

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

In the matter of an Appeal against  
judgment of Provincial High Court  
exercising its revisionary jurisdiction.

C A (PHC) / 110 / 2006

Provincial High Court of

Southern Province (Galle)

Case No. Rev 152 / 2002

Magistrate's Court Galle

Case No. 74711

1. Peduru Ranepura Hewage Sami  
Nona
2. Siriwardhana Durage Nandasiri  
Badal Kanaththa Kanda,

Govijana Mawatha,  
Kabaragala,  
Angulugaha.

**RESPONDENT - PETITIONER -**  
**APPELLANTS**

-Vs-

Maha Durage Nandani Chandrika,  
Lokuge Waththa,  
Kabaragala,  
Angulugaha.

**COMPLAINANT - RESPONDENT -**  
**RESPONDENT**

**Before: K K Wickremasinghe J**

**P. Padman Surasena J**

Counsel; Respondent - Petitioner - Appellant is absent and unrepresented.

Suraj Walgama for the Complainant - Respondent - Respondent.

Decided on : 2017 - 10 - 26

### JUDGMENT

## **P Padman Surasena J**

The Petitioner - Respondent - Respondent (hereinafter sometimes referred to as the Respondent) had filed an information in the Primary Court of Galle under section 66 (1) (b) of the Primary Courts Procedure Act No. 44 of 1979 (hereinafter referred to as the Act) as a private information complaining to the learned Primary Court Judge that the Respondent-Petitioner -Appellants had attempted to disturb her peaceful possession of the land relevant to the dispute in this case.

Learned Primary Court Judge having inquired into this complaint, by his order dated 2002-02-05, had concluded that the Complainant - Respondent-Respondent (hereinafter sometimes referred to as the Complainant Respondent) is entitled to the possession of the land in dispute.

Being aggrieved by the said order made by the learned Primary Court Judge of Galle, the Respondent-Petitioner - Appellants (hereinafter sometimes referred to as the Appellants) had filed a revision application in the Provincial High Court of Southern Province holden in Galle urging the Provincial High Court to revise the order made by the learned Primary Court Judge.

The Provincial High Court of Galle after hearing parties, by its judgment dated 2004-05-18 had refused the said application for revision. It had proceeded to dismiss the said application affirming the order of the learned Primary Court Judge.

The Appellant has filed this appeal in this Court against the said order of the Provincial High Court.

This Court observed that the Appellant was absent and unrepresented when it called the case in the morning on 2017-06-22. Thus this Court kept this case down to enable any one interested to appear before this Court even at a later stage. However when this court took this case up for argument as the last case in the list, still there was no one to look after the interests of the Appellant. As this case had been fixed for argument and no application of any sort on behalf of the Appellant was made, this Court took this case up and concluded the argument.

Learned counsel for the Respondent having made a brief submission undertook to file written submission within three weeks from the date of argument. He had thereafter filed written submissions.

It is to be noted that the learned Provincial High Court Judge had taken into consideration the nature of the proceedings under the Primary Courts Procedure Act which is directed towards preventing breach of peace. He had also taken into consideration, the provisional nature of such adjudication pending final determination of the rights of parties in a civil Court.

This Court is in agreement with the above observations of the learned Provincial High Court Judge.

This fact taken together with the other material adduced before court proves to the satisfaction of this Court that there is no merit in this appeal.

Thus, this Court decides to dismiss this appeal with costs.

Application is dismissed with costs.

**JUDGE OF THE COURT OF APPEAL**

**K K Wickremasinghe J**

I agree,

**JUDGE OF THE COURT OF APPEAL**