

## Chapter 14

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### THE PROBLEM OF STATELESS INDIAN CITIZENS IN CEYLON: HISTORICAL ORIGINS

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#### INTRODUCTION

The problem of political and legal status of the persons of Indian origin settled in Ceylon – loosely stated the Indo – Ceylon question – is a bitter legacy of the British colonial rule. When the British exercised sway over the South Asian region both India and Sri Lanka, formerly known as Ceylon, were under common subjection to a western imperial power. As there were no boundaries within the British Empire in South Asia, labourers from India moved freely to Ceylon owing to the geographical proximity of the two countries. Imperial economic interests encouraged such mobility of labour from one colonial region to another within the Empire. Indians migrated to the other parts of the British Empire, such as Burma, Malaya, now called Malaysia, Fiji and South Africa, and settled in those lands.<sup>256</sup> As long as the British imperial rule lasted, the economic security of Indians settled abroad was not disturbed, because of the protection afforded to them by British rulers.

The case of migration of Indian indentured labour to Ceylon illustrates the point that the British colonial power, in order to promote the economic interest of the ruling class, encouraged the mobility of Indian labour to the

256. W.H. Wiggins, *Ceylon: Dilemmas of a New Nation*, Princeton University Press, Princeton, New Jersey (1960), p. 212.

plantations owned by the Britishers in Ceylon. Both the promotion of colonial economy and the poverty of the South Indian Tamils combined to produce the migration of Indian labour to Ceylon. The fact that the Tamils who went to Ceylon to work in the plantations there were willing to do so, because such migration afforded them an escape from their poverty – stricken condition.

### THE MIGRATION OF INDIAN LABOURERS TO CEYLON:

The periodic famines in South India owing to the failure of the monsoon, over – population and the consequent pressure on land in an agricultural country greatly helped Britishers to get a steady supply of cheap labour from South India to develop their coffee plantations which were started first in Ceylon by them, before they turned their hand to the production of tea.<sup>257</sup> Besides these, other factors such as “the harsh Riotwary Tax system, low wages, expanding population competing for scarce resources and entrenched aspects of social structure such as the caste system”, helped the flow of Indian labour into Ceylon.<sup>258</sup> India provided a steady supply of cheap labour that the development of plantation economy required. Since both the Government of Indian Dependency and the colonial Government of Ceylon were controlled by Whitehall, the free flow of cheap Indian into Ceylon became possible. The character of the governments in the two colonial countries was very much similar; both, ruled by the British Civilizations, acquiesced in promoting the interest of the British capitalists.<sup>259</sup>

The problem of “stateless” Tamils of Indian origin in Ceylon arose out of the migration of Indian labour from India to Ceylon during the British colonial rule. It was primarily caused by the economic interest of the British ruling class. It remained moribund during the colonial period when both India and Ceylon were under subjection. Only when Ceylon became independent in 1948, the problem assumed political dimensions and became a vexatious issue between the two sovereign states of India and Ceylon.

The historical factors that produced the contemporary problem of “stateless” Indian citizens in Ceylon are stated above. An examination of the historical context in which the problem arose is given below.

Today, Sri Lanka is famous for its quality tea which it exports to other countries. But the story was different in the past. The British capitalists and Indian labourers who contributed to the development of the tea plantation industry

257. Babu Lal Gupta, *Political and Civil Status of Indians in Ceylon*, Gaya Prasad and Sons, Agra (1963), p. 1.

258. Mayan Viji, *Where Serfdom Thrives; The Plantation Tamils of Sri Lanka*, Tamil Information Centre, Madras (1987), p. 2.

259. Babu Lal Gupta, *op. cit.*, p. 4.

of present day Sri Lanka did not start with tea plantations. The British first introduced coffee plantations in colonial Ceylon. The period between 1855 and 1880 is described as the "coffee era" in Ceylon.<sup>260</sup> In fact, Indian labourers went to Ceylon first to work in the coffee plantations owned by the British. Then the British switched over to tea plantations and the Indian workers were employed in tea plantations. This will be clear from the narration that follows:

The first coffee plantations in Ceylon were established in the 1820's and the first batch of South Indian Tamil labourers arrived in 1823.<sup>261</sup> During the colonial days, the planters found it difficult to recruit local Sinhalese labourers for the Sinhalese peasants, traditionally used to agricultural work, were unwilling to work on plantations. So the British plantation owners had to look elsewhere for labour. They did not prefer Chinese workers because they were dissatisfied with their turnout. Owing to the abolition of slavery in 1834, slaves from Africa could not be brought in as plantation workers. Hence, the only alternative open to the planters was to import labour from South India and South India was preferred because of its proximity.

