

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

C.A. No. 1220/96F

D.C. Kandy Case No.14805/L

Thissa Mudiansela Medagedara Heen  
Manike, Watagalathenna, Dolapihilla

Plaintiff-Appellant

**Vs.**

Ridiammana Gedara Dayawathie,  
Watagalathenna, Dolapihilla

Defenadant-Respondent-

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Before: A.W.A SALAM, J.

Parties absent and unrepresented

Decided on : 09.03.2011

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A W Abdus Salam J.

This appeal arises on the judgment dated 4 December 1995 of the learned district judge of Kandy. By the said judgment he dismissed the plaintiff's action for a right of footpath over the land of the defendant for want of evidence.

The plaintiff's position is that she had acquired a valid servitude of footpath over the defendant's land, having used it for more than 10 years. The defendant basically denied that the plaintiff had ever used such a right of way as claimed in the plaint. The matter of the dispute proceeded to trial on 11 issues of which the first 8 were suggested by the plaintiff and the rest by the defendant.

At the trial in addition to the evidence of the plaintiff, she also led the evidence of two surveyors and another person by the name Dingiri Banda. Having heard the plaintiff and her witnesses and having perused the documents tendered in support of the plaintiff's case, the learned district judge was not convinced at all as to the alleged existence of a right of footpath immediately prior to a period of 10 years from the date of action. Having examined the said judgment of the learned district judge, I see no reason to interfere with the same on questions of fact or law.

As such, it is my view that this appeal merits no consideration in favour of the appellant.

Appeal dismissed without costs.

Judge of the Court of Appeal