

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

Kandaiya Rajaratnam,
No. 121, Main Street,
Negombo.

C.A. No. 821 / 2000 (F)

Plaintiff

Vs.

D.C. Negombo No. 4490 / L

1. Rajendran kanendran,
No. 12, Visthrin Mawatha,
Negombo.
2. Rita Maheshwaree, (deceased)
- 2a. Mariyadas Mary Jospin Pabida,
No. 59/7, Canal Bank West,
Negombo.

Defendants

And Now Between

1. Rajendran Kanendran,
No. 12, Visthrin Mawatha,
Negombo.
2. Rita Maheshwaree, (deceased)
- 2a. Mariyadas Mary Jospin Pabida,
No. 59/7, Canal Bank West,
Negombo.

Defendant-Appellants

Vs

Kandaiya Rajaratnam,
No. 121, Main Street,
Negombo.

Plaintiff -Respondent

BEFORE : UPALY ABEYRATHNE, J.

COUNSEL : Defendant Appellants – Absent and
Unrepresented
S. Panchadsaram for the Plaintiff
Respondent

ARGUED ON : 05.09.2013

DECIDED ON : 12.11.2013

UPALY ABEYRATHNE, J.

The Plaintiff Respondent (hereinafter referred to as the Respondent) instituted an action against the Defendant Appellants (hereinafter referred to as the Appellants) in the District Court of Negombo seeking for a declaration of title to the land described in the schedule to the plaint and to eject the Appellants from the said land. The Appellants filed an answer denying the averments contained in the plaint and praying for a dismissal of the Respondent's action. The case proceeded to trial upon 22 issues. After trial, the learned Additional District Judge has delivered judgement in favour of the Respondent as prayed for in the plaint. Being aggrieved by the said judgment dated 16.10.2000 the Appellants have preferred the present appeal to this court.

In paragraph 04 of the petition of appeal the Appellants have set out several grounds of appeal. It seems from the said grounds of appeal that the main

grievance of the Appellants was that the learned Additional District Judge has failed to evaluate the evidence adduced on behalf of the Appellants. I now consider the said grounds of appeal.

At the trial the Respondent has produced his title deeds marked P 1 and P 2. Said title deeds have not been challenged by the Appellants. The Appellants' position was that the 2nd Appellant was the statutory tenant of the premises in suit. But the Appellants have failed to adduce evidence to prove the tenancy.

In the absence of such evidence I am of the view that the Appellant have failed to prove their case on a balance of probability. Hence I see no reason to interfere with the judgement of the learned Additional District Judge dated 16.10.2000. Therefore I dismiss the appeal of the Appellants with costs.

Appeal dismissed.

Judge of the Court of Appeal