

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

C.A. No. 1155/2000 F

D.C. Balapitiya No. 1645 / L

Hewa Hakuru Mulin,

Beligaswella,

Uragasmanhandiya.

Plaintiff

Vs.

Thommaya Hakuru Somasiri alias
Somadasa,

Akkara Siyaya, Diyapitagallana,

Atakohotta, Nawandagala.

Defendant

And Now Between

Thommaya Hakuru Somasiri alias
Somadasa,

Akkara Siyaya, Diyapitagallana,
Atakohotta, Nawandagala.

Defendant-Appellant

Vs

Hewa Hakuru Mulin,

Beligaswella,

Uragasmanhandiya.

Plaintiff-Respondent

BEFORE : UPALY ABEYRATHNE, J.
COUNSEL : D.M.G. Dissanayake for the Defendant
Appellant
R.C. Gooneratne for the Plaintiff
Respondent
ARGUED ON : 05.06.2012
DECIDED ON : 27.02.2013

UPALY ABEYRATHNE, J.

The Plaintiff Respondent (hereinafter referred to as the Respondent) instituted the said action against the Defendant Appellant (hereinafter referred to as the Appellant) inter alia for a declaration that she is the permit-holder of the land described in the schedule to the plaint. The Respondent filed answer denying averments in the plaint and prayed for a dismissal of the Appellant's action and claimed compensation for the improvements done by him. The case proceeded to trial upon 10 issues. After trial the learned Additional District Judge has delivered judgment in favour of the Respondent. Being aggrieved by the said judgement dated 24.11.2000 the Appellant has preferred the present appeal to this court.

At the trial the Respondent has produced the land permit marked P 1 and a true copy of the land ledger marked P 7. According to the said two documents the Respondent was the permit holder of the land in dispute. Also in order to prove the identity of the said land in dispute the Respondent has produced plan No 786 dated 05.02.1993 made by C.T. De S. Manukulasuriya, Licenced Surveyor marked X. The said land described in P 1 has been depicted in the said Plan X.

The Respondent has raised issues No 08 to 10 with regard to the improvements done on the land in dispute. The learned Additional District Judge has refused the Appellant's claim for the improvements. Even though, at the hearing of this appeal the Appellant did not make any submission against the said findings of the trial judge on the issue of improvements. Even in his written submissions the Appellant has not dealt with on that matter.

With regard to the title there has been no any other documentation other than the documents produced by the Respondent. It was common ground that the Appellant did not claim title to the land in dispute.

In the said circumstances I am of the view that the learned Additional District Judge has come to a right conclusion on the evidence led before Court. Hence I see no reason to interfere with the said judgement dated 24.11.2000. Therefore I dismiss the appeal of the Appellant with costs.

Appeal dismissed.

Judge of the Court of Appeal