

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

Liyanagamaralalage Saman
Ratnawardena,
Doranuwa,
Ruwanwella.

Plaintiff

C.A. No. 927 / 2000 F

Vs.

D.C. Avissawella No. 20342 / M

1. Kambakara Nekathige Sirisena,
2. Kambakara Nekathige Hemapala,
3. Jothiratna Ganithayalage Gunapala,
4. Kambakara Nekathige Maitripala,
5. Kambakara Nekathige Sumathipala,
6. Kambakara Nekathige Dayapala,
7. Kambakara Nekathige Thilakasoma,
All of Dehiowita,
Debegama.

Defendants

AND NOW BETWEEN

1. Kambakara Nekathige Sirisena,
2. Kambakara Nekathige Hemapala,
3. Jothiratna Ganithayalage Gunapala,
4. Kambakara Nekathige Maitripala,
5. Kambakara Nekathige Sumathipala,
6. Kambakara Nekathige Dayapala,
7. Kambakara Nekathige Thilakasoma,
All of Dehiowita,
Debegama.

Defendant Appellants

Vs

Liyanagamaralalage Saman
Ratnawardena,
Doranuwa,
Ruwanwella.

Plaintiff Respondent

BEFORE : UPALY ABEYRATHNE, J.

COUNSELS : Defendant Appellants – Absent and
unrepresented
T. Weragoda for the Plaintiff Respondent

WRITTEN SUBMISSIONS ON: 06.02.2012

ARGUED ON : 04.09.2012

DECIDED ON : 01.04.2013

UPALY ABEYRATHNE, J.

The Plaintiff Respondent (hereinafter referred to as the Respondent) instituted the said action against the Defendant Appellants (hereinafter referred to as the Appellants) in the District Court of Avissawelle seeking to recover a sum of Rs. 103,000/- which had been paid to the Appellants by the Respondent in order to purchase 11 jack trees. The Appellants filed answer praying for a dismissal of the Respondent's action. The case proceeded to trial on 11 issues. After trial the learned District Judge has delivered a judgment in favour of the Respondent. Being aggrieved by the said judgment dated 13.11.2000 the Appellants have appealed to this court.

According to the facts of the case an agreement had been entered into between the Respondent and the Appellants to purchase 11 jack trees from the Appellants. Said agreement dated 27.03.1996 had been produced at the trial marked P 1. It was the position of the Respondent that the Appellants did not have title to the land mentioned in the said agreement and therefore the Appellants could not fulfil the terms of the agreement.

At the trial the Respondent has closed his case leading the evidence of the Respondent and one other witness. The Appellants have closed their case without leading any evidence. Accordingly the Appellants have failed to prove their position.

When I consider the said evidence of the Respondent I am of the view that the learned District Judge has rightly concluded that the Respondent was entitled for a judgment as prayed for in the plaint.

In the said circumstances I see no reason to interfere with the said judgement of the learned District Judge dated 13.11.2000. Therefore I dismiss the appeal of the Appellants with costs.

Appeal dismissed.

Judge of the Court of Appeal