1957 *Present :* Basnayake, C.J., Pulle, J., and K. D. de Silva, J.

PANDITHA WATUGEDERA AMARASEEHA THERO, Appellant, *and* TITTAGALLE SASANATILAKE THERO, Respondent

S. C. 478—D. C. Balapitiya, 228/L

Buddhist ecclesiastical law—Viharadhipathi—Succession to office—Renunciation of right by senior pupils—Right of a junior pupil to succeed—Action for incumbency—Prescription—Quantum of evidence—Period of limitation—Prescription Ordinance (Cap. 55), ss. 3, 10—Construction of a Sinhalese document—Official Language Act, No. 33 of 1956, s. 2.

The viharadhipathi of a Buddhist temple had five pupils. The succession to the incumbency was governed by the rule of *sisyanusisya paramparawa*. After the viharadhipathi died, the first two pupils, who had no pupils of their own, formally proposed and seconded a resolution, at a meeting of the Sangha Sabha, that the third pupil in order of seniority be placed in charge of the temple. The resolution was passed unanimously by the assembled Sangha.

Held, that it was correct to infer from the passing of the resolution that the first two pupils renounced their respective claims to the temple and that the third pupil in order of seniority was the *de jure* viharadhipathi.

Since it is open to a person who has usurped the office of Viharadhipathi to exclude the lawful holder for the rest of his life by pleading section 10 of the Prescription Ordinance, it is imperative that a plea of prescription should be carefully scrutinized and that such a plea should be upheld only upon the clearest evidence of the denial of the right of the *de jure* incumbent to exercise his office. The circumstance that a Viharadhipathi acquiesced in members of a dayaka sabha addressing another bhikkhu residing in the same temple as the Viharadhipathi cannot be construed as a continuing challenge to his own title to the office.

Per BASNAYAKE, C.J.—*Quaere*, whether the period of limitation in respect of an action to have a person declared entitled to the incumbency of a Buddhist temple is governed by section 10, rather than by section 3, of the Prescription Ordinance.

Per K. D. DE SILVA, J.—By virtue of section 2 of the Official Language Act No. 33 of 1956, it is now open to a Judge to import his own knowledge of the Sinhalese language in construing a document drawn up in Sinhalese. *Francisco v. Swadeshi Industrial Works Ltd.* (1951) 53 N. L. R. 179, distinguished.

APPEAL from a judgment of the District Court, Balapitiya.

E. B. Wikramanayake, Q.C., with *D. S. Jayawickreme, Q.C.*, and *J. A. D. de Silva*, for the plaintiff-appellant.

H. A. Koattegoda, with *R. D. B. Jayasekera*, for the defendant-respondent.

Cur. adv. vult.

2——J. N. B 2696—1,593 (3/58)

December 20, 1957. BASNAYAKE, C.J.—

I have had the advantage of reading the Judgment prepared by my brother Pulle, and I agree that this appeal shoud be allowed, that the plaintiff should be declared viharadhipati of the temple referred to in the plaint (hereinafter referred to as Sanghatissarama), and that the defendant should be ejected therefrom. I also agree that the appellant should receive his costs and that the costs of trial should be divided.

The learned District Judge has held that the plaintiff's tutor Dhammasiri Tissa was the rightful viharadhipati of this temple. His pupils in order of seniority are Aggawansa, Gnanawansa, Amaraseeha the plaintiff, and two others. Aggawansa is no longer in the Order as he disrobed in 1945. When Dhammasiri died in 1937 without nominating his successor it was Aggawansa the senior pupil who should have succeeded him. But it appears from the document P10 that both he and the next senior pupil Gnanawansa renounced their right. There is no evidence that either of them had any pupils at that time. I therefore express no opinion on the effect of the renunciation if either Aggawansa or Gnanawansa had pupils.

The question that arises for decision is whether the plaintiff, the third pupil in order of seniority, was entitled to succeed on the renunciation of the succession by the first two pupils who had no pupils of their own. The law on this subject is by no means clear. But in the instant case the fact that the resolution to place the plaintiff in charge of Sanghatissarama was proposed by Aggawansa and seconded by Gnanawansa and adopted *nemine contradicente* by the assembled Sangha, removes all difficulties that would otherwise have arisen. I have no doubt that on the facts of this case the plaintiff is the *de jure* viharadhipati of Sanghatissarama. In my opinion it is correct to infer from the fact that Aggawansa proposed and Gnanawansa seconded the resolution that they renounced their rights.

