

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

In the matter of an appeal under Sec.
755(3) of the Civil Procedure Code.

1. Ilandara Pedige Piyadasa

Belihulwana,

Udugoda.

2. Ilandara Pedige Martin

Belihulwana,

Udugoda.

C.A. Case No. 338/99 (F)

Plaintiffs

D.C. (Ke- Galle)

Case No. 3925/L

Vs.

Rankoth Pedige Sugathadasa

Yatideriya,

Udugoda.

Defendant

AND

Rankoth Pedige Sugathadasa

Yatideriya,

Udugoda.

Defendant Appellant

Vs.

1. Ilandara Pedige Piyadasa

Belihulwana,

Udugoda.

2. Ilandara Pedige Martin

Belihulwana,Udugoda.

Plaintiffs – Respondents

BEFORE

: P.W.D.C. JAYATHILAKE, J

COUNSEL

: Prabash Semasinghe for the

Defendant Appellant.

D.H.G. Disanayake with B.C.

Balasuriya for the 1st and

2nd Plaintiff Respondents.

ARGUED ON : 29.04.2015

DECIDED ON : 24.07.2015

P.W.D.C. Jayathilake, J

The Plaintiff Respondents had filed this case against the Defendant Appellant seeking *inter alia* for declaration of title to their rights of the paddy land called “Kakala Panegama Kumbura” described in the schedule to the Plaint. They have stated plaintiffs and other co-owners of the said paddy land cultivated it in turn, which is a traditional method known as “**Thattu Maru Kramaya**”, for their convenience. The course of action of the plaint is the Defendant’s forcible entry and forcible acquisition of the Plaintiffs’ possession.

The Defendant Appellant, in his answer, has claimed that he is the tenant cultivator of the paddy land in dispute which belongs to the plaintiffs and other co-owners mentioned in the plaint. He has stated that he continued as the tenant cultivator of this land after the death of his grandfather Kira in 1986.

It has been revealed in evidence that the father of the Appellant, namely, Sethuwa had claimed the tenant cultivator's rights of Kira by making a complaint to the Commissioner of Agrarian Services. The Commissioner of Agrarian Services had decided that Sethuwa was not a child of Kira though the learned counsel for the Appellant argues that the rights of the associate husband passes to the child of a polyandry marriage by citing 'Appuhami Vs the Doloswala Tea and Rubber Company'¹. No appeal had been lodged against the said decision of the Agrarian Service Commissioner. The learned trial judge has observed that a name of a tenant cultivator is not found in the register of this paddy land.

The learned counsel for the Appellant contended that when this case was filed in the District Court on 16.09.1987, the matter in dispute was a dispute between the owner cultivator and tenant cultivator. He argues as the dispute had not gone to the Agrarian Services Commissioner such dispute had to be administered by the Agrarian Service Commissioner, the District Court had no jurisdiction to hear and conclude the matter. But the learned District Judge had

observed that the objective of the legislature is not the protection of a person who forcibly cultivates a paddy field ejecting the owners. On that basis, the learned District Judge having rejected the claim of the Appellant the case has been decided in favour of the Respondents. This court is of the opinion that there is no ground of appeal for the Appellant against the said judgment. As such, this court decides to dismiss the appeal with cost.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

1. (23NLR 129)