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

CA PHC **178/2009**

PHC Ratnapura 53/2008 (R.A)

Pattiyagedara Mohottalalage Dayarathna
Bandara
No:55,
Old Road,
Balangoda.

Petitioner

Vs.

Gunadasa Amarasekara
No:31/14A,
2nd Lane,
Koswatta,
Nawala.

OIC
Police Station
Balangoda

Respondent

C.A. (PHC) 178/2009 : PHC Ratnapura Case No.53/2008 (R.A.)

Before : Sisira de Abrew,J. &

K.T. Chitrasiri,J.

Counsel ; Ranjith Devapura for the 2nd party appellant-petitioner

J.C. Boange for the 1st party respondent

Argued &

Decided on : 02.10.2012.

Sisira de Abrew,J.

Heard both counsel in support of their respective cases.

This is an appeal to set aside the order of the learned High Court Judge dated 10.12.2009. The learned High Court Judge by the said order refused to intervene with the order made by the learned Magistrate dated 02.08.2007. We have examined both orders of the learned High Court Judge and the learned Magistrate and are of the opinion that both Judges have considered the facts of this case.

Learned Magistrate in his order has considered certain photographs of the disputed land produced by the appellant in this case. When he filed the revision application in the High Court, he has not produced the said photographs along

with his petition. In our view these photographs are necessary to take a decision in this case. We therefore hold that the appellant has suppressed material facts from the learned High Court Judge. He has not produced the full record of the Magistrate's Court case to the High Court. For the above reasons, we hold that the appellant has violated Rule 46 of the Supreme Court Rules. We therefore hold that he is not entitled to the relief claimed in the High Court and in this Court.

Considering all these matters, we dismiss the appeal of the appellant with costs.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

K.T. Chitrasiri,J.

I agree

JUDGE OF THE COURT OF APPEAL

Cr/-