

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

**CA 1112/98 (F)**

D.C. Anuradhapura Case No. 14711/L

K. Wimalawathi  
Madawachchiya.

**Appellant**

**Vs.**

A. Herath Banda  
Madawachchiya.

**Respondent**

Before : **K.T. CHITRASIRI, J.**

Parties are absent and unrepresented.

Decided on : 20.01.2014.

**K.T. CHITRASIRI, J.**

Parties are absent and unrepresented even though notices have been sent under registered cover to both the parties and to their Registered Attorneys directing them to be present in this Court today. The said letter had been posted on the 09.12.2013. Despite sending those notices under registered cover both parties have failed to come before this Court. Therefore Court decides to consider the merits of this appeal.

This is an appeal seeking to set aside the Judgment dated 25.11.1998 of the learned District Judge of Anuradhapura. By that Judgment, the Plaint filed by the Plaintiff-Appellant was dismissed. The reliefs prayed for in the said Plaint is to have a Judgment in favour of the Plaintiff declaring that she is the owner of the land referred to in the schedule to the Plaint and to have the Defendant-Respondent evicted therefrom. Learned District Judge

having considered the evidence has concluded that the Plaintiff has failed to establish title to the land that she has claimed.

The Plaintiff in her evidence has stated that she became entitled to the land referred to in the schedule to the Plaint by the deed bearing No. 2166 marked P1. Learned District Judge has considered the validity of title in that deed and has declined to accept the title of the five vendors to that deed. He has also considered the contents of the deed and also the manner in which the title of the vendors, been cited in the schedule to the deed marked P1. The title of the vendors to the said deed P1 has emanated through the inheritance of their father. The learned District Judge has declined to accept such a title in coming to the said conclusion.

Learned District Judge has also considered the evidence as to the possession of the land in question. The Plaintiff herself has admitted that the Defendant had been in possession of this land for a long period of time. The Plaintiff has also stated that she has never been in possession of this land at least upon the execution of the deed P1. (Vide proceeding at pages 68 and 69 in the appeal brief).

In the circumstances, I am of the view that the learned District Judge has correctly evaluated the evidence and decided to

dismiss the Plaint filed by the Plaintiff-Appellant. Accordingly, I do not wish to interfere with the findings of the learned District Judge. For the aforesaid reasons this appeal is dismissed without cost.

***Appeal dismissed.***

**JUDGE OF THE COURT OF APPEAL.**

Mm/-.