

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

1. Siththi Faridha,
2. Mohamed Mawsuf,
3. Yesman Farisa Marikkar,
4. Jeinathul Fasina Massur,  
Children of Abdul Salam  
All of No 34/6. Kachcheri Road  
Matale.

Plaintiffs

C.A. No. 1120 / 2000 F  
D.C. Matale No. 4510 / L

Vs.

1. K. Devadasan (deceased),  
1a. Wellasamy Pakkiyam,
2. Wellasamy Pakkiyam,  
Both of Sinnapattapaha Estate,  
Marukona,  
Ukuwela.

Defendants

**AND NOW BETWEEN**

Wellasamy Pakkiyam,  
Both of Sinnapattapaha Estate,  
Marukona,  
Ukuwela.

1a. and 2<sup>nd</sup> Defendant Appellant

Vs

1. Siththi Faridha,
2. Mohamed Mawsuf,
3. Yesman Farisa Marikkar,
4. Jeinathul Fasina Massur,  
Children of Abdul Salam  
All of No 34/6. Kachcheri Road  
Matale.

Plaintiff Respondents

BEFORE : UPALY ABEYRATHNE, J.

COUNSEL : K.V.S. Ganesharayan for 2<sup>nd</sup> the Defendant  
Appellant  
Shabri Haleemdeen with Udithe Hiripitiya  
for the Plaintiff Respondents

ARGUED ON : 18.07.2013

DECIDED ON : 10.10.2013

UPALY ABEYRATHNE, J.

The Plaintiff Respondents (hereinafter referred to as the Respondents) instituted the said action against the Defendants in the District Court of Matale seeking for a declaration of title to the land described in the schedule to the plaint and to eject the Defendants from the said land. The Defendants filed a joint answer praying for a dismissal of the Respondents' action and claiming a prescriptive title to the said land. After trial the learned Additional District Judge delivered judgement in favour of the Respondents. Being aggrieved by the said judgment dated 08.12.2000 the 1a and 2<sup>nd</sup> Defendant Appellants (hereinafter referred to as the Appellants) have preferred the present appeal to this court.

At the hearing of this appeal the learned counsel for the Appellants contended that the Respondents have failed to prove the title to the land in suit. I now advert to this submission. The Appellants in their answer had not specifically denied the several averments contained in the plaint. In paragraph 01 of the answer the Appellants have stated that "except the facts which are

hereinafter expressly admitted the Defendants refuse the facts contained in the plaint and state that the Plaintiffs must prove them.”

It is apparent from the said paragraph that it is a general denial of the several averments contained in the plaint. It must be noted that a denial of that nature or a general statement of refusal of the facts contained in the plaint does not amount to a specific denial of the averments contained in the plaint.

It seems from paragraph 2 and 3 of the plaint that the Respondents were the owners of the Estate called ‘Sinnapattampaha Estate’ where the Appellants were labourers and that while the Appellants were working in the said Estate the line rooms described in the schedule to the plaint were given to the Appellant for their occupation. While not expressly denying these averments contained in their answer the appellants have gone on to say that they have prescribed to the land described in the schedule to the plaint.

Section 75 (d) of the Civil Procedure Code requires that the answer should contain a statement admitting or denying the several averments of the plaint, and setting out in detail plainly and concisely the matters of fact and law, and the circumstances of the case upon which the defendant means to rely for his defence. If the defendant disputed such an important averment the proper place for him to raise it was in his answer which he was free at any stage of the proceedings to amend with the leave of Court. The provisions of section 75 are imperative and are designed to compel a defendant to admit or deny the several allegations in the plaint so that the questions of fact to be decided between the parties may be ascertained by the Court on the day fixed for the hearing of the action. A defendant who disregards the imperative requirements of this section cannot be allowed to

take advantage of his own disobedience of the statute. To permit such a course of conduct would result in a nullification of the scheme of the Civil Procedure Code.

Hence I hold that the appellants' failure to deny the several averments contained in the plaint in accordance with the requirements of the statute must be deemed to be an admission by the Appellants of that averments.

At the trial, the Appellants have not raised any issue or have not led any evidence. On the other hand, at the commencement of the trial, the Appellants have admitted that they had worked under the Respondents as employees of the Respondents. In paragraph 04 of the answer the Appellants have stated that at the time of filing this action they were employees under the Respondents and prior to that they had worked under the predecessors in title of the Respondents.

In the said circumstances I am of the view that the learned trial Judge has come to a right conclusion on a careful consideration of the evidence led in this case. Hence I see no reason to interfere with the said judgment of the learned District Judge dated 08.12.2000. Therefore I dismiss the appeal of the Appellants with costs.

*Appeal dismissed.*

Judge of the Court of Appeal