

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

*In the matter of an Appeal in terms of
Section 5C of the High Court of the
Provinces (Special Provisions)
(Amendment) Act No. 54 of 2006.*

S.C. Appeal No:
133/2018

B. G. Dingiri Banda,
No. 17, Yaya 07,
Hansaya Palama.

SC/HC (CA) LA No:
132/2018

PLAINTIFF

Vs.

HCCA Anuradhapura Case No:
NCP/HCCA/ANP/1113/2017(F)

01.Maduruthenna Bedum Ela Govi
Sanvidanaya,

DC Polonnaruwa Case No:
11316/06

Yaya 07, Hansaya Palama.
02.R.M. Dasanayaka (President)
No. 46, Yaya 07,
Hansaya Palama.
03.Illukwaththalage Wilbet (Secretary)
No. 75, Yaya 07,
Hansaya Palama.
04.Puranagedara Appuhami (Treasurer)
No. 7139, Yaya 07,
Hansaya Palama.
05.A.S. Kamal Jayasooriya,
Yaya 07, Hansaya Palama.

06.P.R. Senevirathna Banda

Paranagama,

No. 84, Yaya 07,

Hansaya Palama.

07.S.M.W.M. Punnadasa,

No. 15, Yaya 07,

Hansaya Palama.

08.A.K. Wijesingha,

No. 49, Yaya 07,

Hansaya Palama.

DEFENDANTS

AND

02.R.M. Dasanayaka (President)

No. 46, Yaya 07,

Hansaya Palama.

03.Illukwaththalage Wilbet (Secretary)

No. 75, Yaya 07,

Hansaya Palama.

04.Puranagedara Appuhami (Treasurer)

No. 7139, Yaya 07,

Hansaya Palama.

DEFENDANT-APPELLANTS

Vs.

B. G. Dingiri Banda,

No. 17, Yaya 07,

Hansaya Palama.

PLAINTIFF-RESPONDENT

AND NOW BETWEEN

B. G. Dingiri Banda,
No. 17, Yaya 07,
Hansaya Palama.

PLAINTIFF-RESPONDENT-
APPELLANT

Vs.

02.R.M. Dasanayaka (President)
No. 46, Yaya 07,
Hansaya Palama.

03.Illukwaththalage Wilbet (Secretary)
No. 75, Yaya 07,
Hansaya Palama.

04.Puranagedara Appuhami (Treasurer)
No. 7139, Yaya 07,
Hansaya Palama.

02. 03, 04 DEFENDANT-APPELLANT-
RESPONDENTS

01.Maduruthenna Bedum Ela Govi
Sanvidanaya,
Yaya 07, Hansaya Palama.

05.A.S. Kamal Jayasooriya,
Yaya 07, Hansaya Palama.

06.P.R. Senevirathna Banda
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No. 15, Yaya 07, Hansaya Palama.

08.A.K. Wijesingha,
No. 49, Yaya 07,
Hansaya Palama.

**01, 05, 06, 07, 08 DEFENDANT-
RESPONDENTS**

Before : Mahinda Samayawardhena, J.

: Sampath B. Abayakoon, J.

: M. Sampath. K. B. Wijeratne, J.

Counsel : Chathura Galhena with Naduni Hemantha
instructed by Manoja Gunawardana for the
Plaintiff-Respondent-Appellant.

: Nuwan Bopage with Chathura Weththasinghe
instructed by Achala Wannigama for the 2nd, 3rd,
and 4th, Defendant-Appellant-Respondents.

Argued on : 30-03-2026

Written Submissions : 22-01-2019 (By the 2nd, 3rd, and 4th, Defendant-
Appellant- Respondents)

: 13-12-2018 (By the Plaintiff-Respondent-Appellant)

Decided on : 07-08-2026

Sampath B. Abayakoon, J.,

This appeal preferred by the plaintiff-respondent-appellant (hereinafter referred to as the plaintiff) emanates from the judgment pronounced by the Provincial High Court of the North Central Province holden in Anuradhapura, while exercising its civil appellate jurisdiction.

The appellants before the High Court had been the 2nd, 3rd, and 4th defendants named in the plaint before the District Court who were the President, Secretary, and the Treasurer of the 1st defendant of the action, namely Maduruthenna Bedum Ela Govi Sanvidanaya.

