

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

In the matter of an Appeal  
under Section 754(1) read with  
Section 755(3) & Section 757  
of the Civil Procedure Code.

**Court of Appeal No. CA 635/2000 (F)**

District Court, Matale Case No. L. 5032

Venerable Puliyadhe  
Indrarathna Thero  
Chief Incumbent of Hapuwida  
Purana Viharaya, Alawatta.

**Plaintiff**

***Vs.***

W.M. Tikiri Banda,  
Athupothuwela,  
Ukuwela.

**Defendant**

**AND NOW BETWEEN**

Venerable Puliyadhe  
Indrarathna Thero  
Chief Incumbent of Hapuwida  
Purana Viharaya, Alawatta.

**Plaintiff – Appellant**

***Vs.***

W.M. Tikiri Banda,  
Athupothuwela,  
Ukuwela.

**Defendant – Respondent**

**Before : P.R.Walgama, J**

**Counsel : M. Guneshwaran for Plaintiff – Appellant.**

**: Uditha Malalasekara for the Defendant –  
Respondent.**

**Argued on : 03.02.2016**

**Decided on: 10.05.2016**

CASE-NO- CA- 635/2000 (F) - JUDGMENT - 10.05.2016

The instant appeal lies sequel to the judgment dismissing the plaintiff- Appellant's plaint. The Plaintiff instituted action against the Defendant in the District Court of Matale in the case bearing No. 5032/L and moved for the reliefs inter alia;

For a declaration that the property more fully described in the schedule to the plaint, belongs to Hapuwida Purana Viharaya, and to make order ejecting the Defendants and his agents and servants from the disputed land.

But the stance of the Defendant- Respondent is that the property in dispute belongs to Walakotuwe Viharaya and after the demise of Sri Sumangala Thero, the Venerable Maussagolle Damananda thero was residing at the said temple.

It is vital at this stage to consider the admissions recorded at the commencement of the trial;

1. Jurisdiction of the Court
2. Property in dispute in the case was the property described in the schedule to the plaint
3. The property in dispute in the case was private property of Venerable Elkaduwe Sri Sumangala chief incumbent of Hapuwida Purana Viharaya by transfer deed bearing No. 16551 attested by S.M.P. Wijayatilleke N.P.
4. After the demise of the said chief incumbent the property in dispute became Sangika Property.

As per admission 3 it is common ground that the property in issue belongs to the Hapuwida Purana Viharaya, and not to Walikotuwe Viharaya as claimed by the Defendant- Respondent.

It is pertinent to note that the Defendant at a later stage, before the trial commenced, made an application to Court to withdraw the said admission No.3, and the Learned District Judge by his order dated 12.2 1999 had refused the said application of the Defendant.

Therefore the Learned District Judge was of the view that only issue to be resolved is whether the plaintiff priest is entitled to succeed as the

Viharadipathi after the demise of the Sumangala thero to the said temple of Hapuvida Purana Viharaya.

In the course of the trial the following facts had emerged; that

After the demise of Elkaduwe Sri SUMANGALA Thero, the senior pupil of the said thero, the Puliyyde Saranankara thero became the Chief incumbent of this temple. The certification of ordination of the said Saranankara thero was marked as P2, which bears the testimony to the effect that that Saranankara thero was ordained by the robbing tutor as Elkaduwe Sri Sumangala thero.

In the year 1972 after the demise of Puliyyadde Saranankara his senior pupil Puliyyde Indraratne thero the plaintiff became the chief incumbent of the Hapuvida Purana Viharaya. The Upasampada certificate is marked as P3. But the Learned District Judge has observed the fact that the said document marked as P3 only indicate that the robbing tutor is Hapuvida Saranankara thero and not Puliyyadde Saranankara thero.

Further the Learned District Judge has commented on the testimony of the Plaintiff thero, as the Plaintiff on many occasions has admitted that Sapuvida Saranankara was his robbing tutor. More over the Plaintiff - Appellant had admitted that it was

Sapuvinda Saranankara thero was in charge of many temples, but nevertheless to buttress the position that Sapuvinda Saranankara thero is the senior pupil of Elkaduwe Sri Sumangal thero, has not been established by the Plaintiff.

Therefore in the said backdrop the Learned District Judge was of the view that after the demise of Sapuvinda Saranankara thero the Plaintiff – Appellant cannot succeed to the viharadhipahiship.

Hence in the above setting it was concluded by the Learned District Judge that the plaintiff- Appellant has no locus standi to maintain this action.

For the above compelling reasons this Court see no reason to interfere with the said impugned judgment, thus I dismiss the appeal without costs.

Accordingly appeal is dismissed.

**JUDGE OF THE COURT OF APPEAL**