

Privy Council Appeal No. 79 of 1915.

R.M.A.R.A.R. Somasunderam Chetty - - - *Appellant,*

v.

R.M.A.R.A.R.R.M. Aunasalam Chetty and another

Respondents,

FROM

THE SUPREME COURT OF THE ISLAND OF CEYLON.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 26TH OCTOBER, 1916.

Present at the Hearing :

THE LORD CHANCELLOR.

LORD ATKINSON.

LORD WRENBURY.

[*Delivered by the LORD CHANCELLOR.*]

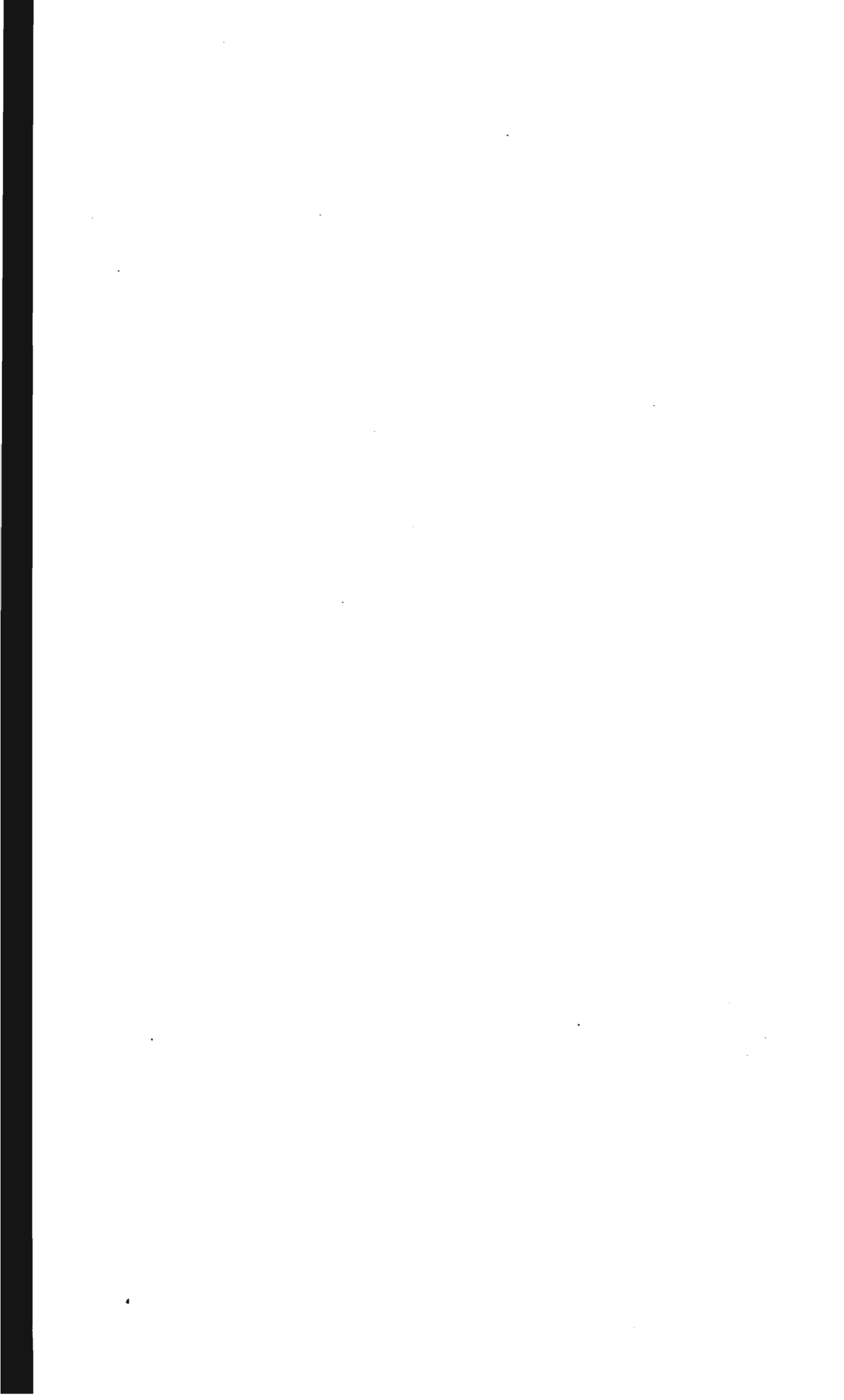
Counsel for the appellant has treated the Board with very proper consideration and respect, and has pointed out everything to which attention could be directed for the purpose of showing that there were any grounds for this appeal. It is perfectly clear, when the matter is investigated, that no such grounds whatever can be established.

The learned trial judge who heard the case has found, upon evidence which cannot be challenged, that the property in question was, in fact, conveyed to the appellant in a representative and not in a beneficial capacity. Quite apart from the oral evidence, the evidence of the circumstances is overwhelming in favour of that view. Part of the property which was the subject of the conveyance, which cannot be distinguished from the property which is the subject of this dispute, was, in fact, dealt with two years after the conveyance was executed, and the proceeds were dealt with upon the footing that the plaintiff held the legal interest in the property in a representative and not in a beneficial capacity. The plaintiff himself, although claiming that he holds this property for his own use, has not ventured to come and give evidence before the Court. Their Lordships will humbly advise His Majesty that there is no reason whatever for interfering with the judgment against which this appeal is brought.

Their Lordships cannot part from this case without again referring, and referring with great regret, to the history of these proceedings. As the matter now stands, it is plain that an attempt has been made to exclude the defendant from property to which he is justly and lawfully entitled, by a claim which cannot be characterised as even honest. For seven years, their Lordships think, he has been kept in suspense by the needless protraction of legal proceedings, never knowing for certain whether his property would be secured to him or no.

Their Lordships are determined, as far as lies in their power, to prevent the repetition of this scandal, which has become only too common in appeals from India and Ceylon. They call attention to it in this case because it is another flagrant instance of hardship and injustice which a man may suffer if steps are not taken to deal severely with protracted delays in litigation.

Their Lordships will humbly advise His Majesty to dismiss this appeal with costs.



In the Privy Council.

R.M.A.R.A.R. SOMASUNDERAM CHETTY

o.

R.M.A.R.A.R.M. AUNASALAM CHETTY
AND ANOTHER.

DELIVERED BY
THE LORD CHANCELLOR.

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1916.