

LEGAL LUMINARY

*He hath... points more than all the lawyers
in Bohemia can learnedly handle.*

SHAKESPEARE, *The Winter's Tale*

Kalaithanthai's knowledge of law was immense. From his early days he had been interested in law. He had mastered the Indian Companies Act and was an expert in it.

The general impression was that Kalaithanthai loved litigation and went to court at the slightest provocation. This was not true. He was a fighter all right, but he never picked a quarrel. He would go to court only when it was unavoidable. He never fought with weak people but only against equals or those above him or the all-powerful government. He never fought for the sake of the fight - out of vanity or as a pastime. He would go to court to demand his rights. He would weigh the options and study the legal position carefully before embarking on a case.

In his lifetime Kalaithanthai filed 250 cases in court, mainly to uphold his principles. He won 200 of them, lost 40. In 10 there was no final judgment.

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There was a legal department in Sree Meenakshi Mills. It was started with a single lawyer but gradually grew, and at one stage it consisted of 20 lawyers. Over the years it had become a kind of white elephant. The returns were not commensurate with the expenditure, as the department invariably engaged outside lawyers to argue the cases. Kalaithanthai closed down the department as part of an economy measure.

It was Kalaithanthai's practice to engage the best legal talent to argue his cases. Once he tried to get Mohammed Ali Jinnah, the Muslim League leader, who later became Pakistan's first Governor-General, to argue a case for him. Jinnah declined, as he was going to England in the next few days. And on his suggestion, Kalaithanthai engaged the services of Bulabhai Desai, the leader of the Congress party in the Indian Assembly. Kalaithanthai was in touch with great European lawyers like Nugent Grant and Indians like T.R.Venkatarama Sastriar. Lawyers were very happy to argue cases for him. They invariably admired his knowledge of law. There were occasions when the lawyers acknowledged that a discussion with Kalaithanthai sharpened their knowledge. He was able to see points that they had overlooked. Many of them called him "the lawyer of lawyers". Even senior lawyers complimented him on his knowledge.

With all his legal knowledge, Kalaithanthai was fair - minded and highly principled. In 1964, a new Labour Union was formed, its leader being Kannan, a lawyer in Madurai. One day, the workers had a gate meeting and Kannan shouted slogans calling upon the management to recognize the Union. Kalaithanthai felt that Kannan was an outsider, unconnected with the mill, and for him to enter the mill premises and shout slogans against the management was an act of criminal trespass. He gave instructions to the legal department to file a case against Kannan. The leading criminal lawyer in Madurai then was Kalyanasundaram Iyer. He said that there was not sufficient ground for action and for the case to be strong they should add that Kannan used abusive language. Kalaithanthai refused. It was wrong to attribute to Kannan words he had not used. The case was limited to getting a punishment for exceeding propriety.

Mr A. Lakshminarayana Iyer was a renowned lawyer in Madurai. Around 1930, Kalaithanthai would visit him every evening for consultation. A.L. would study the

papers and explain points of law. The young Kalaithanthai would himself give certain subtle points to the astonishment of the lawyer. The lawyer was ungrudging in his praise. He used to say that Kalaithanthai would have made a very good lawyer. If ever he had to argue a case for himself, he would unhesitatingly ask Kalaithanthai to appear for him.

There were occasions when the lawyers on the other side were afraid of Kalaithanthai. Not that they thought that he was a terrible man. They were apprehensive of his knowledge of the law, his analytic mind, his felicity in English, his clear thinking, his confidence, his tenacity, and his faith in the justness of his cause.

He felt that the government passed various acts without bestowing much thought and consequently there were many defects in them, which should be brought to public notice. When others were afraid to bell the cat, Kalaithanthai came forward to fight. Some of the cases he filed were public interest suits that were helpful to others. He never went to court without sufficient reason. He respected the law and never tried to infringe it.

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The year was 1937. Though Sree Meenakshi Mills was making a profit, it did not pay any dividend to the shareholders. Two of the shareholders thought that Kalaithanthai was losing money in speculative trading in the Bombay cotton market. They preferred a complaint with the Assistant Registrar of Joint Stock Companies. The Assistant Registrar already had a grouse against Kalaithanthai. All mills had to send regular reports of accounts to the Assistant Registrar. Sree Meenakshi Mills had not sent in its reports and the Assistant Registrar had taken up the matter with the Mills, threatening legal action if the reports were not sent in time. An angry Kalaithanthai had written a strong letter to the officer. He objected to the threatening tone of the letter. Sree Meenakshi Mills was a big company managed by respectable directors. The Assistant Registrar had to be polite in his letters. The Mill was not going to submit any statement of accounts. He sent a copy of his reply to the government. The Assistant Registrar was naturally furious and he wanted to get back at Kalaithanthai. The shareholders' complaint was a godsend, and he

wrote to the government recommending a thorough inquiry into the working of Sree Meenakshi Mills.

The Madras government appointed Brahmiah of Brahmiah & Co., auditors, to examine the working of the Mills. The necessary order was passed, but before it was received at the Mills, Brahmiah came without prior notice and demanded to see the account books. Kalaithanthai was away and C.S.R. told him that he had no authority to show the accounts books in Kalaithanthai's absence to any officer, however great. Brahmiah recorded his visit and said that he would come back after five days.

