointment by Dhammananda, thus accepting the position that Dhammananda was the rightful Viharadhipathi of that temple. It may also be observed that the defendant, who is admittedly the junior pupil of Dhammananda, was born in 1944, robed in 1957 and ordained in 1965 as shown in the declaration (P2) made under the Buddhist Temporalities Ordinance. That declaration describes his robing tutor Gatemane Dhammananda as the Viharadhipathi of the Nihiluwa Temple. The declaration (P1) in respect of the plaintiff shows that he was born in 1919, robed in 1933 by Gatemane Dhammananda and ordained in 1939. The evidence therefore reveals that even assuming that Indasara Thero was the senior pupil of Saranankara Thero, the succession to the two temples we are here concerned with, for a period of over 40 years was, as stated earlier, one under Sadatissa and his pupils and the other under Indasara and his pupils. I think therefore that the inference is irresistible that either Dhammananda Thero divided these two temples and gave Sri Sudharsanaramaya to Indasara and Nihiluwa to Sadatissa or the two pupils themselves divided it amongst themselves and the pupillary succession to each of the temples thereafter ran under Indasara and Sadatissa. Even if Indasara was the senior pupil the facts proved in this case warrant the inference that he had renounced any rights that he himself may have had to the Nihiluwa Temple. In the case of *Eswatte Dhammatilake Thero vs. Dompe Dhammaratana Thero* (76 N.L.R. 73) the facts were similar to those in the instant case. There one

Attadassi Thero was the Viharadhipathi of two temp'les Varana Vihare and Dangalla Vihare. He left a Last Will according to which his two senior pupils Sumangala and Sunanda could by mutual arrangement be the Viharadhipathi of one temple each and that the rule of Sisyau S'sya Paramparawa should follow them. Sumangala the senior pupil possessed Dangalla Vihare and was quite content to have Sunanda as the incumbent of Varana Vihare without any interference whatsoever. By this arrangement Sumangala impliedly renounced any rights that he himself may have had in respect of the Varana Vihare. From this time there were two lines of succession at the two temples namely Sumangala and his pupils at Dangalla and Sunanda and his pupils at Varana. The plaintiff in that action claiming to be in Sumangala Thero's line of succession prayed for a declaration that he was entitled to the incumbency of Varana Vihare as against the defendant who was in Sunanda's line of succession. It was there held that though Attadassi Thero was the original Viharadhipathi of both Dangalla and Varana, his senior pupil Sumangala had renounced or abandoned any claim he had to Varana where Sunanda and his pupils had functioned as Viharadhipathis not merely de facto but de jure and the claim of the defendant who was in Sunanda's line of succession was up-held.

Here too even if Indrasara was the senior pupil of Saranakara, the facts proved show that he had renounced or abandoned any claim he may have had to Nihiluwa where Sadatissa and pupils functioned as Viharadhipathis not merely de facto but de jure. The plaintiff who claims as the senior pupil of Dhammananda who was in the line of succession under Sadatissa in respect of the Nihiluwa Temple must therefore succeed.

For these reasons I would set aside the judgment and decree of the District Court and enter judgment for the plaintiff as prayed for in paragraphs (1) and (2) of the prayer to the amended plaint. The plaintiff appellat will also be entitled to his costs both here and below.

VYTHIALINGAM J.—I agree.

SHARVANANDA J.—I agree.

*Appeal allowed.*