

1922.

[IN REVISION.]

Present: Ennis J.

THANKACHIAMMAH *v.* SAMPANTHER.

P. C. Kayts, 10,902.

Application for enhancing maintenance—Has Magistrate to consider whether the position of wife was worse since last order?—Change in husband's circumstances.

In considering an application by a wife for an order for enhancing maintenance, the Court may act on proof that the husband's circumstances have improved, and is not bound to consider the circumstances of the wife.

THE facts appear from the judgment.

Arulanandan, for defendant, petitioner.

B. F. de Silva, for respondent.

September 20, 1922. ENNIS J.—

This is an appeal from an order enhancing maintenance. Under section 10 of the Maintenance Ordinance, maintenance may be enhanced on proof that the husband's circumstances have improved, or on proof that the wife's circumstances have become worse. In this case there was an admission and evidence by the husband that his circumstances has considerably improved. The learned Judge thereupon refused to hear any more evidence. It has been suggested by counsel for appellant that the respondent was not allowed to prove his case. The counsel for appellant was not able to tell me what the respondent's case was which he wished to prove by further evidence. He suggests that it was to show that the wife was in no worse position than she was when the order for maintenance was made. Assuming that he had called evidence to prove this, it would not have made the order of the learned Magistrate wrong, because the Court can act on finding that the husband's circumstances have improved, and was not bound to consider the circumstances of the wife.

I accordingly refuse the application, with costs.

Refused.