

COORAY *et al.* v. SILVA.

60—D. C. Kalutara, 8,019.

*Forthwith—Consent.*

*E. W. Jayawardene*, for the appellant.

*Croos-Dabrera*, for the respondent.

October 28, 1921. BERTRAM C.J.—

This is another technical objection under section 756. It takes two forms: The first is that notice of tender of security was not issued "forthwith." In this case it appears, however, that the various defendants received notice and consented to the motion. I think by so consenting they waived any preliminary steps. The second point is that the deposit to cover the cost of serving notice of appeal on the respondents was not made within twenty days. There appears in the record the certificate by the Secretary to the effect that a deposit was made; it does not appear at what date this was done. In the absence of any evidence to the contrary, it must be presumed that it was duly made. I think, therefore, that the application should be disallowed.

DE SAMPAYO J.—I agree.