

1955

*Present : Pulle J.*

**M. PALANIYANDI, Appellant, and COMMISSIONER FOR  
REGISTRATION OF INDIAN AND PAKISTANI RESIDENTS,  
Respondent**

*S. C. 838—In the Matter of an Appeal under section 15 of the Indian  
and Pakistani Residents (Citizenship) Act*

*Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949—Citizenship by  
registration—Corroborative evidence—Prima facie case—Section 14 (7) (a).*

If, in an application for acquisition of citizenship by registration under the provisions of the Indian and Pakistani (Citizenship) Act, the Commissioner insists on having corroborative evidence of the applicant's testimony, such corroborative evidence must not be rejected arbitrarily.

**A**PPPEAL under section 15 of the Indian and Pakistani Residents (Citizenship) Act.

*N. K. Chokey, Q.C., with C. Shanmuganayagam, for the appellant.*

*M. Tiruchelvam, Deputy Solicitor-General, for the respondent.*

*Cur. adv. vult.*

March 14, 1955. PULLE J.—

This is an appeal taken from an order refusing an application by one Palaniyandi for registration as citizen under the provisions of the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949. The appellant adduced at first documentary evidence to satisfy the requirements of the Act as to continuous residence during the period of ten years commencing on January 1, 1936, and ending on December 31, 1945, and at an inquiry held by the Deputy Commissioner on January 23, 1954, this was supplemented by oral evidence. For the purpose of this appeal it is necessary to deal only with the evidence called to prove that the appellant resided in Ceylon during the years 1936 to 1939. The Deputy Commissioner held that there was no satisfactory proof of residence during these years and the question I have to decide is whether within the meaning of section 14 (7) (a) of the Act there was a *prima facie* case for allowing the application.

The appellant was born in India in the year 1924 or 1925. He came to Ceylon with his mother in about 1934 and lived on Balmoral Estate, Agrapatna. There is proof that he attended the estate school from September 1935, to August 31, 1936. According to the appellant he continued to live on the estate with his mother until 1939 when he left Balmoral Estate and took employment under a Chettiar at Bogowantalawa in April of that year. The evidence of his employment at Bogowantalawa is amply proved. Was he on Balmoral Estate from September 1936 to April 1939? According to the appellant he took private tuition on the estate after he left school. He called one Periannan who was a labourer on the same estate from 1925 to 1950 to speak to the appellant's residence on the estate. There are, undoubtedly, minor inconsistencies between the evidence of the appellant and that of Periannan but the reasons given by the Deputy Commissioner for not acting on their evidence are, in my opinion, not valid. He says,

- (a) that Periannan is an uncle of the applicant ;
- (b) that he himself is an applicant for citizenship ; and
- (c) that he stated in evidence that the applicant left the estate in 1938 or 1939.

Once it was accepted that Periannan was on the estate during the relevant period his relationship to the appellant would only serve to make his evidence more reliable in the sense that he should have known the

whereabouts of a nephew who was 12 years old when he left the school on an estate where his mother had been a labourer from 1925 to 1950. The witness's uncertainty whether the appellant left the estate in 1938 or 1939 is not a matter for surprise when he is questioned in 1954.

I am wholly unable to appreciate the reason that Periannan laid himself open to have his evidence rejected on the ground that he himself was an applicant for citizenship.

It was perfectly open to the Deputy Commissioner for good reasons to refuse to act on the uncorroborated testimony of an applicant. If he insisted on corroboration the proper approach to the question he had to determine was whether there was reliable circumstantial or direct evidence tending to show that the appellant was speaking the truth. A piece of corroborative evidence is that the appellant was only 12 years old when he left the estate school where his mother was employed as a labourer and it is most unlikely that he was away from Ceylon between 1st September, 1936, and 18th April, 1939, while his mother continued to be a labourer.

Periannan had the means of knowledge and the grounds stated by the Deputy Commissioner for doubting his evidence appear to be arbitrary. In my opinion there was good and sufficient evidence to afford reasonable grounds for believing that the appellant resided in Ceylon during the period 1936 to 1939. Learned Counsel for the appellant asks me only to find that there was a *prima facie* case for allowing the application and I find accordingly.

The appellant is entitled to his costs which I fix at Rs. 210.

*Appeal allowed.*

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