

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

**CA PHC APN No: 105/13**

H.C.Rev No. 797/2011

M.C.Case No. 62014

Miningala Sumanaratne,  
Koragahaliyadda, Maliduwa,  
Boossa.

**1<sup>st</sup> Respondent-Petitioner-  
Petitioner-Petitioner**

**Vs.**

Officer-in Charge  
Police Station  
Rathgama.

**Complainant-Respondent -  
Respondent -Respondent**

Katukoliya Gamage Nandasena

Maligaspe Koralage charlotte

Both of Colombiawatte, Maliduwa, boossa.

**2nd and 3rd Respondent- Respondent-  
Respondent- Respondents**

CA (PHC) APN 105/2013

H.C. Galle Case No: Rev 797/2011

Before : A.W.A. Salam, J &  
Sunil Rajapakshe, J.

Counsel :Ms. S. Serasinghe for the Respondent-Petitioner-Petitioner-Petitioner.

Saliya Peiris with Lasitha Sachindra for hte Petitioner-Respondent-Respondent-Respondent.

Decided on : 16.09.2013.

A.W.A. Salam, J

Learned counsel for the petitioner heard in support of the application for revision and interim order and the Learned counsel for the Respondent heard in opposition.

The 1<sup>st</sup> Respondent-Petitioner-Petitioner has invoked the revisionary jurisdiction of this court to revise the determination of the learned Magistrate dated 10.06.2011 and the judgment of the learned High Court judge dated 01.08.2013. The proceedings relating to this revision application had begun under Section 66 of the Primary Code Procedure Act with regard a dispute relating to possession of immovable property. The learned Magistrate's determination has been affirmed and the learned High Court judge refused to vacate the determination directing that the determination be given effect to without delay as the non enforcement of the determination possibly may culminate in the commission of a grave crime.

~~His~~ learned counsel for the respondent has raised a preliminary objection and the issue presently revolves around as to whether the petitioner is guilty of suppression or misrepresentation of facts.

According to the paragraph 2 of the petition the petitioner namely Miningala Sumanaratne has become the owner of the subject matter of the action by right of deed bearing No. 3209 dated 03.04.2003 attested by Ms. Hurly de Silva Notary Public of Galle. The deed has been annexed to the petition marked as 1D1. According to 1D1 the owner of the subject matter is one Kitulgodage Indrani and not the 1<sup>st</sup> Respondent-Petitioner-Petitioner.

In the circumstances, we are of the opinion that there is a grave misrepresentation which renders the petitioner guilty of not having come to court with clean hands. As such we refuse to entertain the revision application.

Revision application rejected.

JUDGE OF THE COURT OF APPEAL

Sunil Rajapakshe, J.

I agree.

JUDGE OF THE COURT OF APPEAL

NR/-