

1958

Present : Sansoni, J.

**KARUPPAN MUNIYANDY, Appellant, and COMMISSIONER
FOR REGISTRATION OF INDIAN AND PAKISTANI
RESIDENTS, Respondent.**

Citizenship Case No. 79—Application No. K. 1,578.

Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949—Application for citizenship thereunder—Applicant's awareness of the consequences of his application—Circumstances when proof of that fact is necessary.

An application for citizenship under the Indian and Pakistani Residents (Citizenship) Act must not be rejected by the Commissioner on the ground that the applicant does not realise the full implications of being registered as a citizen unless the applicant has been given previous notice that he must prove this particular matter.

APPPEAL under the Indian and Pakistani Residents (Citizenship) Act.

S. P. Amerasingham, for the applicant-appellant.

E. R. de Fonseka, Crown Counsel, for the respondent.

Cur. adv. vult.

October 31, 1958. SANSONI, J.—

The only matters which the applicant was called upon to prove at the inquiry were that his wife and children were resident in Ceylon during certain specified periods, and that he had permanently settled in Ceylon. After inquiry, the Deputy Commissioner held that the evidence led satisfied him on the issues regarding residence. He held, however, that the applicant had failed to prove that he had permanently settled in Ceylon and his only reason for so holding was that the applicant stated that he was not aware of the consequences of being registered as a citizen of Ceylon at the time he applied, or even at the time of the inquiry. But he omits to give effect to the applicant's statement that he wants to be a citizen of Ceylon and that his reason was that he has no interests in India.

The question of permanent settlement is quite different and distinct from the question whether the applicant realises the full implications of being registered as a citizen. In his application form the applicant has stated that he understands that in the event of being registered as a citizen he will be deemed to have renounced the rights to the civil and political status which he had, and that he will be subject to the laws of Ceylon. I do not understand why he should have been questioned on these matters by the Deputy Commissioner who had not given the applicant notice that these were matters he had to prove. I have had

other cases before me where this particular Deputy Commissioner has put the same questions to applicants and rejected their applications on the same grounds. Applicants who are not alive to the situation and who have no reason to attach particular significance to their answers on these difficult matters may be inclined to give answers thoughtlessly. The proper course for the Deputy Commissioner to have adopted, if he was not satisfied with the evidence on this point, would have been to adjourn the inquiry and give fresh notice to the applicant that he had to prove this particular matter.

In the absence of these conditions the Deputy Commissioner's questions were irrelevant and could perhaps be regarded as having been put to trip up the applicant who had come prepared to establish certain defined issues.

I set aside the order appealed from and send the case back for further action on the footing that a *prima facie* has been established. The applicant is entitled to his costs fixed at Rs. 105.

Order set aside.
