

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

1. Kadigamuwalage Podiya,
Thambugala.
2. Kadigamuwalage Lucia (deceased)
2A. Alankaradevage Piyadasa,
Danowita,
Thambugala.

Plaintiffs

C.A. No. 351 / 2000 F

Vs.

D.C. Kegalle No. 19684 / Partition

Kadigamuwalage Saranelis,
Thambugala,
Danowita.

And 15 Others

Defendants

AND NOW BETWEEN

1. Kadigamuwalage Podiya,
Thambugala.
2. Kadigamuwalage Lucia (deceased)
2A. Alankaradevage Piyadasa,
Danowita,
Thambugala.

Plaintiffs Appellants

Vs

Kadigamuwalage Saranelis,
Thambugala,
Danowita.

And 15 Others

Defendants Respondents

BEFORE : UPALY ABEYRATHNE J.

COUNSEL : Appellants - absent and unrepresented
Respondents - absent and unrepresented

DECIDED ON : 12.12.2011

UPALY ABEYRATHNE, J.

The Plaintiff Appellants (hereinafter referred to as the Appellants) instituted the said action against the Defendant Respondents (hereinafter referred to as the Respondents) in the District Court of Kegalle seeking to partition the land described in the schedule to the plaint.

At the trial the Respondents took up the position that the judgement of Kegalle District Court cases No 9355 / Partition has the effect of a *Res Judicata* on the present action.

It was common ground that in the present case, the 1st Appellant claimed his rights upon the title deeds No 3030 (P 2) and 40498 (P 3). The 1st Appellant in his evidence had admitted the judgement of the said action No 9355/P. He had further admitted that the 3rd Respondent was the 1st Plaintiff and he was the 9th Defendant of the said action. At the trial of the present case, a copy of the evidence of Siyadoris of the said case No 9355/P had been produced marked 3 V 8. It is apparent from 3 V 8 that the 1st Appellant had produced the

said title deeds No 3030 (P 2) and 40498 (P 3) and had secured a piece of land from the subject matter of the said case No 9355/P.

It appears that the 1st Appellant has again produced the same title deeds to claim title to the land to be partitioned in the present case. Since the 1st Appellant has exhausted his rights over the said title deeds No 3030 and 40498 he is now debarred claiming any right upon the said deeds from the subject matter of the present action.

In the aforesaid circumstances I find no reason to interfere with the judgement of the learned Additional District Judge dated 09.06.2000. Therefore I dismiss the instant appeal of the Appellants with costs.

Appeal dismissed.

Judge of the Court of Appeal