The defendant, who is a pupil of Kamburugamuwe Kusalagnana, a co-pupil of Dhammasiri, having come to the temple on an invitation of the *dayakas* to spend his *was* (වස්) did not go back to his temple at the end of the period of *was* (වස්). The learned District Judge finds that he remained with Dhammasiri's permission. He appears to have done a great deal to improve the temple with the assistance of the *dayakas*. Having entered the temple with the plaintiff's tutor's permission and continued to possess on that basis, the defendant cannot decide with himself to possess on some other basis. *Nemo sibi causam possessionis mutare potest.*

The fact that a bhikkhu takes an active interest in the religious and other activities of a temple gives him no right to be viharadhipati even if his activities extend over a long period of time, nor is he entitled in law to base a claim to the temple on the ground that he has helped to improve it. A *de jure* viharadhipati does not lose his rights merely because he has expressly or impliedly permitted another to occupy his temple

and take an active interest in its maintenance and improvement. There is a further circumstance that favours the plaintiff and it is the fact that the defendant, being a pupil of Kusalagnana, is entitled to reside in the temple so long as he conducts himself properly and submits himself to the authority and control of the *de jure* viharadhipati.

There is no obligation on a *de jure* viharadhipati to institute legal proceedings for the indication of his right each time a pretender describes himself as viharadhipati of his temple or causes his lay supporters to describe him as such. Oral or written assertions by a pretender and his lay supporters, however persistent or long standing, do not affect the right of the *de jure* viharadhipati. There must be definite evidence that the pretender's conduct was such as to be entirely incompatible with the existence of any right whatsoever in the *de jure* viharadhipati and to leave no room for doubt as to the denial of his rights.

The learned District Judge has held that the document D7 has the effect of giving rise to a cause of action against the defendant. That document reads as follows :—

GENERAL INVITATION

The offering to the Maha Sangha of the new Danasala constructed under the leadership of Paulus Dharmasena Thenuwara Mudalali Mahatmaya in the Aramaya managed by the Sri Sanghatissarama Wardena Samitiya and according to the advice of Rev. Watugedera Sanghatissaramadhipathi Tittagalle Sasanatilake and the placing of door-frames of the Sanghawasa which is being newly constructed will occur ceremoniously at auspicious time of 2.5 p.m. on the 22nd Sunday of this month.

As on that day at 3 p.m. there will be a meeting presided over by Mr. P. Diamond de Silva, President, Village Committee, Ambalangoda, and as on that night there will be a Pirith Ceremony by the Priests in the new Dana Sala and on the following day dana will be offered in the morning as well as at noon . . . .

You are invited with respect to the Sasana to come to our Siri Sanghatissaramaya and to take part in the said ceremony to help in the new undertaking and to acquire heavenly bliss.

Please send to the following address the donations etc. sent in this connection.

Desiring progress of Sasana.

Address : Paulus Dharmasena Thenuwara
(Secretary Sanghawasa Committee)
Watugedera South
Ambalangoda
1945.7.12.

Vaidyachariya T. A. Isarishamy
(Person in charge Sri Sanghatissaramaya)
T. J. de Silva—President
T. W. A. Ondiris Silva—Secretary
T. A. Luwis Singho—Treasurer
.....

Mahinda Press, Ambalangoda.

SEAL Illegible

Sanghatissa Samitiya
Watugedera South
Ambalangoda

Fees Re. 1/.

.....

I do not think that the above document in any way affects the plaintiff's rights.

Before the Buddhist Temporalities Ordinance of 1931 all property movable or immovable belonging to a temple and all rents and profits thereof vested in the lay trustee. (Section 20 of the Buddhist Temporalities Ordinance, No. 8 of 1905, now repealed.) The function of the maintenance and upkeep of the temple and its priests was also vested in the lay trustee.

The present Ordinance made a radical change in this respect and vested the management of the property belonging to every temple exempted from the operation of secton 4 (1) but not exempted from the operation of the entire Ordinance in the viharadhipati of the temple who is called the "controlling viharadhipati" for the purposes of the Ordinance. In the instant case the plaintiff states that Sanghatissarama is exempted from the operation of section 4 (1) of the Ordinance and that he is its controlling viharadhipati.

As the learned District Judge has decided against the plaintiff on the ground of prescription I think I should say a word on the period of limitation The earlier cases hold that an action to have a person declared entitled to the incumbency of a temple is barred by the lapse of three years on the ground that such an action is an action for the declaration of a status, a class of action for which the Prescription Ordinance makes no express provision.

