

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

In the matter of an appeal to Court of
appeal under Article 154 P (6) read with
Article 138 of the Constitution against a
judgment of Provincial High Court
exercising its writ jurisdiction.

C A (PHC) / 197 / 2011

Provincial High Court of

Central Province (Kandy)

Case No. Writ 23 / 2010

Rankothgedara Premachandra,

No. 7/4,

Divana Watta,

Ambatenna.

PETITIONER - APPELLANT

-Vs-

1. Ravindra Hewavitharana,
Commissioner of Agrarian
Development,
Department of Agrarian
Development,
Colombo 07.

2. I K G Muthu Banda,
Assistant Commissioner Agrarian
Development,
Agrarian Development District
Office,
Gatambe,
Peradeniya.

3. Agrarian Development Council,

3

Batugoda,
Pujapitiya.

4. Agrarian Services Centre,
Batugoda,
Pujapitiya.

5. U G C Navaratna,
Agrarian Development Officer,
Agrarian Services Centre,
Batugoda,
Pujapitiya.

6. D G M A Siththi Noor Naima,
No. 387/1,
Bulughatenna,
Akurana.

7. G G Premachandra,
Deevanawatta,
Batugoda.

8. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENT - RESPONDENTS

● **Before: P. Padman Surasena J (P / C A)**

K K Wickremasinghe J

Counsel; W H Sumanasiri for the Petitioner - Appellant.

Indula Ratnayake SC for the Attorney General.

● Argued on : 2017 - 10 - 30

Decided on : 2018 - 05 - 17

JUDGMENT

P Padman Surasena J

The 2nd Respondent had held an inquiry pursuant to a complaint made by the Appellant and his father that the 6th Respondent had transferred the title of the paddy land to a third party without first offering the said paddy land for sale to them. After the said inquiry the 2nd Respondent had concluded that the said transfer of title is contrary to section 2 (1) of the Agrarian Development Act No. 46 of 2000 (hereinafter referred to as the Act). Therefore, the 2nd Respondent had declared that the relevant deed of transfer to be invalid.

The relevant inquiry proceedings have been produced marked **P 8** and the relevant decision is contained in the document produced marked **P 13** and **P 15**.

It is clear that the above decisions have been made by the 2nd Respondent on the basis that the said paddy land was not offered for sale to the tenant cultivator of the said paddy land who is the father of the Appellant. It is on that basis that the 2nd Respondent had declared the relevant deed of transfer invalid.

It is a fact that the Appellant's father had passed away on 2009-07-26. It is to be noted that the 7th Respondent had transferred the title of the said

paddy land back to the 6th Respondent by deed of transfer No. 4370 attested by M. F. M. Azmi Notary Public on 2009-09-01. Thereafter, the 6th Respondent had again transferred the title of the said paddy land to the 7th Respondent by deed of transfer bearing No. 4377 attested by M. F. M. Azmi Notary Public on 2009-09-02. This is after the demise of the father of the Appellant.

Perusal of the material adduced in this case shows clearly that the Appellant has failed to establish that he was the lawful tenant cultivator of the relevant paddy land.

The Appellant in his Petition¹ filed in the Provincial High Court, had admitted that he had been informed that he could not be declared as the tenant cultivator of the said paddy land in view of the objections raised by the landlord. The Appellant has not challenged that decision.

It is a fact that the deed, which was declared invalid by the 2nd Respondent, in the present circumstances, does not have any effect on the title of the said paddy land held by the 7th Respondent. The title of this paddy land had been transferred to the 7th Respondent by a subsequent

¹ Paragraph 24 of the petition.

deed of transfer attested after the demise of the lawful tenant cultivator. Since the Appellant is not the lawful tenant cultivator, he cannot claim any right to this paddy land. Therefore, the order dated 2011-08-04 pronounced by the learned Provincial High Court Judge is a correct order. In these circumstances, this Court is satisfied that its intervention is not required at this stage. Thus, this Court affirms the judgment of the learned Provincial High Court Judge dated 2011-08-04 and proceed to dismiss this appeal with costs.

PRESIDENT OF THE COURT OF APPEAL

K K Wickremasinghe J

I agree,

JUDGE OF THE COURT OF APPEAL