

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

In the matter of an application for
Special Leave to Appeal from the
Judgment of the Court of Appeal Dated
21/05/2012.

SC.SPL. LA 117/2012

CA(transfer Application)

No. 211/2011

D. C. Negombo (Holden at Minuwangoda)

Case No. 13185/M/09

1. Dodampe Gamage Nihal Lakshman
Abeygunawardena, "Samaragiri",
No. 10, Kadugannawa.
2. Hewage Anura Chandralal Perera, of
203/3, Pahala Bomiriya,
Kaduwela.

**1ST AND 2ND DEFENDANT-
PETITIONER-PETITIONERS**

Vs.

Mallawa Pawuluge Ganga Shiromani
Rupasinghe, of No. 95, "Kusum Villa",
Kotugoda.

**PLAINTIFF-RESPONDENT-
RESPONDENTS**

3. Hon. Attorney General, of
Attorney General's Department,
Colombo 12.

**3RD DEFENDANT-RESPONDENT-
RESPONDENT**

BEFORE : **MARSOOF, PC J.**
SRIPAVAN, J.
WANASUNDERA, PC J.

COUNSEL : Ranil Samarasooriya for the Defendant-Petitioner-Petitioners.
T. Machado with C. Hettiarachchi for the Plaintiff-Respondent-Respondent.

ARGUED &

DECIDED ON : 06th February, 2013

MARSOOF, PC J

This is an application for Special Leave to Appeal against the order of the Court of Appeal dated 21/05/2012 refusing an application made in terms of Section 46 of the Judicature Act seeking the transfer of a case pending in the District Court of Minuwangoda to an appropriate Court in which fair and impartial trial could be conducted without any fear on the part of any of the parties to the case.

Having heard learned Counsel for all the parties we are inclined to formally grant Special Leave to Appeal on the questions set out in paragraph 17 of the Petition dated 02/07/2012. Learned Counsel have also brought to the notice of Court that this case is scheduled to be called in the District the Court of Minuwangoda on 15/02/2013 in view of an undertaking to maintain the status quo given by reason of a direction issued by this Court on 19/09/2012.

In these circumstances, and in view of the fact that the parties are all of the view that fair trial should take place without any fear, all learned Counsel are now agreed that it is best in all the circumstances of this case for this Court to make an order transferring the case now in the District Court of Minuwangoda to the District Court of Negombo.

Accordingly, we make an order to transfer District Court, Minuwangoda case No. 13185/M/09 to the District Court of Negombo. Since all pleadings are complete the District Court of Negombo is directed to take up this matter for trial after notifying all relevant parties, in view of the agreement reach by learned Counsel.

We also pro forma set aside the order of the Court of Appeal dated 21/05/2012 in order to give effect to the agreement of the Counsel and the order of this Court.

A copy of this order to be dispatched to the Registrar of the District Court of Minuwangoda and the Registrar of the District Court of Negombo for taking necessary action.

Registrar to take out this notice within 10 days from today.

All parties are entitled to obtain certified copies, in the case of state without payment of any chargers and in the case of other parties on payment of appropriate charges.

JUDGE OF THE SUPREME COURT

SRIPAVAN, J.

I agree

JUDGE OF THE SUPREME COURT

WANASUNDERA, PC. J

I agree

JUDGE OF THE SUPREME COURT

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