

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

Court of Appeal Case No: 445/98(F)

D.C. Balapitiya Case No: 2087/P.

Sarath Preethi Weerawardana,
15, Dhammakusala Mawatha,
Nambimulla,
Ambalangoda.

Plaintiff

Vs.

1. Nallahandi Saman Kumara De Silva,
Dewagoda, Madampe,
Ambalangoda.
2. Manthri Vithana David Malani,
No: 7, Namhimulla,
Ambalangod.
3. P.H.Misinona.
No : 7, Nambimulla,
Ambalangoda.
4. N. W. David Mithrasena,
No : 7, Nambimulla,
Ambalangoda.
5. Manthri Vithana David.
No: 7, Nambimulla,
Ambalangoda.

Defendant

AND

1. Manthri Vithana David Malani,
No: 7, Nambimulla,
Ambalangoda.

2nd Defendant Appellant

2. P.H. Misinona (deceased),
No: 7, Nambimulla,
Ambalangoda.

3rd Defendant Appellant

- 2a. Manthri Vithana David Malani,
No: 7, Nambimulla,
Ambalangoda.

3a. Substituted Defendant Appellant

3. N. W. David Mithrasena,
No: 7, Nambimulla, Ambalangoda.

4th Defendant Appellant

4. Manthri Vithana David (deceased)
No : 7, Nambimulla.
Ambalangoda.

5th Defendant Appellant

- 4a. Manthri Vithana David Malani.
No: 7, Nambimulla,
Ambalangoda.

5a. Substituted Defendant Appellant

C.A. No. 445/98(F)

D.C. Balapitiya Case No. 2087/P

Before : K.T. Chitrasiri, J.

**Counsel : B.O.P. Jayawardane for the 2nd, 3A, 4th and
5A Defendant-Appellants.**

Chandana Wijesuriya for the Plaintiff-Respondent and
for the 1st Defendant-Respondent.

**Argued &
Decided on : 02.08.2013.**

K. T. Chitrasiri, J.

Both Counsel submit that the dispute in this case is now settled between the parties.

All parties concede that the subject matter of this action comprises lots 1, 2, 3, 4 and 5 in the plan bearing No. 3498 dated 08.10.1992 drawn by the licensed surveyor D.G. Mendis.

As a settlement of the dispute, all parties to the action agree to amend the judgment and the interlocutory decree on the following manner.

- (1) As decided by the learned District Judge in his judgment dated 10.03.1998, the plaintiff-respondent and the 1st defendant-respondent are entitled to lots 1, 2, 3 and 4 shown in the aforesaid plan 3498. 2nd to 5th respondents do not claim rights to those four lots. Lot 5 has now become a part of the public road.
- (2) 1st defendant-respondent is entitled to have 10 perches of land from the above lots allocated to the plaintiff and to the 1st defendant. The plaintiff-respondent and the 1st defendant-respondent reserve the right to demarcate the said 10 perches of land according to their wish, at the time the final partition is to be made.
- (3) The plaintiff-respondent and the 1st defendant-respondent agree to give a strip of land along the Southern boundary of their lots 2 and 3, to the 2nd to 5th defendant-appellants. The land referred to above in this paragraph, is to be demarcated to show it, as a strip of land containing 2 feet in width.

- (4) The strip of land in 2 feet width referred to in paragraph three above is to be demarcated, making use of the land along the Southern boundary in lots 2 and 3 allocated to the plaintiff-respondent and to the 1st defendant-respondent

The learned District Judge is directed to incorporate the above terms of settlement recorded in this Court, into the interlocutory decree and to have it entered in accordance with the judgment.

In view of the above settlement proceedings in this court are terminated.

Proceedings terminated.

JUDGE OF THE COURT OF APPEAL

AKN