

**In the Court of Appeal of the Democratic
Socialist Republic of Sri Lanka**

C.A. No: 1132/96 F

D.C. Walasmulla Case No: 219/L

1. Denagamage Samel
of Thalagaharuppe, Mullewatte,
Walasmulla.
2. Rubasinghe Kattadige Disina
of Thalagaharuppe, Mullewatte,
Walasmulla.

Plaintiffs

Vs.

1. Mahadurage Yasilin,
Ruppe, Godallawatte,
Mullewatte,
Walasmulla.
2. Rubasinghe Kattadige Siyadoris,
Ruppe, Godallawatte,
Mullewatte,
Walasmulla.

Respondents

And

1. Mahadurage Yasilin,
Ruppe, Godallawatte,
Mullewatte,
Walasmulla.
2. Rubasinghe Kattadige Siyadoris,
Ruppe, Godallawatte,
Mullewatte,
Walasmulla.

Defendant-Appellants

Vs.

1. Denagamage Samel
of Thalagaharuppe, Mullewatte,
Walasmulla.

2. Rubasinghe Kattadige Disina,
of Thalagaharuppe, Mullewatte,
Walasmulla.

Plaintiff-Respondents

Before : **A.W.A. Salam, J.**
Counsel : Parties absent and unrepresented.
Decided on : 28.07.2011

A.W. Abdus Salam, J.

This appeal arises from the judgment of the learned district judge who held *inter alia* that the plaintiffs are the owners of the subject matter as opposed to the claim made by the defendants to the same both on title pleaded and by prescription.

The facts which led to the appeal briefly are that the plaintiffs filed action against the defendants seeking a declaration of title to the land called THALAGAHARUPPA in extent of about 1 acre. The original owner of the said land, according to the plaintiff was one Kattadiye Kaluwa and his title to the said land has devolved on the plaintiffs. The subject matter has

been depicted as lot No 2 in plan No 443 dated 31.12.1990 made by Ruban Meegama, Licensed Surveyor. The plaintiffs claimed ownership to the subject matter on a clear chain of title which was not seriously contested by the defendants. The defendants on the contrary produced certain deeds and maintained that the land mentioned in their deeds includes lot 2 depicted in the aforesaid plan. Besides, the defendants relied on prescriptive title to lot 2.

The learned district judge having analyzed the evidence adduced by both parties on the disputed issues arrived at the conclusion that the plaintiffs have established, on a balance of probability, that they are the owners of the subject matter of the action and rejected the claim of the defendants based on the claim that it forms part of the land belonging to the defendants and/or that the defendants have prescribed to the same. To come to these conclusions the learned district judge has relied on the evidence of the witnesses for the plaintiff's whose credibility he accepted without any doubt. As regards the prescriptive claim of the defendants the learned district judge rejected the evidence of the retired Grama Niladhari as he had served in the area in which the subject matter is situated only for a period of two years prior to the dispute.

The reasoning adopted by the learned district judge for his conclusion is not at all blame worthy. These conclusions on the disputed matters are based on the credibility of the witnesses and other factual matters. In the circumstances, I see no reason to interfere with the judgment of the learned district judge. Hence, this appeal is dismissed subject to costs.

Judge of the Court of Appeal