

petition is bounded on the west by the paddy field of U. Cader Beebee and T. C. M. Munasinghe.

It is interesting to note that Surveyor Dissanayake has endeavoured to show the boundaries of Plan No. 1176 in a manner as to be consistent with the boundaries of the land described in the schedule to the petition filed by the Respondents. Thus, the northern boundary of the said land, is the paddy field of Nawuran Lebbe Mohiyadeen Pitcha and others which is sought to be substantiated in Plan No. 1176 by referring to the Y. M. Ismail as the claimant to the paddy field on the northern boundary as the successor in title of Nawuran Lebbe Mohiyadeen and others. Similarly, the southern boundary in the aforesaid Plan is described as the paddy field claimed by D. S. Gunasekere and previously owned by Ana Ali Thambi Lebbe, while in the schedule to the petition the corresponding boundary is the paddy field belonging to Ali Thambi Lebbe Sharibu. However, there is some inconsistency as far as the eastern and western boundaries are concerned. According to the schedule to the petition, on the eastern boundary of the land described therein is the “wélle” (වෙල්ල) and the property of Yusoof Lebbe, whereas in the Plan No. 1176 and report, on the eastern boundary of the land is the irrigation canal and reservation, but there is no reference to the property of Yusoof Lebbe. Of course, the “the irrigation canal” on the eastern boundary of the aforesaid plan does not give rise to much of an issue, as the Sinhalese term “wélle” (වෙල්ල) refers to an embankment or mound of a canal or a paddy field, but no light was shed by any of the surveyors or witnesses in regard to the reference to Yusoof Lebbe in the schedule to the petition. Similarly, according to Plan No. 1176 and its report, on the western boundary of the land surveyed is the paddy field claimed by D. S. Gunasekere and C. Jainul Abdeen and originally owned by Lebbe Thambi Yusoof, but the schedule to the petition states that on the western boundary is the property of Sultan Yunoos, which is entirely a different name, and there is no basis on which these boundaries can be said to be consistent.

It is also important to emphasise that neither Surveyor Dissanayake nor any other witness who testified at the trial, including the 1st Petitioner-Respondent-Respondent, the 1st Defendant-Appellant-Appellant and Surveyor Somapala, placed before court any documentary or other evidence to substantiate the alleged succession to title to the fields or paddy fields on the northern and southern boundaries of the land described in the schedule to the petition, which information had been used by Surveyor Dissanayake for the purpose of synchronising the boundaries of the land described in the schedule to the petition with the land depicted in Plan No. 1175 and the accompanying report, and uncritically adopted by Surveyor Somapala in Plan No. 2025 and report annexed thereto. In the absence of such evidence, there is no justification to conclude that the boundaries of the land surveyed by these surveyors as the land in dispute, tally with the land described in the schedule to the petition of the Respondents. To illustrate this point, the statement in the aforesaid survey plans and reports to the effect that the paddy field situated on the northern boundary of the land subjected to the survey was claimed by one Y.M. Ismail is an empirical fact reported and testified to by both surveyors which they were competent to make, but the statement to the effect that the previous owners of the said paddy field were Nawuran Lebbe Mohiyadeen Pitcha and others, is clearly hearsay, in the absence of any documentary or other evidence to substantiate the accuracy of that statement. So also, the statement on the said plans and reports to the effect that the paddy field on the southern boundary originally belonged to one Ali Thambi Lebbe, which substantially tallies with the name of the owner of the property described in the