

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

Mil Ele Devage Baby Nona,
Moratenna,
Indulgodakanda.

Plaintiff

CA 125 / 2000 F

Vs.

DC Kurunegala 4092 / P

1. Mil Ele Gedara Wansathilake,
2. Mil Ele Gedara Podinona,
Moratenna, Indulgodakanda,
3. Mil Ele Gedara Ukkuamma,
Indulgodakanda, Walpolakanda.
4. Mil Ele Gedara Somawathie,
Parape, Ihalagama.
5. Mil Ele Gedara Wimalawathie,
Indulgodakanda, Moratenna.

Defendants

AND NOW BETWEEN

Mil Ele Devage Baby Nona,
Moratenna,
Indulgodakanda.

Plaintiff Appellant

Vs

1. Mil Ele Gedara Wansathilake,
2. Mil Ele Gedara Podinona,
Moratenna, Indulgodakanda,

3. Mil Ele Gedara Ukkuamma,
Indulgodakanda, Walpolakanda.
4. Mil Ele Gedara Somawathie,
Parape, Ihalagama.
5. Mil Ele Gedara Wimalawathie,
Indulgodakanda, Moratenna.

Defendant Respondents

BEFORE : UPALY ABEYRATHNE, J.

COUNSEL : The Plaintiff Appellant - absent and unrepresented
Arjuna Kurukulasooriya with Hashan Mamuhewa
for the 1st to 5th Defendant Respondents

ARGUED ON : 10.10.2013

DECIDED ON : 08.11.2013

UPALY ABEYRATHNE, J.

The Plaintiff Appellant (hereinafter referred to as the Appellant) instituted the said action against the 1st to 5th Defendant Respondents (hereinafter referred to as the Respondents) seeking to partition the land described in the schedule to the plaint. The Respondents have filed their statement of claim seeking a dismissal of the Appellant's action and to partition the corpus as shown in their pedigree. The case proceeded to trial on 11 issues. After trial the learned District Judge has delivered a judgment in favour of the Respondents. Being aggrieved by the said judgment dated 11.02.2000 the Appellant has appealed to this Court.

In the petition of appeal the Appellant has stated that the learned District Judge has failed to evaluate the evidence led before court. The Appellant claimed that she was the only child of Sepala who was the predecessor in tile of the Appellant and after his death his rights devolved on her. The Respondents' position was that the Appellant was not a child of said Sepala and the 1st 5th Respondents were the children of said Sepala and his rights devolved on them as shown in their pedigree.

At the trial the Appellant has produced her birth certificate marked P 1 in order to prove her pedigree. The respondents have led the evidence of Pathiratnaga Jayawardana who was an officer of the Office of the Registrar of Births and Deaths, Kurunegala in order to prove that the said birth certificate P 1 was a forged document. The said witness has testified that P 1 was a forged document. Accordingly the Appellant has failed to prove her pedigree. Therefore she is not entitled to claim any right from said Sepala.

I have carefully considered the impugned judgment of the learned District Judge and the said evidence of the case. I am of the view that the learned trial judge has come to a right conclusion on the said evidence led before court.

In the said circumstances I see no reason to interfere with the judgement of the learned District Judge dated 11.02.2000. Therefore I dismiss the appeal of the Appellant with costs.

Appeal dismissed.

Judge of the Court of Appeal