The plaintiff's action is in effect an action, for not only a declaration of status, but also for the recovery of the temple and its property, for, his prayer is that the defendant be ejected from the premises described in the Schedule to the plaint.

It would therefore not be correct to treat the instant case as an action for declaration of a status alone. The period of prescription in respect of actions for the purpose of being quieted in possession of lands or

other immovable property, or to prevent encroachment or usurpation thereof, or to establish a claim in any other manner to land or property is governed by section 3 and not by section 10 of the Prescription Ordinance. The decisions of this Court [1] which hold that an action for an incumbency of a temple, being an action for a declaration of a status, is barred by the lapse of three years from the date when the cause of action arose, may have to be re-examined in a suitable case in the light of the altered rights of a viharadhipati who is now empowered to sue and be sued as the person in whom the management of the property belonging to a temple is vested.

PULLE, J.—

The appellant in this case is the plaintiff. He is a Buddhist monk by the name of Panditha Watugedera Amaraseeha Thero residing at Sri Paramananda Maha Vihare of Galle. He filed two plaints, the first on 10th October, 1949, and an amended one on 5th September, 1950. He claimed as against the defendant, Tittagalle Sasanatilake Thero, a declaration that he is the Viharadhipathi of a temple called Sangatissaramaya standing on the land Bogahawatta described in the schedule to the plaint. After a trial lasting thirteen days, in the course of which a large volume of oral and documentary evidence was taken, the learned District Judge dismissed the action and ordered the plaintiff to pay half the costs of the defendant. He came to the finding that under the rule of sisiyanu sisiya paramparawa a senior co-pupil of the plaintiff named Gnanawansa Thero was the lawful Viharadhipathi of the temple. This finding, if correct, was sufficient to dispose of the plaintiff's claim. He went on further to hold that his claim was prescribed. The questions we have to determine are first, whether the learned Judge was wrong in holding that the plaintiff was not the *de jure* Viharadhipathi, and secondly whether the plaintiff's action is prescribed, in the event of our holding that, at the date of action, the Viharadhipathi was not Gnanawansa Thero but the plaintiff.

The name Sangatissaramaya was given to the temple in question to perpetuate the memory of a monk called Koggala Sanghatissa Thero who died in 1908. His chief pupil was Batuwita Dhammasiri Thero who succeeded to the incumbency on the death of his tutor. Sanghatissa was also the incumbent of Paramananda Vihare of Galle. A large part of the evidence was devoted to the question as to what rule of succession governed the Viharadhipathiship of Paramananda Vihare. The defendant was the pupil of one Kamburugamuwe Kusalagnana Thero who himself was a pupil of Sanghatissa and, therefore, a co-pupil of Dharmasiri. Galle Revata Thero was also one of the pupils of Sanghatissa. Even after this action was filed deeds were executed relating to the incumbency of Paramananda Vihare. By D10 of 2nd February, 1950, Gnanawansa purported to appoint the plaintiff as the incumbent of that temple. This was revoked shortly after by D11 of 12th March, 1950, and on the same day, by P19, an agreement was entered into

[1] *(1916) 3 C. W. R. 198*
(1927) 28 N. L. R. 477
(1938) 40 N. L. R. 235.

between 11 priests and 25 laymen fixing the mode of succession to Paramananda Vihare after the death of the last incumbent Galle Revata which occurred on 3rd January, 1950. According to P16 the successor to Revata was Kusalagnana. It is incredible that all the evidence concerning Paramananda Vihare was necessary to throw light on how the succession to Sangatissaramaya is governed for the simple reason that from an early stage of the trial it was understood that the Viharadhipathiship of Sangatissaramaya was to be determined by the application of the rule of sisiyanu sisiya paramparawa and not according to Kathikawa P2 compiled by Sanghatissa laying down, inter alia, what may be called the Paramananda rule of succession.

The first and important question then is a simple one. Dhammasiri was unquestionably the Viharadhipathi of Sangatissaramaya. He had five pupils at the time of his death on 28th August, 1937. They were Aggawansa, Gnanawansa, the plaintiff and two others. Aggawansa in 1945 reverted to lay life. The plaintiff alleges that both Aggawansa and Gnanawansa formally abandoned their rights to the incumbency of the temple on the 29th September, 1937, as evidenced by the document P10. Was there such an abandonment ? If so, then the plaintiff was at the date of action the *de jure* Viharadhipathi. Then the remaining question would be, has the defendant discharged the burden resting on him to prove that the plaintiff's claim was barred by section 10 of the Prescription Ordinance ?

