

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

**C.A. (PHC) No. 220/2003**

P.H.C. Matara Case No. 189/2000

Magistrate's Court Case No.61230

T. Jinadasa  
"Nilmini Niwasa"  
Murutumuraya,  
Hakmana.

**Petitioner-Appellant**

**-Vs-**

Gamini Thilakarathne  
"Nilmini Niwasa"  
Murutumuraya,  
Hakmana.

And Others

**Respondents**

**C.A. (PHC) No. 220/2003**

P.H.C. Matara Case No. 189/2000

Magistrate's Court Case No.61230

Before : K. T. Chitrasiri, J  
W.M.M. Malinie Gunarathne, J.  
Counsel : Parties are absent and unrepresented.  
Decided on : 01.09.2014.

**K. T. Chitrasiri, J.**

Mr. Buddhika Gamage who had appeared for the appellant till the last date, now submits that he has not received instructions from the appellant to appear for him today. Accordingly, he submits that he is not making any submissions to support this appeal though the matter is fixed for argument today.

This is an appeal to set aside, inter alia, the decisions made on 15.07.2003 and 21.09.2002 made by the learned High Court Judge and the learned Magistrate in Matara, respectively.

Proceedings in this matter had begun upon an information been filed in the Magistrate Court of Matara in terms of the provisions contained in Part VII of the Primary Court Procedure Act.

Accordingly, an information had been filed by the O.I.C. Police Station Hakmana under Section 66 of the aforesaid enactment. Learned Magistrate, having considered the law referred to in Section 68 (3) of the Primary Court Procedure Act, made order in favour of the 1<sup>st</sup> party respondent-respondent. Upon a perusal of his order it is clear that the learned Magistrate has carefully considered the facts as to the right to use the roadway and has applied the law relevant thereto in the correct manner.

Learned High Court Judge also has considered the merits of this matter and had come to the same conclusion stating that he does not see any reason to interfere with the order made by the learned Magistrate. He also has found that there had been another action filed in the District Court of Matara to determine the rights of the parties in respect of the land subjected to in this case.

Having considered the aforesaid reasons given by both the Judges, we do not see any reason to interfere with the findings of those two Judges. Accordingly, this appeal is dismissed.

*Appeal dismissed.*

JUDGE OF THE COURT OF APPEAL

W.M.M. Malinie Gunarathne, J.

I agree.

JUDGE OF THE COURT OF APPEAL

AKN