

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

K.G. Alwis,
No.55,
Terrence De Silva Mawatha,
Kolonnawa,
Wellampitiya.
And 3 Others
Plaintiff-Appellants

CASE NO: CA/508/2000/F

DC KALUTARA CASE NO: 5776/P

Vs.

Lakshmie Alwis,
No. 55,
Terrence De Silva Mawatha,
Kolonnawa,
Wellampitiya.
And 10 Others
Defendant-Respondents

Before: Mahinda Samayawardhena, J.

Counsel: M.U.M. Ali Sabri, P.C., with Nuwan Bopage for the
Plaintiff-Appellants.

Rohan Sahabandu, P.C. with Surekha Withanage
for the 7th-11th Defendant-Respondents.

Decided on: 30.07.2019

Mahinda Samayawardhena, J.

The plaintiffs have filed this action in the District Court of Kalutara to partition the land described in the schedule to the plaint among the plaintiffs and the 1st-4th defendants. The 6th-11th defendants have later intervened. The 7th-11th defendants have filed a joint statement of claim and sought different reliefs. At the trial, on behalf of the plaintiffs, 1st-6th issues have been raised, and on behalf of the 7th-11th defendants, 7th-17th issues have been raised, and several parties have given evidence, and a large number of old deeds and plans have been produced. Ultimately, the District Judge by 3 ½ page Judgment has dismissed the action, as I understand, on the basis that he cannot come to a conclusion on (a) the land to be partitioned and (b) the rights of the parties, because the case is complicated.¹ This is a very irresponsible way of shirking the duty by the trial Judge. This appeal by the plaintiffs is from that Judgment.

The 7th-11th defendants have stated that the land to be partitioned is a portion of a larger land. The District Judge has clung on that point to dismiss the action. However no reason which could be understood by this Court has been given to come to that conclusion. He has, in one sentence, stated what the said defendants have stated², but has not stated whether he accepts that position and why he accepts that position and how it affects the maintainability of the partition action.

The District Judge has also just stated that the plaintiffs' pedigree is fragile without elaborating it.³

¹ Vide last paragraph of page 3 of the Judgment.

² Vide paragraph 2 of page 3 of the Judgment.

³ Vide paragraph 3 of page 3 of the Judgment.

A Judge in the Judgment cannot come to conclusions without giving reasons. If the conclusions are without reasons they cannot be treated as conclusions. If reasons are not given, there is no way the Appellate Court can test the correctness of that conclusion.

Although altogether 17 issues have been raised, the District Judge has answered only 7 issues.

I set aside the Judgment of the District Court dated 12.07.2000 and direct the incumbent District Judge to deliver the Judgment afresh on the evidence already led. In order to assist the Court, counsel for both parties can be given an opportunity to file written submissions prior to the delivery of the Judgment.

Appeal allowed.

Judge of the Court of Appeal