

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

C.A.No.546/97 (F)

D.C.Kandy No.12366/P

Gakotuwe Gedara Punchi Appu

Galkotuwe Gedara Ukku Ethana

Both Are

No: 109,
Viguhumpola,
Warallagama.

Appellants

Vs.

Hewada Munda Gedara Pin Hami

No: 109,
Viguhumpola,
Warallagama.

Now at

No: 22,
Galwala Road,
Mirihana,
Nugegoda.

And Another

Respondent

C.A.No.546/97 (F)

D.C.Kandy No.12366/P

Before : K.T.Chitrasiri,J.

Counsel : S.C.B.Walgampaya P.C. with Upendra
Walgampaya for the substituted 3rd and 4th
Defendant-Appellants.

Sanjeewa Jayawardena P.C. with Asoka
Niwunhella for the Plaintiff-Respondents.

Argued and
Decided on : 01.03.2013.

K.T.Chitrasiri J.

Learned President's Counsel appearing for both parties made their respective submissions.

This is an appeal seeking *inter alia* to have the judgment dated 14/8/1997 of the learned District Judge of Kandy, set aside. Mr. Walgampaya P.C. submitted that even though such a relief had been prayed for in the petition of appeal, he needs only a clarification as to the blocking out of the land sought to be partitioned.

Having considered this application both counsel admit that the building marked 'A' referred to in the judgment does not belong to the

3rd and 4th defendant-appellants. However having considered the submissions of Mr. Walgampaya, this Court makes an order clarifying the judgment to read as : “the building marked “A” in the preliminary plan marked ‘X’ referred to by the learned District Judge in his Judgment should fall within the land that is to be un-allotted in accordance with the judgment.”

The surveyor is directed to do so, at the time of blocking out the land. The said direction is only to have a clear understanding and it should not affect the judgment dated 14/8/1997. Subject to the above clarification, the appeal is dismissed without costs.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

WC/-