

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

**C.A No: 1297/98(F)  
D.C.Galle CASE NO 8306/L**

(Dead)1. Jemis Piyadasa Edirisingha,  
"Chammini"  
Liberty Palace,  
Payagala South.

1 (a).Sanath Wasantha Edirisingha  
No: 11, Prasannagama,  
Bingiriya.

**SUBSTITUTED-DEFENDANT-  
APPELLANT**

Miyanawathuralhala Gamage Sumathipala,  
Batuwangala,  
Neluwa West.

**DEFENDANT-APPELLANT**

**Vs.**

Giguruwa Gamage Amaradasa,  
Batuwangala,  
Neluwa.

**SUBSTITUTED-PLAINTIFF  
RESPONDENT**

C.A. 1297/98(F)

D.C. Galle Case NO. 8306/L

Before : K.T. Chitrasiri,J.

Counsel : D.M.G. Dissanayake with M.D.J. Bandara  
for the Substituted 1A-Defendant-Appellant and  
for the 2<sup>nd</sup> Defendant-Appellant  
Dilum Jayanath for the Substituted Plaintiff-  
Respondent

Argued &

Decided on : 06.06.2014

K.T. Chitrasiri,J.

Heard both counsel in support of their respective cases.

This appeal is preferred to have the judgment dated 31.03.1997 of the learned District Judge of Galle, set aside. By that judgment it had been decided that the plaintiff is entitled for the reliefs prayed for in the plaint dated 04.12.1980. Accordingly, the plaintiff became entitled to the land more-fully described in paragraphs 2 & 3 in the aforesaid plaint dated 04.12.1980. The land referred to in those two paragraphs is the land described in the permit bearing No. 9978/HP marked P1 in

evidence. The said land is depicted in the final plan 472 marked X2 which has an extent of one acre. (page 233 in the appeal brief)

Therefore, by virtue of the permit marked P1 issued in terms of the provisions contained in the Land Development Ordinance, the plaintiff is entitled to hold and possess the land subjected to in that permit which is in extent of one acre. The judgment of the learned District Judge also is to that effect. The appellants have no title what so ever to the aforesaid land referred to in the permit marked P1 which is described in paragraphs 2 and 3 in the plaint. Indeed, they have not made any claim for the aforesaid land claimed by the plaintiff. Therefore, the substituted-plaintiff-respondent is entitled to have the decree, entered upon the delivery of the judgment dated 31.03.1997, executed.

For the aforesaid reasons, this appeal is dismissed without costs.

*Appeal dismissed.*

JUDGE OF THE COURT OF APPEAL

Cr/-