

1966 *Present* : Sansoni, C.J., and Sri Skanda Rajah, J.

INDRASUMANA THERO, Appellant, and KALAPUGAMA UPALI,
Respondent

S. C. 96/1964—D. C. Panadura, 750

Buddhist ecclesiastical law—Pudgalika property of a bhikkhu—Scope of temple's right to it after bhikkhu's death—Buddhist Temporalities Ordinance, ss. 20, 23.

Section 23 of the Buddhist Temporalities Ordinance reads as follows :—

“ 23. All pudgalika property that is acquired by any individual bhikkhu for his exclusive personal use, shall, if not alienated by such bhikkhu during his life-time, be deemed to be the property of the temple to which such bhikkhu belonged unless such property had been inherited by such bhikkhu. ”

Held, that leaving a Last Will is not an alienation contemplated by Section 23.

¹ (1940) 17 C. L. W. 49.

² (1918) 5 C. W. R. 224.

³ (1935) 37 N. L. R. 139.

⁴ (1952) 54 N. L. R. 20.

APPEAL from a judgment of the District Court, Panadura.

H. W. Jayewardene, Q.C., with *S. S. Basnayake* and *R. C. Gooneratne*,
for Petitioner-Appellant.

No appearance for the Respondent.

September 3, 1966. SANSONI, C.J.—

The petitioner-appellant who is the Controlling Viharadhipathy of the Paramavisuddaranaya temple, Gangula, Panadura, applied for an order of payment in his favour for a sum of nearly Rs. 38,000 which was deposited in two Banks.

That money was the pudgalika property of one Rambukewela Seelananda Thero, the former Viharadhipathy of that temple. Under Section 23 of the Buddhist Temporalities Ordinance, the money not having been alienated by the deceased in his lifetime, became the property of the temple. Although he has left a Last Will that is not an alienation contemplated by Section 23.

Under Section 20 the money vests in the petitioner and he is entitled to withdraw it.

The order of the District Judge is set aside, and we direct that the money be paid out to the petitioner.

SRI SKANDA RAJAH, J.—I agree.

Order set aside.

