

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

C.A. 1338/99F.
D.C.Galle 10643/L

Kerawalamullage Simon Appu,
Aluthwila, Induranwila,
Dikkumbura
Defendant-Appellant

Vs

Kudagamage Amarias Appuhamy,
Digaradda,
Ahangama

Plaintiff-Respondent

BEFORE : A W A SALAM, J

COUNSEL : N S C Fernando for the defendant-
appellant and Dr Alamaida Gunaratna with
Lasitha Chaminda for the plaintiff-respondent.

ARGUED ON : 26.09.2012

Written-submissions tendered: 26.10.2012 and 03.12.2012.

DECIDED ON : 16.01.2013

A.W.A. Salam, J.

This is an appeal from the judgement of the Addl. District Judge of Galle dated 22 October 1999. The dispute relates to the ownership of lot B depicted in plan No 1632 made by D D Ranaweera, Licensed Surveyor. According to the evidence adduced at the trial the said lot B is a part of a larger land called Aluthgodawatta alias Aluthwala.

As has been rightly held by the learned district judge the plaintiff has established his title to the said larger land and at the time the plaintiff purchased the property the defendant had worked the field as a tenant cultivator. By reason of the fact that the defendant had refused to hand over the paraveniya to the plaintiff a complaint having been made to the relevant Agricultural Tribunal order has been made by P8 in favour of the plaintiff. In the same order it was determined that the defendant is the tenant cultivator of the plaintiff in respect of the land in dispute.

Subsequently, as the defendant had refused to pay the paraveni share to the plaintiff this action had been instituted for the relief prayed for in the plaint. The learned district judge having analysed the evidence has arrived at the finding that the land in question is part and parcel of the plaintiff's land and cannot form part of a different land as alleged by the defendant.

As regards issues relating to the prescriptive claim made by the defendant the learned district judge has come to the correct finding that the defendant has failed to establish such a right. The findings of the learned district judge with regard to the prescriptive claim of the defendant is based on the evidence placed before him and are quite consistent with the evidence led at the trial and the documents produced by both parties.

In the circumstances, I do not wish to interfere with the judgement of the learned district judge and in fact such a course in the exercise of the appellate jurisdiction is unwarranted in the light of the peculiar circumstances of the case. Hence, this appeal stands dismissed. There shall be no costs.

Judge of the Court of Appeal