In colonial Ceylon, coffee production reigned supreme from the 1820's and reached its peak in 1869 when coffee to the tune of 939,000 cwt. was produced from 300,000 acres. Thereafter, there was a decline in coffee production owing to the spread of the disease, known as 'Leaf Fungus'. By 1885 coffee plants were completely destroyed by that disease.<sup>262</sup>

After the demise of the coffee industry in the 1870's the planters took to tea production. Between 1880 and 1885, there was a rapid expansion of tea production, the increase in the acreage being ten times. From 1890 to 1900, the rate of increase was 100,000 acres every five years. This rate of expansion slowed down after 1900. In 1946, the total area of tea plantation was some 550,000 acres.<sup>263</sup>

To facilitate the cultivation of tea on a large scale, the colonial Government of Ceylon passed the Crown Lands (Encroachment) ordinance in 1940. This legislation favoured the British tea planters for it converted all forest waste lands, uncultivated lands and unoccupied lands into the property of the Crown, i.e. the property of the Government of Ceylon. The lands acquired by the Government under the ordinance were sold to planters at five shillings an acre.<sup>264</sup>

260. Babu Lal Gupta, *op. cit.*, p. 4.

261. Mayan Viji, *op. cit.*, p. 1.

262. Mayan Viji, *op. cit.*, p. 1.

263. W.H. Wriggins, *op. cit.*, pp. 55 - 56.

264. Sachi Ponnambalam, *The National Question and the Tamil Liberation*, Tamil Information Centre and Zed Books, London (1993), p. 7, quoted in Mayan Viji, *op. cit.*, p. 2.

## METHOD OF RECRUITMENT: *KANGANI* SYSTEM

First, the production of coffee and later, the large scale cultivation of tea demanded the employment of labourers. We have noted earlier the factors that facilitated the steady emigration of Indian labourers from India to Ceylon.<sup>265</sup> The planters adopted a method of recruitment of Indian labourers known as the *Kangani* system,<sup>266</sup> with a view to drawing a large, cheap labour force from Tamil – speaking South India. This organized system of recruitment by *Kanganis* began in 1837 and it was banned by the Government of Ceylon in 1939 when the migration of unskilled labourers was prohibited.

The *Kanganis* were recruiting agents who were employed by the planters for the specific purpose of finding labourers for employment in tea plantations.<sup>267</sup> They visited South India, especially the districts of Thanjavur, Trichirapalli, Pudukkottai, Ramanathapuram and Thirunelvely. The main recruiting area was districts around Trichirapalli which provided 75 per cent of the labour force.<sup>268</sup> Originally the *Kangani* recruited labourers from his kinsmen and from nearby villages. The family principle involved in recruitment made most workers on an estate being related to one another. The family principle was later abandoned, when the demand for increased labour arose and the Ceylon Labour Commission was established in 1904. The *Kanganis* now started recruiting men from outside their clans and villages. With the establishment of the Ceylon Labour Commission, the *Kangani* could no longer be a free recruiting agent. After 1904, he had first to get a license from the Controller of Indian Immigrant Labour in Ceylon and the license should be endorsed by the Ceylon Labour Commission. He had to get the approval of the village munsiff and bring the recruits before the Labour Commission for inspection.<sup>269</sup>

Though the new procedure introduced by the Government of Ceylon acted as a check on the activities of the *Kanganis*, it did not help the workers, since he continued to exploit them.

## THE EXPLOITATION OF WORKERS BY THE *KANGANI*

At the time of recruitment, the *Kangani* advanced a sum of money to the labourer so that the recruit might travel from his home to the estate in Ceylon where he was to be employed. The entire travelling expenses were debited to the worker's account. Thus the labourer began his life with a debt. This

265. Ref. pp. 4 – 6 ante.

266. *Kangani*, a Tamil word meaning a supervisor or an overseer.