The oral evidence called in the case was conflicting and partisan in character. Beyond the findings of the trial Judge it is not possible to make a fresh appraisement of that evidence. The arguments in appeal were not directed on either side to convince us that any oral evidence rejected ought to have been accepted.

In regard to the circumstances under which the defendant and his tutor Kusalagnana came to reside at Sangatissaramaya the trial Judge expresses his findings as follows :

> " I accept the evidence led for the plaintiff mainly of M. D. O. de Silva and Ariyasena that Kusalagnana came to the Temple in question for the first time at the instance of the Samithiya through the good offices of Dhammasiri and at that stage Dhammasiri was recognized as the Viharadhipathi of this temple. For the next Vas Season Ariyasena appears to have got down Rev. Sasanatilake on the suggestion of Kusalagnana his tutor—D20, and when Sasanatilake arrived Kusalagnana had gone away asking him to look after the temple. Although the defendant tries to make out that Kusalagnana was the Viharadhipathi and that he appointed him his successor and left the Temple, I am not at all satisfied that this was so. In my view, Kusalagnana did not function as Viharadhipathi, and therefore, he could not have appointed the defendant as the Viharadhipathi. The circumstances show that Dhammasiri had approved of the defendant being in charge of this Temple. Therefore, the question arises as to whether, the defendant having taken charge of the temple with the leave and licence of Dhammasiri, he could now allege that the claim of the plaintiff is prescribed. "

On this finding the claim of the defendant to be the lawful incumbent of Sangatissaramaya by succession from Kusalagnana or otherwise fails completely. Up to the time of his death Dhammasiri was the Viharadhipathi of the temple and according to the rule of pupillary succession the Viharadhipathiship vested in Aggawansa and, as stated before, the finding is that as this monk disrobed himself in 1945 the *de jure* Viharadhipathi at the date of action would have been Gnanawansa. Of the grounds on which the plaintiff put forward his claim at the trial that he became the Viharadhipathi only one was pressed before us by the learned counsel who appeared for him, namely, that in 1937 both Aggawansa and Gnanawansa abandoned their rights and the succession, therefore, devolved on the plaintiff. This contention rests principally on the interpretation of the document P10 drawn up at a meeting of the Sangha Sabha on the 29th September, 1937, the occasion being the alms-giving held a month after the death of Dhammasiri.

At this meeting 20 monks were present. Among them were Kusalagnana, Aggawansa, Gnanawansa, the plaintiff and one of the two remaining co-pupils of the plaintiff named Kotmale Amarawansa. The translation of the minutes submitted at the trial embodying the decision taken at the meeting reads :

> " On the two resolutions moved by Bambarende Aggawansa Sthavira and Bambarende Gnanawansa Sthavira..... goods and property mentioned at beginning of this list and which were under control of the late Dhammasiri Nayake Maha Sthavira were entrusted to Watugedera Amaraseeha Sthavira for proper control according to Dharma and Vinaya, by the unanimous vote of the Sabha mentioned above. "

The learned trial Judge was of the opinion that the decision did not amount to an appointment of the plaintiff as the Viharadhipathi by the Sangha Sabha. This view was not canvassed as the only interpretation which appellant's counsel sought to place on it was that there was a formal abandonment, before a solemn assembly of monks, by Aggawansa and Gnanawansa of their rights to the incumbency. A theory which appeared to find favour with the Judge was that one Galle Jananananda who succeeded to the incumbency of Paramananda Vihare on the death of Sanghatissa in 1908 was alive but very ill in 1937 and it was possible that the " goods and property " referred to in P10 were entrusted to the plaintiff to be looked after by him. If as learned counsel for the defendant contended before us that the property consisted of some pieces of furniture mentioned in the minute book P9, it is singularly odd that a solemn assembly was called for the purpose of handing them over. It is stranger still that the person selected was one who, by common consent, was of a scholarly disposition pursuing his studies at well known places of learning. There were others in the line of succession according to the Kathikawa P2 to whom the " goods and property " referred to in P10 could have been entrusted. In the course of the argument my brother De Silva expressed a doubt as to the correctness of the translation of the resolution. He suggested a translation which was acceptable to both sides and it reads :

