

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

C.A. No. 1141/98(F)
D.C.Walasmulla No. 26/S

Udamala Gamage Alis alias Alis Gunawardane
Kolamba Gedara,
Udumalagama.

Appellant

Vs.

H.S. Dayawathie
"Wintas"
No:271,
Thalaghamwaduwa,
Walasmulla.

Respondents

C.A. NO. 1141/98(F)

D.C.Walasmulla No. 26/S

BEFORE : K. T. CHITRASIRI, J.

COUNSEL : Parties are absent and unrepresented.

DECIDED ON : 12th December, 2013

K. T. CHITRASIRI, J.

The Registrar of this Court has sent notices under registered cover to all the parties and to their registered Attorneys directing them to be present in this Court today. Nevertheless, parties are absent and unrepresented.

This is an appeal seeking to set aside the judgment dated 02nd December 1998 of the learned District Judge of Walasmulla. By that judgment, learned District Judge dismissed the plaint of the plaintiff-appellant. The plaint filed in this case is to have the deed bearing No. 1100 dated 27th February 1992 declared null and void. This application to have the said deed declared null and void had been made on the basis that there had been misrepresentation by the defendant when executing the deed No.1100.

The learned District Judge had carefully considered the evidence relating to the circumstances alleged by the appellant. In the impugned judgment, he has stated that the plaintiff has left the premises consequent to the execution of the deed. Moreover, the learned District Judge had looked at the date on which the appellant became aware of the incident alleged by her. Learned Trial Judge has also considered the evidence of the brother of the plaintiff, particularly with regard to the execution of the deed. Therefore, it is seen that the trial Judge has carefully considered the facts of the case and has come to his findings. It is the trial Judge who is the best person to decide on the matters as to the facts of the case. This position had been upheld in the cases of:

- **Alwis v. Piyasena Fernando [1993 (1) SLR at page 119]**
- **De Silva and others v. Seneviratne and another [1981 (2) SLR 8]**
- **Fradd v. Brown & Co.Ltd. [20 NLR at page 282]**
- **D.S.Mahawithana v. Commissioner of Inland Revenue [64 NLR 217]**
- **S.D.M.Farook v. L.B.Finance [C.A.44/98, C.A.Minutes of 15.3.2013]**
- **W.M.Gunatillake vs. M.M.S.Puspakumara [C.A.151/98 C.A.Minutes of 9.5.2013]**

Having considered the merits of the case and the authorities referred to above, I am not inclined to interfere with the findings of the learned District Judge. For the aforesaid reasons this appeal is dismissed without costs.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL