

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

1. Hapanthilakage Kiribabee,
2. Gunaramage
Nandawathie,

Both of Welegoda,
Eheliyagoda.

Plaintiffs

Vs.

C.A. 569/96 (F)
D.C. Avissawella 17271/P
Durage Meisa ,

1. Kadanhena

Kadanhena,
Eheliyagoda.

And 10 others

Defendants

AND NOW

1. Hapanthilakage Kiribabee,
2. Gunaramage
Nandawathie,

Both of Welegoda,
Eheliyagoda.

Plaintiff-Appellants

Vs.

1. Kadanhena Durage Meisa ,
Kadanhena,
Eheliyagoda.

And 10 others

Counsel: Plaintiff/Appellant absent and unrepresented.

Gamini Hettiarachchi for the 1st Defendant/Respondent.

Written Submissions: 30-11-2010 (1st Defendant/Respondent)

Before: Rohini Marasinghe J.

Judgment: 23-5-2011.

Case No 596-96

The plaintiff-appellant had filed a partition action to partition the land called "Meegahawatte", which was more fully described in the schedule to the plaint. After trial the judgment was entered on 9-8-1996. By the said judgment the action of the plaintiff was dismissed. This appeal is against that dismissal.

The plaintiff appellant was not before this court to defend his petition of appeal. Notwithstanding that I have examined the evidence and the documents produced by both parties at the trial court.

as to the title of Subaya. That fact had been recorded as an admission at the trial. The contention of the 1st respondent had been that she had acquired title to the entire land through deeds and through prescription. The learned trial judge had accepted the testimony of the 1st defendant and held in her favour. (vide answer to issue no 5)

. The learned trial judge had rejected the evidence of the plaintiff-appellant. In the judgment he had given cogent reasons for that determination. The appellant is not before this court to show the errors committed by the trial judge in evaluating the documents and the oral testimony of the witnesses at the trial. I am of the view that the trial judge had correctly examined the all the relevant deeds and the other documents. The trial judge had decided to accept the testimony of the 1st defendant. The pages 2 and 3 of the judgment had clearly dealt with the contention of the appellant. I see no reason to interfere with that decision.

The appeal is dismissed subject to taxed costs.

Rohini Marasinghe J

Judge of the Court of Appeal.