

schedule to the petition, namely Ali Thambi Lebbe Sharibu, is at best hearsay, in the absence of any evidence to relate the aforesaid original owner or owners to the respective claimants of the said property at the time of the survey.

Furthermore, despite the superficial similarity between the lands depicted in Plan No. 1175 and Plan No. 2025, particularly, the bifurcation of the land by two canals, one close to the northern boundary and the other almost at the centre of the land, the said two plans seek to locate the lands by reference to two distinct villages, tulanas, korales and palatas and even the location and description of the land described in the schedule to the petition does not tally with the village, tulana, korale and palata of Surveyor Dissanayake's Plan No. 1175. In any event, this superficial similarity could only be used to show that the lands surveyed by Dissanayake and Somapala were substantially similar, but there is no reference to any such bifurcations of canals in the schedule to the petition.

Despite these obvious differences, the parties did not appear to have any difficulty in identifying the *corpus* at the stage of formulating the issues after the return of the commission to survey the land or lands in dispute. It is unfortunate that neither the learned District Judge, nor the learned Counsel for the contending parties, realized that issue 6 sought to describe the land in dispute by reference to the schedule to the petition of the Respondents as well as Plan No. 1176 and the accompanying report prepared by Surveyor Dissanayake despite their mutual inconsistency in regard to not only the extent of the land but also with respect to the village, the tulana, the korale and the palata in which the land is situated. It is also significant that issue 8 raised on behalf of the Appellants did not seek to describe the land claimed by them by reference to the schedule to their answer or the plan and report prepared by Surveyor Somapala, and that in the aforesaid said issue they had assumed that the bone of contention in the case was one and the same land, which they ventured to describe as “මෙම නඩුවට අදාළ ඉඩම”.

It is manifest that issues 6 to 8, thus formulated have only confounded the confusion in regard to the identity of the land in dispute, which the testimony of the two surveyors in this case has in no way helped to reduce. Surveyor Dissanayake was unable to explain the differences in the village name, tulana, korale and palata between the schedule to the petition and his Plan bearing No. 1176, although the name of the land and some of the boundaries specified in the schedule to the petition tallied with his plan. On the other hand, Surveyor Somapala was clear in his testimony that the land surveyed by him could not be the same as the land surveyed by Surveyor Dissanayake as the village, tulana, korale and palata within which the two lands were situated were different, although the structure and the bifurcations of the canals on the two plans were similar.

To sum up, from the issues raised by the contending parties as well as the documentation and evidence led in this case, it would appear that despite serious doubts regarding the location of the lands surveyed by the commissioned surveyors, the Respondents as well as the 1st Appellant were claiming title to substantially the same land. It is also material to note that the extracts of the Register of Agricultural Lands produced by respectively the Respondents marked P2 and the Appellants marked “ඒ1”, describe the land described in the schedule to the petition as “Palugahakumbura” in extent 3 acres, 2 roods and 26 perches, under serial No. 15/353 in Cultivation Officer Division of 42A Tulana up to the year 1987, and in the