

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

CA (Writ) Application No: 276/2016

1.K.P.S.M. Lal Pathirana,
213/3B, Bandarahrenawatta,
Wilibula,
Radawana,

2.K.P.Siriyalatha Kalyani,
No. 37, Wathurugama Road,
Henarathgoda,
Mudungoda.

Petitioners

-Vs-

1. R.A. Shriyamali Gunawardena,
No. 364/B 1, Merril Estate,
Radawana.

More Accurately of:
No.36/2, Medawatte,
Mudungoda.

2. Malini Abeywardena Ranatunga,
Chairman.

3. K.A. P. Rajakaruna,
Member.

4. D.M. Sarathchandra,
Member.

Respondents

C.A. Writ Appln. No.276/2016

Before : Vijith K. Malalgoda, P.C., J (P/CA) &
S. Thurairaja, P.C., J.

Counsel : Shantha Jayawardane with Duleeka Iumbuldeniya for
the Petitioner.

Argued &

Decided on : 08.11.2016.

Vijith K. Malalgoda, P.C., J (P/CA)

Heard the learned Counsel for the petitioner in support of this application. The Petitioner has come before this Court challenging a decision of Debt Conciliation Board made in proceedings No. 39392 where the Debt Conciliation Board had concluded that the deed in question had been a mortgage and not a transfer deed. The learned Counsel for the petitioner has challenged the said decision by challenging the valuation report which was produced before the Debt Conciliation Board marked P3 and submitted that the valuation given in the said valuation report is 4.6 million rupees. His position was that the said valuation is the valuation as at 2011 and therefore the members of the Debt Conciliation Board were misdirected themselves when they considered the said valuation as the valuation as at 2001.

However when going through the order made by the Board we observed that the Board was mindful of the fact that the said valuation of 4.6 million is not the valuation at 2001 but they were mindful that the valuation in year 2001 in any event should be more than

Rs. 150,000/= which was the amount appeared in the deed in question. Under these circumstances we observed that the Debt Conciliation Board when reaching the decision i.e., the deed which was produced marked P1 is not a deed of transfer but a deed of mortgage and decided to act under Sec 25¹⁾A, B and C of the Debt Conciliation Act in according to the provisions of the said law. Therefore we see no merit in the argument placed by the learned Counsel for the petitioner. Therefore we are not inclined to issue notices in this matter. The application is dismissed.

PRESIDENT OF THE COURT OF APPEAL

S. Thuraiaraja, P.C., J.

I agree.

JUDGE OF THE COURT OF APPEAL

AKN