" On a resolution proposed and seconded by Bambarende Aggawansa Sthavira and Bambarende Gnanawansa Sthavira respectively Watugedera

Amaraseeha Sthavira was appointed by the unanimous vote of the Sabha, for the purpose of the complete management, in accordance with the Dharma and Vinaya of the "garu lahu" property which had been managed by the late Dhammasiri Nayake Maha Sthavira mentioned at the beginning of the list". At this time what was the "garu lahu" property of Dhammasiri? Whatever was the true rule of succession to the Paramananda Vihare, when Sangatissa died it was not his pupil Dhammasiri who succeeded him as Viharadhipathi of Paramananda Vihare, but Jananandda a co-pupil of Sangatissa, and according to the evidence he survived Dhammasiri. The resolution can only mean that Aggawansa and Gnanawansa who sponsored the resolution abandoned their rights to succeed Dhammasiri as Viharadhipathi of Sangatissaramaya. In fairness to the learned trial Judge I ought to state that if he had before him an accurate translation of the resolution he might have come to a different conclusion on the submission addressed to him that there was an abandonment by the two senior pupils of their rights to the temple. That neither Aggawansa nor Gnanawansa lay claim at any time to the temple is a circumstance that tells in favour of the plaintiff.

According to the plaintiff his cause of action arose in 1948 when the defendant broke down two walls of the avasa and cut down some jak trees in 1949 standing on the temple land. A complaint was made on the 19th April, 1949, to the village headman regarding the cutting down of the jak trees. I have no doubt that the defendant did these acts in good faith but it is significant that when the headman questioned the defendant the latter said that Sangatissaramaya was sanghika property and that he and the plaintiff had the same rights—vide P 15.

The trial Judge held against the plaintiff on the issue of prescription mainly for the reason that the defendant had been described in some documents as the adhipathi of Sangatissaramaya. D5 and D6 are invitations addressed to the defendant to attend functions at temples. He is called "Tittagalle Sasanatilake Istavirayan Wahanse, Siri Sangatissaramadhipathi". D7 is a general invitation sent out in 1945 by a Sanghawasa Committee in connexion with the placing of door frames in the temple in question. The defendant is described therein also as Sangatissaramadhipathi. We are not by any means disposed to infer that the calling of the defendant by a title of dignity, appropriate in the case of a person who to all outward appearances was managing a temple in the way an incumbent would, amounted to a challenge of plaintiff's title. Members of a dayaka sabha cannot by calling a monk resident in a temple "viharadhipathi" create a cause of action for another who is the lawful incumbent. It is only proper that a charitable trust should not be administered by any person other than the trustee lawfully entitled to exercise that office. It so happens in view of the rulings given by this court that it is open to a person who has usurped the office of Viharadhipathi to exclude the lawful holder for the rest of his life by pleading section 10 of the Prescription Ordinance. That being so it is imperative that a plea of prescription should be carefully scrutinized and that such a plea should be upheld only upon the clearest evidence of the denial of the right of the *de jure* incumbent to exercise his office. The circumstance that the

plaintiff acquiesced in others calling the defendant the Viharadhipathi of Sangatissaramaya cannot be construed as a continuing challenge of plaintiff's title to the office of Viharadhipathi.

I would set aside the decree appealed from and direct that a decree be entered declaring the plaintiff the Viharadhipathi of Sangatissaramaya and directing that the defendant be ejected from the temple but without prejudice to his rights to reside therein as a pupil of Kusalagnana Thero. The plaintiff will be entitled to the costs of appeal.

To a large extent the plaintiff must take the blame for prolonging the trial by introducing topics remotely relevant, if at all, to the basic issues in the case. In my opinion each party should bear his costs in the District Court.

K. D. DE SILVA, J.—

I have had the advantage of reading the judgment of my brother Pulle with which I am in entire agreement.

The learned District Judge has held that the 1st Viharadhipathi of this temple was Sanghatissa Thero and that on his death his senior pupil Dhammasiri Thero succeeded to that office in accordance with the rule of succession known as "sisyanusisya paramparawa". This finding is not canvassed in appeal by either party.

