

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST  
REPUBLIC OF SRI LANKA**

**CA (PHC) No. 153/2010**

PHC Chilaw 25/2008

M.A. Chithralatha  
Manannkulama,  
Kakka Palliya.

**Appellant**

**Vs.**

Marasinghe Arachchige Ranjith  
Lunuwila.

**Respondent**

C.A. (PHC) 153/2010 : PHC Chilaw Case No. 25/2008.

Before : Rohini Marasinghe, J. &  
Deepali Wijesundera, J.

Counsel : Sudharshani Cooray for the Appellant

Shiral lakthilaka for the Respondent

Argued &

Decided on : 06.12.2012

Rohini Marasinghe, J.

This application is to revise the order of the learned High Court Judge wherein he had affirmed the decision of the learned Magistrate dated 18.07.2008. Petitioner and the 1<sup>st</sup> respondent are members of the same family. Land in issue was the ancestral property of these parties. There was a house on this land. The petitioner alleged that she was in this house at the time of the death of their mother. The respondent alleged that he was in this house at the time of the death of the mother.

As conceded by the State the learned Magistrate perusing the documents of the petitioner had not given it due consideration. It appears that the

learned Magistrate had been misguided on these documents. Pursuant to this misdirection, the learned Magistrate had come to the wrong conclusion. Therefore, we set aside this order and direct the learned Magistrate to examine all the documents relating to this application and come to the finding in accordance with the Provisions of the Primary Court Act.

Re-trial ordered. Impugned order set aside. The order made by the learned High Court Judge is also set aside.

JUDGE OF THE COURT OF APPEAL

Deepali Wijesundera,J.

I agree

JUDGE OF THE COURT OF APPEAL

Cr/-