Kalaithanthai returned the next day. He resolved that he was not going to show even a scrap of paper to the officer. Whatever happened, he was not going to permit any investigation into the affairs of the mills. If word got round that the accounts were being examined by the government, the creditors would become jittery and press for repayment and there would be no other option for him but to close down the mill. He wrote to the government about the unfairness of the order and appealed for its withdrawal.

In the meanwhile, Brahmiah had visited the mills thrice but could not gain access to the accounts. He reported to the government and the government promptly filed a case against Kalaithanthai in the City Criminal Court, which issued a notice. In those days a person hauled up to the criminal court was in danger of losing his social standing and being criticized.

Kalaithanthai was not worried. He had no doubt that he would win the case. He engaged a leading criminal lawyer, Ramanujam. He himself went through the Companies Act closely and had no doubt that the government order appointing Brahmiah to inspect the accounts was invalid.

The British Parliament had passed the India Government Act in 1935 and it had become operative. Under it, though the Presidencies (now States) had been given self-rule, companies had been transferred from the State list to the Centre. The Act was to become law on April 1, 1937. Before that, the Emperor had promulgated an order called the India Burma Transitory Provisions Order whereby till the Act came into force and

new governments were formed in the presidencies, the Governor, as the Governor General's representative, could have executive powers. Kalaithanthai took the stand that according to this, any order under the Companies Act could be passed only by the governor and not by the government. He argued that the government order was not in order and he could not be held guilty of any violation. The government's reply was that the phrase "under the governor's seal" at the end of the order indicated that the government's order was also the governor's.

Kalaithanthai did not give in. He went to the Government Printing Press and the Directorate of Government Stationery and Printing and enquired how a government order was issued. He found that an under-secretary could issue it. He argued that the phrase "under the governor's order" did not make an order automatically the governor's. Ramanujam said that the argument would not be accepted in the lower courts. They could use it in the High Court. Kalaithanthai petitioned the court to call the Governor, the Chief Secretary and the Registrar of Companies for enquiry. But the court only called the Registrar of Companies.

The judge in Madurai fined Kalaithanthai Rs 150 for not complying with the government order and not allowing Brahmiah to inspect the accounts — at Rs 50 for each occasion. Brahmiah had visited the mills thrice and been denied access to the account books. Kalaithanthai preferred an appeal at the District Sessions court saying that there was no provision in the law to punish a person thrice for the same offence and had the fine reduced to Rs 50.

Kalaithanthai appealed to the High Court where the case came up before Justice Lakshmana Rao. Nugel Grant, an English lawyer, was famous then. Kalaithanthai met him, gave him the details of the case and gave him a cheque for Rs 600 as fee. He left all the papers with him. The next day, the lawyer declined to take up the case saying that he could not understand it. He sent Kalaithanthai to T.R.Venkatarama Sastri who was ready to take it up. He was sure that the government order would be declared null and void. He wanted the same fee that Kalaithanthai had offered Nugel Grant.

Sastri was right. The government order was quashed. Kalaithanthai had scored a point against the government. He could not resist the impulse to show off. He rang up the secretary of the concerned department and told him that their order had been thrown into the dump.

The government wanted to appeal to the Federal Court, the highest court in the country then. The time for appeal had lapsed, and the chief government lawyer, Sir Alladi Krishnasamy Iyer applied to the High Court for condonation of the delay. A three-member bench, presided over by Sir Lionel Leech, who had recently been transferred from the Burmese High Court, rejected the petition. It was very critical of the government: 'The entire action (beginning with the appointment of Brahmiah) had been taken without prior intimation to the Mills. Even now the details of the petition have not been given to them. The government is trying to misuse the provisions of the law by seeking to appeal to the Federal Court now. The application is rejected.'

The judgment was published in all the leading newspapers, including *The Hindu*, and also in the *Law Digest*. It was a full-page news item in *The Hindu*. As long as Sir Lionel Leech was Chief Judge, Sir Alladi did not attend his court.

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As Managing Director, Kalaithanthai received an honorarium of Rs 1000 and a share of the profit. The Income Tax department held that tax should be deducted at source for the honorarium and passed an order. Kalaithanthai would not hear of it. He argued that the rule regarding tax deduction at source applied only to salaried employees and not to him, as he was not an employee. The department took action and Kalaithanthai took the matter to the High Court. Justice Berne declared that the action taken by the Income Tax department was not according to law. It was a momentous judgement, which benefited the managing directors of textile mills and other companies all over India. In the earlier case, it had been decided that the government had no right to order the inspection of the accounts of a company without prior intimation. The world of industry in India sat up and wanted to know more about Kalaithanthai.

The Bombay Cotton Market dealt in cotton in a big way. There would be frequent disputes about the quality of the cotton. To effect a compromise between buyer and seller, there was an association called The East India Cotton Association. Its decision was binding on all the parties involved. Once Kalaithanthai found that the cotton sold to him by a dealer was substandard, and took it up with the association. His lawyer was presenting his case. Kalaithanthai and his officer L.N.Sundararaman were attracted by the way the cotton merchant's lawyer was presenting his arguments. Kalaithanthai promptly engaged him for another case he had on hand. I mention this episode to show how quick he was to spot talent.