

1947

Present : Nagalingam A.J.

DINGIRI MAHATMAYA *et al.*, Appellants, and
KIRIBANDA, Respondent.

4—C. R. Kegalla, 16,771

*Kandyan law—Inheritance—Daughter married in deega after father's death—
Her right to share in the paternal inheritance.*Under Kandyan law, prior to the Kandyan Law Amendment Ordinance, a woman who married in *deega* after her father's death forfeited her right to share in the paternal inheritance.**A** PPEAL from a judgment of the Commissioner of Requests, Kegalla.

C. V. Ranawake, for the defendants, appellants.

No appearance for the plaintiff-respondent.

Cur. adv. vult

April 1, 1947. NAGALINGAM A.J.—

The question that arises on this appeal is whether under Kandyan law a daughter who marries in *deega* after her father's death forfeits her right to share in the paternal inheritance.The plaintiff instituted this action claiming the value of a one-fourth share of the paddy harvested from the field called Paragahamulakumbura on the basis that he is the owner of a $\frac{1}{4}$ share of the field. His title is derived from his deceased wife, Dingiri Menika. Admittedly the field belonged to Dingiri Menika's father who died leaving four children. According to the finding of the learned Commissioner Dingiri Menika married in *deega* after the death of the father. The learned Commissioner holds that as the marriage though in *deega* took place after the father's death, Dingiri Menika did not forfeit her rights to inheritance in the paternal estate.

The question in this case is not governed by the Kandyan law Amendment Ordinance, for Dingiri Menika married about twenty years ago and died about a year thereafter. The question of law involved

was decided by a bench of two Judges as early as 1910 after reviewing all the previous authorities and this decision has always been followed. It was explicitly laid down there that a woman who marries in *deega* after her father's death forfeits her rights to the paternal inheritance by reason of the marriage. *Meera Saibo v. Punchi Rala*¹. The head-note is incorrect in that it sets out the contrary of the decision as what was decided by it. The Kandyan Law Amendment Ordinance, no doubt, softens the rigour of this principle so far as the claims of an unmarried daughter who survives her father to the paternal inheritance are concerned though the marriage be in *deega*, but the Ordinance, as stated earlier, has no application to the facts of the present case.

It therefore follows that Dingiri Menika did not inherit any share of the field. The plaintiff's claim, therefore, to a share in the field fails. In this view of the matter the plaintiff's action is dismissed with costs both of appeal and of the lower Court.

Appeal allowed.

