

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

Horathal Pedige Piyananda  
Disanayaka of Metiyagane,  
Beligala.

**CA Case No: 888/97 F**

District Court of Kegalle

Case No: 24534/P

**Plaintiff**

**Vs.**

01. Horathal Pedige Pabilis of  
Metiyagane, Beligala.
02. Asura Pedige Samarasena of  
Metiyagane, Beligala.
03. Senarath Bandara  
Wimaladharma Wijaya Kumara  
of Metiyagane, Beligala.
04. Sunil Wickramasinghe Henrath  
Kumarage of Metiyagane,  
Beligala.
05. Asura Pedige Alpeenu of  
Metiyagane, Beligala.
05. (A) Asura Pedige Pemarathne of  
Metiyagane, Beligala.
06. Asura Manage Princy  
Samarasekara of Metiyagane,  
Beligala.

- 06.(A) Kaluarachchige Lal Ranjani  
Perera of Metiyagane, Beliagala.
- 07.Hewa Rathnage Wimalawathie of  
Metiyagane, Beliagala.
- 08.Rajapaksha Pedige Punchi  
Duraya of Metiyagane, Beliagala.
- 09.L.P.C.H. Kumarage of  
Metiyagane, Beliagala.
- 10.R.S.H. Kumarage of Metiyagane,  
Beliagala.
- 11.N.J.H. Kumarage of Metiyagane,  
Beliagala.
- 12.P.R.H. Kumarage of Metiyagane,  
Beliagala.
- 13.N.S.H. Kumarage of Metiyagane,  
Beliagala.
- 14.U.P.H. Kumarage of Metiyagane,  
Beliagala.
- 15.Rajapaksha Pedige Punchi  
Duraya of Metiyagane, Beliagala.

**Defendants**

**AND**

1. Horathal Pedige Pabilis of  
Metiyagane, Beligala.
2. Sunil Wickramasinghe Henrath  
Kumarage of Metiyagane,  
Beliagala.

**1<sup>st</sup> & 4<sup>th</sup> Defendant Appellants**

**Vs.**

1. Horathal Pedige Piyanda  
Disanayaka of Metiyagane,  
Beliagala.

**Plaintiff Respondent**

2. Asura Pedige Samarasena of  
Metiyagane, Beliagala.

**2<sup>nd</sup> Defendant Respondent**

3. Senarath Bandara  
Wimaladharmawijaya Kumara of  
Metiyagane, Beliagala.

**3<sup>rd</sup> Defendant Respondent**

4. Asura Pedige Alpeenu of  
Metiyagane, Beliagala.

**5<sup>th</sup> Defendant Respondent**

- A. Asura Pedige Pamarathna of  
Muththettueatta, Metiyagane,  
Beliagala.

**5 (A) Defendant Respondent**

5. Asura Manage Princy  
Samarasekara of Metiyagane,  
Beliagala.

**6<sup>th</sup> Defendant Respondent**

- A. Kaluarachchilage Lal Ranjani  
Perera, of A/61, Ape Para,  
Polgahawela.

**6 (A) Defendant Respondent**

6. Hewa Rathnage Wimalawathie of  
Metiyyagane, Beliagala.

**7<sup>th</sup> Defendant Respondent**

7. Rajapaksha Pedige Punchi  
Duraya of Metiyyagane, Beliagala.

**8<sup>th</sup> Defendant Respondent**

8. L.P.C.H. Kumarage of  
Metiyyagane, Beliagala.

**9<sup>th</sup> Defendant Respondent**

9. R.S.H. Kumarage of Metiyyagane,  
Beliagala.

**10<sup>th</sup> Defendant Respondent**

10. N.J.H. Kumarage of  
Metiyyagane, Beliagala.

**11<sup>th</sup> Defendant Respondent**

11. P.R.H. Kumarage of  
Metiyyagane, Beliagala.

**12<sup>th</sup> Defendant Respondent**

12. N.S.H. Kumarage of  
Metiyagane, Beliagala.

**13<sup>th</sup> Defendant Respondent**

13. U.P.H. Kumarage of  
Metiyagane, Beliagala.

**14<sup>th</sup> Defendant Respondent**

14. Rajapaksha Pedige Punchi  
Duraya of Metiyagane, Beliagala.

**15<sup>th</sup> Defendant Respondent**

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

**Council : D. Ethugala for the 4<sup>th</sup> Defendant – Appellant.  
: Dilani Bandaranayaka for the 7<sup>th</sup> – 9<sup>th</sup> – 14<sup>th</sup>  
Respondent.**

**Argued on : 13.01.2016**

**Decided on: 29.07.2016**

CASE- NO- CA-888 /97/F - JUDGMENT- 29.07.2016

**P.R. Walgama, J**

The instant appeal was lodged by the 4<sup>th</sup> Defendant -Appellant (in short the Appellant) who was

dissatisfied with the judgment of the Learned District Judge pronounced on 28.11.1996.

The Appellant is dissatisfied with the said judgment to the extent that the share allotted to him is not accurate and thus he is entitled to a larger share than that is allotted to him in the above judgment.

The Plaintiff instituted action in the District Court of Kegalle in the case bearing No. 24534 /P, to have the land described in the schedule to be partitioned among the co-owners, as it was not practical to possess the said land in common.

The land sought to be partitioned was a land known as Arambawatta, containing in extent 12 lahas situated at Matiyagana, depicted in plan bearing No. 368, made by S.P.P. Kulatunge license surveyor.

It is being noted that only the 4<sup>th</sup> Defendant has appealed against the said Judgment of the Learned District Judge.

As per pedigree submitted by the Plaintiff, the original owner one Sundara possessed 1/9 undivided share of the said land. After the demise of Sundara his rights devolved on his two sons namely Bandara Wimaladharma the third Defendant and Sunil wickramasinghe the 4<sup>th</sup> Defendant.

It is salient to note that at the outset it is being recorded that the 1<sup>st</sup> 4<sup>th</sup> 7<sup>th</sup> and 9-17 Defendants

are admitting the rights given by the plaintiff and only contentious issue had been that the 1<sup>st</sup> Defendant should be declared entitled to lot 1 and plantation and the buildings standing thereon should be allotted to the 1<sup>st</sup> Defendant. Apparently the 1<sup>st</sup> Defendant is satisfied with the share and other rights allotted to him and had never appeared in this court to vindicate his rights.

As it was mentioned above there had been no contest by the 1<sup>st</sup> 4<sup>th</sup> 7<sup>th</sup> Defendants and 9- 17 defendants as it has been recorded that the above Defendants admit the rights given in the plaint in the said partition action.

In the above setting this court is of the view that there is no merits in this appeal and should stand dismissed.

Accordingly appeal is dismissed without costs.

**JUDGE OF THE COURT OF APPEAL**