

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

Weerasinghe Arachchilage Dingiri
Mahattaya Weerasinghe,
Yapl Ara,
Pallebedda.

CA 1363 / 2000 F

Plaintiff

DC Embilipitiya No. 907/L

1. Jahinge Sirisena,
Dole Gedara, PalleKumbura,
Godakawela.
2. Nekath Kiyanage Dindiri Mahattaya,
C/o Podisingho's Boutique,
Palle Kumbura, Godakawela.
3. Logge Mohottalalage Dingiri
Mahattaya, (deceased)
- 3a. Weerasuriya Muhandiramlage Dingiri
Menike,
Yapal Ara, Palle Bedda.

Defendants

AND NOW BETWEEN

Weerasinghe Arachchilage Dingiri
Mahattaya Weerasinghe,
Yapl Ara,
Pallebedda.

Plaintiff Appellant

Vs

1. Jahinge Sirisena,
Dole Gedara, PalleKumbura,
Godakawela.
 2. Nekath Kiyanage Dindiri Mahattaya,
C/o Podisingho's Boutique,
Palle Kumbura, Godakawela.
 3. Logge Mohottalalage Dingiri
Mahattaya, (deceased)
 - 3a. Weerasuriya Muhandiramlage Dingiri
Menike, (Deceased)
 - 3b. Logge Mohottalalage Sanath
Dhammika,
 - 3c. Logge Mohottalalage Rasika
Dhammika,
 - 3d. Logge Mohottalalage Sugath
Dhammika,
All of Yapal Ara, Palle Bedda.
- Substituted Defendant Respondents

BEFORE

: UPALY ABEYRATHNE, J.

COUNSEL

: W. Dayartne PC with Nadeeka K Arachchi for
the Plaintiff Appellant

G. Samaranayake with R.M.N. Ratnayake for the
1st and 2nd Defendant Respondents.

ARGUED ON

: 20.11.2013

DECIDED ON

: 26.02.2014

UPALY ABEYRATHNE, J.

The Plaintiff Appellant (hereinafter referred to as the Appellant) instituted the said action against the 1st to 3rd Defendant Respondents (hereinafter referred to as the Respondents) in the District Court of Kuliyaipitiya seeking inter alia a declaration of title to the land described in the schedule to the plaint.

The Respondents prayed for a dismissal of the said action. The case proceeded to trial on 21 issues. After trial, the learned Additional District Judge has dismissed the action. Being aggrieved by the said judgment dated 06.09.2000 the Appellant has appealed to this Court.

The learned Counsel for the Appellant submitted that the learned Additional District Judge was wrong in concluding that the Appellant has failed to identify the corpus of the action. I now advert to the said submission.

According to the schedule to the plaint the subject matter was a land called "Ehalagaha Hena and Bogaha Hena bounded on the north by Malwatte Hena and Wedikkarage Hena, on the east by Aluthwatte Hena and Mahakandure Hena, on the south by High Road from Pallekumbura to Yapal Ara on the west by the land cultivated by Brahakmanahamy and containing in extent of 03 Pela and 02 Kuruni. According to the ancient measures said 03 Pela and 02 Kuruni is equivalent to 2 acres.

At the trial the Appellant has produced a survey plan bearing No 417 dated 22.01.1989 and the report of the said plan marked X. According to the said plan the Appellant has shown a larger land in extent of 10 Acres and 17.9 Perches

as the subject matter of the action. The Surveyor, in his report has stated that there was no land called Malwatte Hena on the Northern Boundary and also in addition to 'Brahmanahamige Hena' the land surveyed was bounded on the west by the land of M.V. Jayawardena.

According to the Report of the Plan X lots 1, 2, 4, 5, 6, 7, 8, 9, 10 and 11 have been claimed by the persons who were in possession of the said lots upon permits issued by the Land Reform Commission. The Appellant has not led any evidence to explain the said position.

In the aforesaid circumstances I am of the view that the Appellant has failed to identify the land in suit. Hence I find no reason to interfere with the judgement of the learned Additional District Judge dated 06.09.2000. Therefore I dismiss the instant appeal of the Appellant with costs.

Appeal dismissed.

Judge of the Court of Appeal