

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

Kuruppuge Dharmathilake,  
Atthanagoda,  
Molagoda.

Plaintiff

C.A. No. 1154 / 2000 F

**Vs.**

D.C. Kegalle No. 24937 / P

1. Menikbo Ralalage Kiribanda,  
(deceased)
- 1a. Menikbo Ralalage Gunatilaka,
2. Kuruppuge Rambanda (deceased)
- 2a. B. A. Podimenike,  
Atthanagoda, Molagoda.

Defendants

**AND NOW BETWEEN**

Balasuriya Arachchilage Podimenike,  
Atthanagoda, Molagoda.

2a. Defendant Appellant

**Vs**

Kuruppuge Dharmathilake,  
Atthanagoda,  
Molagoda.

Plaintiff Respondent

1. Menikbo Ralalage Kiribanda,  
(deceased)
- 1a. Menikbo Ralalage Gunatilaka,  
Atthanagoda, Molagoda.

1a. Defendant Respondent

BEFORE : UPALY ABEYRATHNE, J.

COUNSEL : Appellant - absent and unrepresented  
Respondents - absent and unrepresented

DECIDED ON : 01.04.2014

UPALY ABEYRATHNE, J.

The Plaintiff Respondent (hereinafter referred to as the Respondent) instituted the said action against the 1<sup>st</sup> and 2<sup>nd</sup> Defendants in the District Court of Kegalle seeking a judgment to partition the land described in the schedule to the plaint.

The 1<sup>st</sup> and 2<sup>nd</sup> Defendants have filed statement of claims seeking a partition as prayed for in their statement of claims. The case proceeded to trial on 18 issues. After trial the learned District Judge has allowed to partition the land. Being aggrieved by the said judgment dated 29.11.2000 the 2a Defendant Appellant (hereinafter referred to as the Appellant) has preferred the present appeal to this court.

I have perused the grounds of appeal set out in the petition of appeal. The Appellant's main grievance was that the learned District Judge has failed to consider the exclusion of lot 3 depicted in plan bearing no 2205 from the partition.

I have carefully considered the impugned judgment of the learned District Judge and the evidence adduced at the trial. When I consider the said

evidence I am of the view that the learned trial judge has come to a right conclusion considering the evidence led before court.

In the said circumstances I see no reason to interfere with the said judgement of the learned District Judge dated 29.11.2000. Therefore I dismiss the appeal of the Appellant without costs.

*Appeal dismissed.*

Judge of the Court of Appeal