

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

CA 697/96

D.C. Gampaha Case No. 14586/L

Vs.

1. Kodikara Arachchige Baba Nona.
2. Kodikara Arachchige Elias
Galpotugoda,Pugoda.
3. Kodikara Arachchige Pemawathie
tawalgoda,Kosgama.
4. Kodikara Arachchige Wilbert Singho,
Tawalgoda, Kosgama.
5. Kodikara Arachchige Ruithan Singho,
Thawalgoda, Kosgama.
6. Godigomuwege Rupawathie,
Kamburugoda,Pugoda.
7. Surige Podimahatmaya,
Galpugoda,Pugoda.
8. Kodikara Arachchige Sarath Chandrasiri
9. Kodikara Arachchige Bandula Wijesiri,
Kamburugoda, Pugoda.
10. Kodikara Arachchige Piyadasa
11. Kodikara Arachchige Sirisena

12. Kodikara Arachchige Gunesena
Galpotugoda,Pugoda.
13. Kamburapola Gamaralage Juvanis Singho
- 1a. Kamburapola Gamaralage Juvanis Singho
- Sa. Kodikara Arachchige Pemawathie

Defendants

And Between

11. Kodikara Arachchige Sirisena
Galpothugoda,Pugoda.

11th Defendant Appellant

Vs.

Kodikara Arachchige Elaris Singho
Galpotugoda, Pugoda. (Deceased)

Plaintiff- Respondent

Kodikara Arachchige Chandrasekera Kodikara ,
No. 35/3 Nikawala,
Pugoda.

Substituted Plaintiff Respondent

2. Kodikara Arachchige Baba Nona
3. Kodikara Arachchige Elias
Galpotugoda,Pugoda.
4. Kodikara Arachchige Pemawathie
tawalgoda,Kosgama.

5. Kodikara Arachchige Wilbert Singho
Tawalgoda, Kosgama.
6. Kodikara Arachchige Ruithan Singho
Thawalgoda, Kosgama.
7. Godigomuwege Rupawathie,
Kamburugoda,Pugoda.
8. Surige Podimahatmaya,
Galpugoda, Pugoda.
9. Kodikara Arachchige Sarath Chandrasiri
10. Kodikara Arachchige Bandula Wijesiri,
Kamburugoda, Pugoda.
12. Kodikara Arachchige Piyadasa
13. Kodikara Arachchige Sirisena
14. Kodikara Arachchige Gunesena,
Galpotugoda,Pugoda.
15. Kamburapola Gamaralage Juvanis Singho
- 1a. Kamburapola Gamaralage Juvanis Singho,
- Sa. Kodikara Arachchige Pemawathie.

Defendant- Respondents

C.A. Appeal No. 697/96 (F) - D.C. Gampaha No. 14586/P

Before : **K.T. CHITRASIRI, J.**

Counsel : Nizan Kariapper with M.I.M. Iynullah for the
11th Defendant- Appellant.

Dr. Sunil F.A. Cooray with Sudharshine
Cooray for the substituted Plaintiff-
Respondent.

Argued &
Decided on : 21.03.2013.

K.T. Chitrasiri, J.

This is an appeal seeking to set aside the judgment dated 19.09.1996 of the learned District Judge of Gampaha.

However, learned counsel for the 11th defendant-appellant at this stage submits that he is not pursuing the said relief to have the impugned judgment set aside. Instead, he moves to have 1/40 share allotted to Baby Nona who is a daughter of Pilloris referred to in the pedigree of the plaint, be kept un-allotted. He is making this application since the plaintiff-respondent had failed to establish the devolution of title of said Baby Nona.

Learned counsel for the plaintiff-respondent agrees to have the aforesaid $1/40$ share of Baby Nona be kept un-allotted deducting the same from the share allotted to the plaintiff-respondent.

In view of the settlement referred to above, this court makes an order to have $1/40$ ($4/160$) share of Baby Nona be kept un-allotted. Accordingly, the plaintiff-respondent is entitled to have only $128/160$ shares and not $132/160$, as shown in the judgment dated 19.09.1996.

Learned District Judge is directed to amend the allocation of shares accordingly and to enter interlocutory decree.

Subject to the variation as to the allocation of shares referred to above, this appeal is dismissed without costs.

Appeal dismissed..

JUDGE OF THE COURT OF APPEAL

/mds