267. Babu Lal Gupta, op. cit., p. 11.

268. Mayan Viji, op. cit., p. 3.

269. Ibid

debt he could not wipe out because he had to take further loan for marriage, festive occasions and funerals.<sup>270</sup> Because of the accumulation of his debt and his inability to pay back it in full to the *Kangani*, the worker remained practically a bonded labourer throughout his life. In other words, the worker was tied down to the estate and the *Kangani* took advantage of his indebtedness.

Another factor known as the *Tundu* (chit) system increased the indebtedness of the labourer and made him a serf. Because of the boom in tea cultivation, there was keen competition for labourers. The planters offered large sums of money as advances to the labourers through the *Kanganis* with a view to attracting efficient workers; but the *Kangani* pocketed a lion's share of the advance, known as *Tundu*, and only a very small fraction of the money went to the workers. By the *Tundu* system, the employer had become the creditor of the labourer. In other words, the worker could not leave the estate unless he cleared his entire debt. Since his indebtedness permanently tied him to the estate, he became a serf to all intents and purposes; no new employer would take him into service unless the present employer agreed to release him and he would do so only if the worker cleared his debt.<sup>271</sup>

The *Kanganis* position was unassailable, because not only the indebted worker was completely dependent on him but also the employer could not recruit labourers without the help of the *Kangani*. The *Kangani* exploited the situation to his full advantage. The transaction, known as the *Tundu* system, enabled the *Kangani* to transfer workers from one estate to another, since the new employer was willing to advance more than the amount owed by the labourer to the old employer.<sup>272</sup> The *Kangani* acted as a middle man between planters and by means of the *Tundu* system, the debt of the worker was transferred from the old employer to the new one. For doing his job, he got a commission which would be debited to the account of the labourer by his new employer. The worker continued to suffer and the *Tundu* system which benefited the *Kangani* increased the indebtedness of the worker. The *Tundu* system was legally recognized. In 1908, the Ceylon Labour Commission recommended its abolition. The Government abolished it in 1921, after the planters' association strongly pressed for its abolition.<sup>273</sup>

270. Babu Lal Gupta, op. cit., p. 14.

271. Mayan Viji, op. cit., p. 5.

272. Babu Lal Gupta, op. cit., p. 14.

273. Ibid., p. 15. The following passage from the report submitted by the Marjorihanks and Marakkayar to the Government of India on the working of the *Kangani* system is quoted to illustrate the argument mentioned above.

"If the debt due (through the *Kangani*) to an estate by each labourer of a gang of, say, 20 averaged rupees 30, the *Kangani* might ask for Rs. 10 more per head. If he got it, the debt against each labourer would be rupees ten more in the book of the estate, though the extra rupees ten might not all or any of it reach the labourer. If the *Kangani* was refused the

## THE ATTITUDE OF GOVERNMENT OF INDIA TOWARDS INDIAN RESIDENTS IN CEYLON DURING THE COLONIAL PERIOD

Even during the colonial period, the Government of India showed concern for the welfare of Indians settled in Ceylon. It permitted the emigration of the Indian labourers to Ceylon on the express understanding that Indians would enjoy equality of status with the Sinhalese. The Government of India insisted that its prior approval should be sought, before any change in the Laws of Ceylon relating to Indian labourers was introduced.<sup>274</sup> In the old Imperial Legislature, Pundit Madan Mohan Malaviya introduced a motion demanding the abolition of the indentured labour system. Lord Hardinge, the Viceroy of India, in response to the Indian demand, announced that the Government intended to abolish it (1916).<sup>275</sup> The Government of India sent a commission consisting of Marjoribanks and Ahmad Tambi Marakkayar on the initiative of Madras Government to report on the conditions of Indians settled in Ceylon. Yielding to the persistent demand of the Indian people, the Government passed the Immigration Act of 1922.<sup>276</sup> The Government agreed to permit the emigration of Indians to other countries only on the condition that Indians should be treated equal to the indigenous people. The Government of India continued to allow the emigration of Indians to Ceylon even after passing the 1922 Act.