This Court has consistently interpreted the word "sisyanusisya" to mean "from pupil to pupil". That is to say on the death of the 1st Viharadhipathi he is succeeded by his senior pupil who in turn is succeeded by his own senior pupil and the succession continues in that manner as long as each succeeding Viharadhipathi leaves a pupil or pupils. It is only when a Viharadhipathi dies without leaving pupils that the succession devolves on his collaterals. If I may venture to say so, I doubt the correctness of this interpretation. "Sisyanusisya" consists of two words, namely, "Sisya" and "Anusisya". By the word "Anusisya" is meant a "co-pupil". So that according to "sisyanusisya paramparawa" when a Viharadhipathi dies he should be succeeded by his co-pupil, if any, and not by his own pupil; otherwise no significance would be attached to the word "Anusisya". Such succession would be consonant with the spirit of the Buddhist religion which insists on reverence and due respect being paid to the senior monk by his junior. What passes off as "sisyanusisya paramparawa" today is in reality "sisya paramparawa" which means succession from pupil to pupil. But as this interpretation has been long established and consistently recognized by our Courts it is too late in the day to follow a different interpretation in keeping with the correct meaning of the words which describe the form of succession in question.

Dhammasiri Thero left five pupils. Of these the first three in order of seniority were Aggawansa, Gnanawansa and Amaraseeha, the plaintiff. Thus on the death of Dhammasiri in the year 1937 the senior pupil Aggawansa was entitled to succeed him as Viharadhipathi and when the

latter disrobed himself in the year 1945 the *de jure* Viharadhipathi would be Gnanawansa. It was contended on behalf of the plaintiff that both Aggawansa and Gnanawansa abandoned their rights to this temple on the death of their tutor. If that contention is correct the plaintiff would become the *de jure* Viharadhipathi. That Aggawansa and Gnanawansa abandoned their claims to this temple is supported by the evidence of the plaintiff and Gnanawansa himself. Their testimony on this point is confirmed by the resolution P10 passed unanimously at a meeting of the Sangha Sabha held on September 29, 1937. This resolution which is in Sinhalese was proposed by Aggawansa and seconded by Gnanawansa. I have examined the original resolution very carefully and I find that its English translation submitted to Court is clearly wrong. In *Francisco v. Swadeshi Industrial Works Ltd.*[1] which was decided in the year 1951 it was held that it was wrong for a Judge, in the case of a document in a language other than English, to import his own knowledge of the language in construing the document. But that view was not adhered to in the later case—*Dhammavisuddhi Thero et al. v. Dhammadassi Thero.*[2] Apart from that, the passing of the Official Language Act No. 33 of 1956 has completely altered the position. Section 2 of that Act provides that the Sinhala language shall be the one official language of Ceylon. Therefore now it is quite open to a Judge to construe a document drawn up in Sinhalese. I would translate the resolution P10 to read as follows :—

> " On a resolution proposed and seconded by Bambarende Aggawansa Sthavira and Bambarende Gnanawansa Sthavira respectively Watugedera Amaraseeha Sthavira was appointed by the unanimous vote of the Sabha, for the purpose of the complete management, in accordance with the Dharma and Vinaya of the " garu lahu " property which had been managed by the late Dhammasiri Nayake Maha Sthavira mentioned at the beginning of the list. "

" Garu " property or " garu badu " consists of five categories. They are :—

1. Monasteries (aramayas) and lands suitable for monasteries.
2. Vihares and lands suitable for vihares.
3. Beds, chairs, mattresses and pillows.
4. Vessels made of metal axes, spades etc.
5. Ropes made of creepers, bamboo, coarse grass, reeds, wooden goods and clay goods.

" Lahu " property or " Lahu badu " are movables which are not of great value.

Therefore it is clear from the resolution P10 that the plaintiff was entrusted with the full management of all the property both movable and immovable which had been under the control of his tutor Dhammasiri. Gnanawansa stated in his evidence that after the death of his tutor, he, plaintiff and Aggawansa " discussed about the carrying on of the affairs of Sangatissaramaya ". Referring to this resolution he stated " that

[1] *(1951) 53 N. L. R. 179.* [2] *(1955) 57 N. L. R. 469.*

includes the Viharadhipathiship also". It is significant to note that after the death of Dhammasiri neither Aggawansa nor Gnanawansa had anything to do with this temple. The only reasonable inference that one can draw from the passing of the resolution P10 is that Aggawansa and Gnanawansa abandoned their respective claims to this temple. Therefore the plaintiff must be regarded as the *de jure* Viharadhipathi of Sangatissaramaya.

For the reasons given by my brother Pulle I am satisfied that the defendant has failed to establish that the plaintiff's action has been prescribed.

Appeal allowed.