

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

**CA Appeal No.1064/98(F)**  
**1065/98 (F)**

DC Horana Case No 2635/P

Siril Malcom Pelpola  
Galthude,  
Bandaragama.

**Plaintiff**

**Vs.**

1. Dona Sisiliya Nona Athapaththu,  
Moronthuduwa.
- 1 A. Pulahinge Indrani Rodrigo,  
Moronthuduwa.
2. T.M.Thirimanis,  
Langana,  
Halhota.  
(Guardian of 3, 4 and 5 Minor Defendants)
- 2A. Merril Thirimanna,  
Langana,  
Halhota.
3. Merril Thirimanna,  
Langana,  
Halhota.
4. Ayesha Thirimanna,  
Langana,  
Halhota.

5. Lalith Thirimanna,  
Langana,  
Halhota.
6. Pulahinge Indrani Rodrigo,  
Moronthuduwa.
7. Don Justin Kannangara,  
Bathalawaththa,  
WewaRoad,  
Bandaragama.
8. Nandawathie Sandanayake (*Deceased*),  
Bathalawaththa,  
WewaRoad,  
Bandaragama.
9. Dona Angalina Sriyani Atigala,  
Bathalawaththa,  
WewaRoad,  
Bandaragama.
10. Wijekoon Mudianselage Bandara Menika,  
WewaRoad,  
Bandaragama.

**Defendants**

**And Between**

Don Justin Kannangara,  
Bathalawaththa,  
WewaRoad,  
Bandaragama.

**7th Defendant- Appellant**

**Vs.**

Siril Malcom Pelpola  
Galthude,  
Bandaragama.

**Plaintiff-Respondent**

1. Dona Sisiliya Nona Athapaththu,  
Moronthuduwa.
- 1 A. Pulahinge Indrani Rodrigo,  
Moronthuduwa.
2. T.M.Thirimanis,  
Langana,  
Halhota.  
(Guardian of 3, 4 and 5 Minor Defendants)
- 2A. Merril Thirimanna,  
Langana,  
Halhota.
3. Merril Thirimanna,  
Langana,  
Halhota.
4. Ayesha Thirimanna,  
Langana,  
Halhota.
5. Lalith Thirimanna,  
Langana,  
Halhota.
6. Pulahinge Indrani Rodrigo,  
Moronthuduwa.
8. Nandawathie Sandanayake (Deceased),  
Bathalawaththa,  
WewaRoad,  
Bandaragama.
9. Dona Angalina Sriyani Atigala,  
Bathalawaththa,

WewaRoad,  
Bandaragama.

10. Wijekoon Mudianselage Bandara Menika,  
WewaRoad,  
Bandaragama.

**Defendants-Respondents**

**AND NOW BETWEEN**

Don Justin Kannangara,  
Bathalawaththa,  
WewaRoad,  
Bandaragama.

**7th Defendant- Appellant Petitioner**

**Vs.**

"Siril Malcom Pelpola  
nalthude,  
Bandaragama.

**Plaintiff-Respondent- Respondent**

1. Dona Sisiliya Nona Athapaththu,  
Moronthuduwa.
- 1A. Pulahinge Indrani Rodrigo,  
Moronthuduwa.
2. T.M.Thirimanis,  
Langana,  
Halhota.  
(Guardian of 3, 4 and 5 Minor Defendants)
- 2A. Merril Thirimanna,  
Langana,  
Halhota.

3. Merril Thirimanna,  
Langana,  
Halhota.
4. Ayesha Thirimanna,  
Langana,  
Halhota.
5. Lalith Thirimanna,  
Langana,  
Halhota.
6. Pulahinge Indrani Rodrigo,  
Moronthuduwa.
9. Dona Angalina Sriyani Atigala,  
Bathalawaththa,  
WewaRoad,  
Bandaragama.
10. Wijekoon Mudianselage Bandara Menika,  
WewaRoad,  
Bandaragama.

**Defendants-Respondents Respondents**

1. Jayanth Kumar Kannangara,
2. Don Jayampathi Carman Kannangara,
3. Dona Jayalakmee Kaarunika Kannangara,

All Three Of

Bathalawaththa,  
WewaRoad,  
Bandaragama.

**Respondents**

**C.A 1064/98 & 1065/98)**

**D.C.Horana No: 2635/P**

Before : K.T.Chitrasiri, J.

Counsel : Dr. Sunil Cooray with Sudarshani Cooray  
for the 9<sup>th</sup> Defendant – Appellant.

Mihiri Abeyrathne for the 10<sup>th</sup> Defendant-  
Appellant.

Aravinda Atharupana with Nilmini Vitharana for  
the 7<sup>th</sup> Defendant-~~Appellant~~<sup>Respondent</sup> and 8<sup>th</sup> Defendant-  
Respondent. *g*

H. Peiris for the Substituted Plaintiff –  
Respondent.

Nadeeja Dias for the 2A, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup>  
Defendant-Respondents.

Substituted Plaintiff –Respondent is present in  
Court.

9<sup>th</sup> Defendant- Appellant is present in Court.

Argued &

Decided on : 11.03.2013.

**K.T.Chitrasiri, J.**

In the appeals bearing Nos: C.A 1064/98 and C.A 1065/98 where the 9<sup>th</sup> and 10<sup>th</sup> Defendants are the two Appellants, agree to have 10 perches each from the land sought to be partitioned in lieu of the compensation awarded to them by the Learned District Judge.

Counsel for the parties who had been allotted shares, particularly the Counsel for the Plaintiff -Respondent agree to allocate 10 perches each to the 9<sup>th</sup> and 10<sup>th</sup> Defendant-Appellants from either side of the eastern end of lot (C) shown in plan No: 2077. Parties also agree to have the road way marked lot (C) as a road way comprising of 8 feet in width.

In view of the above settlement, parties agree to allow the 9<sup>th</sup> and 10<sup>th</sup> Defendant -Respondents to take away the materials of the buildings where they are presently in occupation.

Subject to the above variation the judgment delivered on 14.08.1998 which is undated is affirmed and accordingly, the two appeals are dismissed without costs.

Learned District Judge is directed to amend the judgment delivered on 14.08.1998 and its allocation of shares, in accordance with the decisions made in all the appeals bearing Nos: 1064/98, 1065/98, 1066/98 and 1067/98.

*Appeal dismissed without costs.*

**JUDGE OF THE COURT OF APPEAL**

Vkg/-