### DISCRIMINATION AGAINST INDIAN RESIDENTS BEFORE 1948

The reaction against Indians in Ceylon began in the wake of the world depression of the early 1930's. Owing to the economic depression and the consequent unemployment in Ceylon, the Government of Ceylon, yielding to the pressure of the Sinhalese people, decided to dispense with the services of Indian labourers who had been employed by the Government on the basis of daily wages. The Government decided to retire compulsorily all non - Ceylonese daily - paid workers in Government service in 1939. The people who were worst affected by the Government's decision were Indians who had been employed in Government services in the City of Colombo

further advance he would demand and get his *Tundu* for himself and the twenty labourers, the total debt being put down at rupees 600, and he would hawk his round till he got a superintendent to give him, say, rupees 750. Of this, rupees six hundred would go to the superintendent of the first estate who would thereupon discharge the *Kangani* and his gang of 20 labourers, and the balance of rupees 150 would be taken by the *Kangani* ostensibly to give to the labourers; but, whether it reached them or no, their debit in the books of the new estate would now average Rs. 37/8/- (Rupees 750/20)."

274. Babu Lal Gupta, op. cit., p. 5.

275. Ibid.

276. Ibid., p. 6.

and formed harbor workers and the staff of the railways and Public Workers Department.<sup>277</sup> Thus even before independence, the Ceylonese Government discriminated against the Indian settlers with a view to protecting the economic opportunities of the Sinhalese from Indian competition.

"Ordinances regarding the disposal of Crown lands were so drafted as to virtually prohibit those of Indian origin from acquiring Crown land. Indians on the island were in fact prevented from fishing in Ceylonese waters and Indian entrepreneurs could not obtain autobus franchises. During the war, the Government took the import of essential foodstuffs and though Government – sponsored cooperatives distributed essential foodstuffs and collected home – grown rice from the country side. These measures were designed to prevent profiteering in scarce food supplies. But they also eliminated the Indian trader as middleman. Subsequently, port labourers and other Government municipal labourers have been largely replaced by Ceylonese. Thus, the free scope of economic activity for Indians has been gradually restricted."<sup>278</sup>

The Ceylonese Government not only took decision to deny Indian residents economic opportunities but also adopted measures to restrict their political rights. The concentration of the estate workers of Indian origin in certain districts "gave them clear majorities in six constituencies and, as an ethnic minority relatively well organized, they tended to vote in a block".<sup>279</sup> In the 1947 election, the Ceylon Indian Congress set up seven candidates in the estate areas and six of these were elected to Parliament. Because of the voting strength in Parliament, they sometimes held the balance of power.<sup>280</sup> The Sinhalese did not want the Indian residents to hold a decisive influence in the politics of the country. Ever since they obtained a majority in the popularly elected State Council in 1931, they worked consistently to whittle down the political rights of Indian residents. In 1937, Indians did not get village franchise rights even though they were extended to other minorities such as the Burgers. To reduce the political rights of the Indians, the national franchise was also restricted. For example, in 1939, some 225,000 Indians had voting right. The strict application of franchise laws reduced the right to vote to 168,000 Indians in 1943.<sup>281</sup>

## THE FORMATION OF THE CEYLON INDIAN CONGRESS

The Tamil plantation workers who constituted the bulk of Indian residents in Ceylon suffered economic and political disadvantages on account of the dis-

277. W.H. Wriggins, *op. cit.*, p. 214.

278. W.H. Wriggins, *op. cit.*, p. 220.

279. W.H. Wriggins, *op. cit.*, p. 222.

280. *Ibid.*, p. 222.

281. *Ibid.*, p. 225.

crimination practiced by the Sinhalese even during the colonial period. Their economic condition was bad because they received low wages and lived in miserable conditions. The whittling down of their franchise rights deprived them of the opportunity to exert political pressure on the Sinhalese majority through their elected representatives. There was no organized representative body to voice their grievance publicly. It slowly dawned on them that the only way to overcome their political and economic handicaps were that they should develop an effective political organization and powerful trade union so that they might play a significant and distinctive role in the politics of Ceylon. The formation of Ceylon Indian Congress (CIC) in July 1939, as a political party fulfilled a long felt collective need of the minority ethnic community. The trade union wing of the new political party, known as Ceylon Indian Labour Union, was set up in March 1940.<sup>282</sup> Both the new political party and its trade union wing secured the support of plantation workers. In 1947, the membership of the Ceylon Indian Congress Labour Union rose to 116,500.

