

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

CA 62/95 F

DC Kuliypatiya 5960/L

E S M Mohamed Cassim
Marikkar,
Crescent Lodge,
Puttlam.
Plaintiff-Appellant

Vs

M A Peter Appuhamy,
Poogalla,
Kithalawa,

Mahappuge Jinadasa,
ESM Estate,
Poogalla,
Kithalawa

Defendant-Respondents

BEFORE: A.W.A SALAM, J.

COUNSEL:

Farook Miskin and Anoma De Silva for the plaintiff-appellant
and Jacob Joseph with S Senanayaka for the
defendant-respondents

ARGUED : 28.10.2010.

DECIDED ON : 16.03.2012.

090082

A W Abdus Salam, J

The plaintiff-appellant filed action against the defendant-respondents for a declaration of title to the land and premises described in the schedule to the plaint, ejectment and for damages at Rs.100/- per month. The 1st and 2nd defendant-respondents filed answers and averred that they are tenants and also that under the Land Reform Law the subject matter in question is vested with the Land Reform Commission.

The 2nd defendant-respondent in addition maintained that due to a settlement entered before the conciliation board in the area the plaintiff cannot maintain the action as against him. As far as the title of the plaintiff is concerned the plaintiff pleaded that he has become entitled to the subject matter of the action by virtue of the final decree entered in a partition action as is evident from the document marked P1. The plaintiff has made a statutory declaration in terms of Section 18 of Act No 1 of 1972 on 21 November 1972 and in that declaration the land which is the subject matter of the action has not been included. As is evident from document marked as 2D5, the plaintiff has been granted permission to retain 50 acres of land in Putlam. In the circumstances, the reasoning of the learned district judge

in his judgement that the plaintiff is not entitled to any other land than what he has been granted, cannot be faulted. In the circumstances, the judgement of the learned district judge is affirmed and the appeal is dismissed without costs.

Judge of the Court of Appeal

000084