

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

C.A.(PHC) 207/2004

P.H.C. Ratnapura 64/2004

Para Mullage Don Udaya Manoj Kumara
Sri Niwasa
Eth Oya,
Rathnapura.

Appellant

Koholpita Pathiranalage Sumanarathna
Pillagawa,
Eth Oya,
Rathnapura.

And Others

Respondents

C.A.(PHC) 207/2004 P.H.C. Ratnapura 64/2004

Before : Rohini Marasinghe,J.
Deepali Wijesundara,J.

Counsel : Chatura Galhena for the Appellant.
Udaya Bandara for the Respondent.

Argued and
Decided on : 15.02.2013.

Rohini Marasinghe,J.

This application has been made to revise the order of the High Court Judge dated 06.09.2004 and to set aside the order of the Magistrate dated 27.07.2004.

The subject matter of the application concern a road way. The dispute as submitted by the Counsel for the Petitioner is in regard to the width of the road way at the entrance to the road from the main road.

The learned Magistrate had inspected the disputed road way and observed that at the entrance to the road way the width was 19.6 feet. Addressing this issue the learned Magistrate had stated as follows:- “එහිදී මෙම ආරවුල් ගත මාර්ගය ප්‍රධාන පාරට සම්බන්ධ වන ස්ථානයේ බෝක්කාවේ පළල අඩි 19.6 ක් බව පෙනී ගිය අතර (page 5).

Having thus determined the width at the entrance of the road-way, there appears to be an ambiguity when the Judge in the latter part of the judgment had determined that the width of road should be 12 feet . The fact that the road was 12 feet in width was not in dispute. The dispute was width of the road way at the entrance to the road from the main road. As clarified by both parties the road way should be demarcated as follows:

1. At the entrance to the roadway from the main

Road there should be a width of 19.6 feet.

2. The rest of road is 12 feet in width.

On this basis we conclude this appeal.

JUDGE OF THE COURT OF APPEAL.

Deepali Wijesundara,J.

I agree.

JUDGE OF THE COURT OF APPEAL

WC/-