The C.I.C. became the representative of the interest of all the resident Indians in the island. In 1946, it organized a *hartal* in protest against the Soulbury Constitutional Reforms. In support of its call, over 290,000 Indians and 50,000 non-Indian labourers came out of the work spots.<sup>283</sup> This proved the hold of the C.I.C. over the Indian ethnic minority. In 1950, the Ceylon Indian Congress changed its name into Ceylon Workers Congress (C.W.C.).

#### THE STATUS OF INDIAN RESIDENTS DURING THE BRITISH COLONIAL RULE

On the basis of the Donoughmore Commission, universal franchise was introduced in 1931.<sup>284</sup> This measure enabled 100,000 persons of Indian origin to get voting rights. Now the Tamil plantation workers could send their own representatives to the Legislative Council. Two members, M. Peri Sundaram and S.P. Vaidilingam were elected in 1931 and Peri Sundaram became Minister of Labour, Industry and Commerce.<sup>285</sup> After the formation of the Ceylon Indian Congress in 1939, the new political organization of the plantation workers espoused the cause of the Indian residents in Ceylon. In the 1947 general election which was the last election held under the colonial rule before Ceylon became independent in 1948, the Ceylon Indian Congress contested and won 7 parliamentary seats.<sup>286</sup>

282. Mayan Viji, *op. cit.*, p. 6.

283. W.H. Wiggins, *op. cit.*, p. 222.

284. Mayan Viji, *op. cit.*, p. 9.

285. *Ibid.*, p. 11.

286. *Ibid.*, p. 11, The seven Indian Members of the Parliament, S. Thondaman, C.V., Velu Pillai, K. Kumaravelu, K. Rajalingam, G.R. Motha, D. Ramanujam and S.M. Subbiah.



## THE STATUS OF INDIANS AFTER CEYLON BECAME INDEPENDENT

The Indian residents could not directly elect their representatives to Parliament after the deprivation of their citizenship rights in 1948 under the Citizenship Act of 1948 and the disenfranchisement of Tamil plantation workers under the Indian and Pakistani (Residents) Citizenship Act of 1949. Between 1949 and 1977, when once again Mr. S. Thondaman was directly elected to Parliament, the Government of Ceylon nominated members to represent the plantation Tamils.<sup>287</sup>

In his study of the plantation Tamils of Sri Lanka, Mayan Viji observes. "The single act of discrimination which reduced the plantation workers and other people of Indian origin to mere slaves and devastated their lives was the enactment of the Citizenship Act in 1948."<sup>288</sup> The first act of the Government of independent Ceylon was to deprive persons of Indian origin settled in Ceylon of their citizenship rights which they had enjoyed under the British colonial rule. One Sinhalese Member of Parliament gave expression to the fear that Sinhalese in general entertained about the energetic and hardworking Indian residents. He observed in the House of Representatives. "I am not certain about the Government, but I am myself inspired by a fear complex..... But believe me we are afraid and that am why we feel that we have to restrict the composition of our nationals - of our population in this country."<sup>289</sup> The object of the Sinhalese ruling elite that came to power on the attainment of national independence was to drive out of Ceylon the large Indian population<sup>290</sup> that had not only become a political factor in national politics, but posed a threat to the Ceylonese commercial interest.

The Citizenship Act of 1948 created two types of citizens, those by descent and those by registration. As its provisions were extremely rigid, it was impossible for Indian residents settled in Ceylon to obtain citizenship under both categories. For the majority of Tamil plantation workers did not possess the birth certificates of their fathers or could not even produce their own birth certificates. Though the Citizenship Act applied to both Sinhalese and Indian residents, only persons of Indian origin were required to produce evidence for acquiring their citizenship.<sup>291</sup> Thus the Government of Ceylon successfully prevented the Indian residents from becoming Ceylonese citizens.

287. Mayan Viji, *op. cit.*, p. 11.

288. *Where Serfdom Thrives*, p. 8.

289. House of Representative, Vol. IV, C. 1771 (Aug. 19, 1948), quoted in W.H. Wiggins, *op. cit.*, p. 216.

290. According to 1953 census, there were 990,000 persons of Indian origin settled in Ceylon. Of these, some 800,000 were estate labourers and their families.

