

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

**CA (PHC) 282/2005**  
PHC-GALLE-REV-309/2003

Wimalasena Bopage  
No: 212/2,  
Mahamodara,  
Galle.

**Respondent - Appellant**

**Vs.**

B. Gunawathi Kularathne  
No: 218/01,  
Mahamodara,  
Galle.

And Others

**Petitioner - Respondent**

Before : K.T. Chitrasiri, J. &  
W.M.M. Malinie Gunarathne, J.

Counsel : Parties are absent and unrepresented

Decided on : 13.10.2014

K.T. Chitrasiri, J.

The Registrar of this court has sent notices to the parties directing them to be present in this court today. Said notices have been sent under the registered cover to the addresses given in the petition of appeal. Those three notices had been returned with the endorsement that the parties have left their addresses given in those notices.

This is an appeal seeking to set aside the orders made in respect of an obstruction made to the right of way used by the 2<sup>nd</sup> appellant.

This being an application made under Section 66 of the Primary Court Procedure Act No. 44 of 1979, learned Magistrate has held that the Appellant has obstructed the right of way of the 1<sup>st</sup> party Respondent.

Learned High Court Judge having considered the matters relevant to the issue has made order removing the said obstruction found on the right of way.

The High Court Judge has made an order removing the obstruction since the learned Magistrate has not made specific order for the removal of the obstruction.

We have carefully considered the two orders made by the learned two judges. They have considered the facts of the case and have implemented the law referred to in Section 69(2) of the Primary Court Procedure Act. We do not see any error on the part of the learned High Court Judge in deciding so.

In the circumstances, we are not inclined to interfere with the decision of the learned High Court Judge. 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**

LA/-