

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

Clera Weerasinghe,  
Nawimana,  
Matara

C.A. No. 1108 / 2000 F

Plaintiff

Vs.

D.C. Matara No. 15196 / P

1. Gunapala Weerasinghe,
2. Ariyawathie Weerasinghe,
3. S. Weerasinghe,  
All of Mahadeniya  
Nawimana South, Mahadeniya.
4. Henegama Liyanage Upawansa,  
Upawansa Hotel,  
D.S. Senanayake Mawatha,  
Colombo 8.
5. T.A.P.S. Babyhamine,  
Katupotha Kumbura, Nawimana.
6. Gunadasa Liyanage,  
Pahala Medda Kumbura,  
Nawimana South,
7. Pemadasa Liyanage,  
Wewahamanduwa, Matara.
8. Wimaladasa Liyanage,  
Thalangama South, Battaramulla.
9. Pemananda Liyanage,  
Katupotha Kumbura,  
Nawimana South.

Defendants

**AND NOW BETWEEN**

Pemananda Liyanage,  
Katupotha Kumbura,  
Nawimana South.

9<sup>th</sup> Defendant Appellant

Vs

Clara Weerasinghe,  
Nawimana,  
Matara

Plaintiff Respondent

1. Gunapala Weerasinghe,
2. Ariyawathie Weerasinghe,
3. S. Weerasinghe,  
All of Mahadeniya  
Nawimana South, Mahadeniya.
4. Henegama Liyanage Upawansa,  
Upawansa Hotel,  
D.S. Senanayake Mawatha,  
Colombo 8.
5. T.A.P.S. Babyhamine,  
Katupotha Kumbura, Nawimana.
6. Gunadasa Liyanage,  
Pahala Medda Kumbura,  
Nawimana South,
7. Pemadasa Liyanage,  
Wewahamanduwa, Matara.
8. Wimaladasa Liyanage,  
Thalangama South, Battaramulla.

Defendant Respondents

BEFORE : UPALY ABEYRATHNE, J.

COUNSEL : 9<sup>th</sup> Defendant Appellant – Absent and  
unrepresented  
Lal C. Kumarasinghe for the Plaintiff  
Respondent

ARGUED ON : 23.11.2012

DECIDED ON : 22.05.2013

UPALY ABEYRATHNE, J.

The Plaintiff Respondent (hereinafter referred to as the Respondent) instituted the said action against the 1<sup>st</sup> to 9<sup>th</sup> Defendants in the District Court of Matara seeking to partition the land described in the schedule to the plaint.

Since there had been no contest between the parties upon the evidence of the Plaintiff Respondent an interlocutory decree has been entered and a final plan has been made according to the said interlocutory decree.

Thereafter the 4<sup>th</sup> Defendant Respondent has filed a statement of objection to the said final plan. After an inquiry, the learned District Judge has made an order dated 08.12.1998.

On 22.11 1992 when the case was called in open court the 9<sup>th</sup> Defendant Appellant has made an application to adopt the plan made by the previous Commissioner. The learned District Judge has refused the said application of the 9<sup>th</sup> Defendant Appellant by order dated 22.11.1992. This appeal has been preferred against the said order.

I have perused the said order of the learned District Judge. The 9<sup>th</sup> Defendant Appellant has not tendered a statement of objections to the plans made by the Surveyors. Therefore I dismiss the instant appeal of the 9<sup>th</sup> Defendant Appellant with costs.

*Appeal dismissed.*

Judge of the Court of Appeal