291. Mayan Viji, *op. cit.*, p. 14.

Having "stemmed by swamping" by the Tamil plantation workers through the Citizenship Act of 1948, the Government of Ceylon enacted another Act in 1949, known as the Indian and Pakistani (Residents') Citizenship Act of 1949. The object was to reduce the number of Indians to a very great extent from becoming citizens of Ceylon so that they could not be a threat to the economic and political interest of the Sinhalese. The Government of India considered the Bill thoroughly unsatisfactory and raised objections. The harsh provisions of the Bill made it for the Tamil plantation workers difficult to become citizens. So the Ceylon India Congress called for a boycott of the Bill and instructed the Tamil plantation workers not to apply for the registration under the Act. However, the C.I.C. withdrew its boycott<sup>292</sup> a week before the last date set for the filing of applications (14<sup>th</sup> August 1951). The frantic last - minute rush did not help the Indian residents. Many Indian residents lost their opportunity to register themselves. "When the final count was taken 237,034 applications had been made requesting citizenship for 825,000 (90%) persons of Indian origin."<sup>293</sup>

The narration of the historical origins of Indo - Ceylon political relations clearly indicates that the political and legal status of Indians settled in Ceylon has been the main issue that has acted as a barrier in the establishment of good - neighbourly relations between India and Sri Lanka whose cultural and political contacts go back to the days of Asoka the Great. India and Ceylon inherited the problem as a legacy of the British imperial rule which had extended over both the countries. As British citizens, Indians could not be discriminated against by the Sinhalese who, like the resident Indians, were common subjects of the British Crown. Both Indians and Sinhalese shared the benefits of the Common Law as common British subjects. The problem of the status of Indian residents settled in Ceylon then lay moribund.

Only when the two countries became independent after the end of the British imperialism, the national interest of India and Ceylon diverged and each, now a sovereign nation, pursued its national interest. After 1948, the Indians settled in Ceylon became unwanted persons who took away the employment opportunities of the native Sinhalese. In other words, the Sri Lankan Government did not regard Indians as the sons of the soil enjoying equal rights with the Sinhalese. They were thought of as intruders who came to Ceylon because they had lacked opportunity for employment in their own land. This anti - Indian psychological attitude is clearly revealed in the letter that Prime Minister D.S. Senanayake wrote to Prime Minister Pandit Nehru of India, when he said, "I do not think I misrepresent the "facts of History" when I state that Indian Labour did not come to Ceylon to settle down per-

292. Mayan Viji, *op. cit.*, p. 16.

293. *Ibid*

manently in this country, but primarily to seize the opportunities for employment which the coffee, tea and rubber plantations so generously offered."<sup>294</sup>

The contention of Ceylonese Prime Minister was not accepted by his Indian counterpart. Pandit Nehru held the view that Indians settled in Ceylon should be treated as Ceylonese and there should be no distinction between the native Sinhalese and persons of Indian origin in respect of citizenship rights. Indian nationals went to Ceylon on the express understanding that they would not be unfairly discriminated against. This Indian point of view he asserted in his letter to Ceylon Prime Minister D.S. Senanayake. He observed "One of the conditions for emigration to other countries to which the Government of India have always attached the utmost importance from the very beginning of Indian Emigration has been that an emigrant labourer should be given facilities to settle in the country to which he emigrated on equal terms with members of the indigenous population."<sup>295</sup>

## CONCLUSION

The course of diplomatic negotiations between India and Ceylon illustrates the difficulty of a big rising power such as India in its dealing with a small nation like Sri Lanka suffering from fear complex. To avoid being accused of adopting a big – brother attitude, India made many concessions which were criticized by the representatives of Tamil Nadu. Though foreign affairs are a Union subject under the Indian Federal System, the Government of India consulted the State Government of Tamil Nadu when discussions were held before the conclusion of the Sirimavo – Shastri pact of 1964.<sup>296</sup> Lal Bhahadur Shastri admitted that "he consulted the Congress President and the Madras leaders before arriving at the Agreement"<sup>297</sup> but he was not sure whether they were "fully in agreement with the terms of the settlement with the Ceylon Prime Minister."<sup>298</sup> In his view, the important question was "to reach the friendly agreement without leaving Indian people to suffer."<sup>299</sup>

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the Kangani ostensibly to give to the labourers; but, whether it reached them or no, their debit in the books of the new estate would now average Rs. 37/8/- (Rupees 750/20)."

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