

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

**CA (PHC) 76/2008**

PHC-BALAPITIYA-707/06-REV

Kapila Jayalal Assala Arachchi  
Bentota.

**Appellant**

**Vs.**

M.D. Chithrangani Damayanthi Priyawardena  
Suriyagoda,  
Bentota.

**Respondent**

Before : **A.W.A. Salam, J. &**  
**W.M.M. Malinie Gunarathne, J.**

Counsel : D.M.G. Dissanayake for 1<sup>st</sup> Respondent-  
Petitioner-Appellant  
  
Samantha Vithana for the 2<sup>nd</sup> Respondent-  
Respondent

Argued &

Decided on : 27.03.2014

**A.W.A. Salam, J.**

Both parties agree not to have the determination of the learned Magistrate which has been affirmed by the learned High Court Judge enforced until the determination of the proposed partition action intended to be filed by Kapila Jayalal Assalaarachchi (1<sup>st</sup> Respondent-Petitioner-Appellant).

The said Assalaarachchi undertakes to present the plaint to the respective District Court within a period of six months from today.

In the event of the said Assalaarachchi failing to present the plaint to the respective District Court Chithrangani D.Priyawardana (2<sup>nd</sup> party Respondent-Respondent) is entitled to

have the determination of the learned Magistrate which has been affirmed by the High Court, enforced through Court.

Subject to the above terms, the appeal proceedings are terminated.

JUDGE OF THE COURT OF APPEAL

W.M.M. Malinie Gunarathne, J.

I agree.

JUDGE OF THE COURT OF APPEAL

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