From the impugned judgment, which was pronounced on 20-03-2018, the High Court set aside the judgment pronounced by the learned District Judge of Polonnaruwa on 09-09-2016 in the District Court of Polonnaruwa Case No. 11316/චන්ද්‍ර/06, where the said judgment was in favour of the plaintiff of the action for a sum of Rs. 200,000/- determined as damages that should be paid by the defendants mentioned in the said action.

Having set aside the District Court judgment, the High Court proceeded to re-answer the issues raised at the trial, and for the reasons set out in the appellate judgment dismissed the action initiated by the plaintiff.

When this matter was considered before this Court for the purpose of granting of leave to appeal from the impugned appellate judgment, this Court granted leave on the questions of law as set out in paragraph 17 (i)-(v) of the petition dated 25-04-2018.

The said questions of law read as follows,

1. Did the Civil Appellate High Court misdirect itself in deciding that the respondents are not personally liable for the damage suffered by the petitioner?
2. Did the Civil Appellate High Court err in arriving at their finding disregarding the *locus standi* of the 1st defendant *Govi Sanvidanaya*?

3. Did the Civil Appellate High Court err in deciding that the act of the respondent in the event of default of a loan instalment by the petitioner is proper and legal?
4. Did the Civil Appellate High Court misdirected in considering the act of the respondents ignoring the recovery procedure in the loan agreement entered between the parties?
5. Did the Civil Appellate High Court misdirected in re-considering the issues by disregarding the evidence led on behalf of the petitioner at the trial?

This appeal was considered together with the appeal in SC Appeal No. 96/2018, which was an appeal based on another case initiated by the brother of the plaintiff before the District Court of Polonnaruwa on similar facts. At the hearing of this appeal, the learned Counsel who represented the appellants in both the appeals agreed that the two matters can be considered together and two separate judgments can be pronounced by this Court.

It is evident that the evidence adduced in both these cases has been taken in a single trial before the trial Court as most of the facts are similar in nature and the issues raised by the parties are likewise aligned. However, the learned District Judge of Polonnaruwa has proceeded to pronounce two separate judgments as the two cases referred to separate compensation claims.

Accordingly, the High Court has also pronounced two separate appellate judgments after hearing the parties in both the appeals filed before the High Court.

The Facts

The plaintiff has initiated proceedings before the District Court of Polonnaruwa by his plaint dated 20-07-2006 against the eight defendants mentioned in the plaint.

The 1st defendant mentioned has been the Govi Sanvidanaya of the relevant area while the 2nd, 3rd, and 4th defendants have been the President, Secretary, and the Treasurer of the said Govi Sanvidanaya, and the other defendants have been the office bearers of the said Sanvidanaya.

The plaintiff's claim for compensation had been on the basis that due to the arbitrary and unlawful actions of the defendants, whereby they obstructed the water access to his paddy field, resulted in his inability to proceed with his cultivation of paddy for the 2006 Yala season, and he suffered damages as mentioned.

The defendants filing a common answer have denied any responsibility for the alleged damage caused to the plaintiff while explaining the reason for the temporary closure of the water access to the plaintiff's paddy field as his failure to repay the loan obtained from the Govi Sanvidanaya.

At the trial, the parties have recorded several admissions as per their pleadings, and the trial has proceeded on issue No. 01-09 and 19-23 settled by the plaintiff, and issue No. 10-18 settled by the defendants.

The evidence led before the trial Court has established the following facts,

1. The 1st defendant, namely the Govi Sanvidanaya of the area, has been functioning as a voluntary organization in order to manage the water distribution and other matters relating to agricultural activities of the area under the patronage of the Mahaweli Development Authority.
2. The 2nd, 3rd, and 4th defendant-appellant-respondents (hereinafter sometimes referred to as the defendants) have been the relevant office bearers at the time relevant to this incident and the plaintiff and all the other defendants named have been the members of the said Govi Sanvidanaya.
3. It has been established that the plaintiff did not take part in the meeting held on 07-04-2006 by the Govi Sanvidanaya. This was a meeting attended by the relevant officials of the Mahaweli Authority as well. The letter of excuse sent by the plaintiff who did not attend the meeting has been refused due to the protests of the general membership of the Sanvidanaya, where it was stated that although the plaintiff has sent a letter giving reasons for his inability to attend the meeting, such reasons cannot be accepted since he has avoided attending the meeting on purpose.

4. By this time, the plaintiff had been in arrears of a loan of Rs. 15,000/- obtained from the Govi Sanvidanaya, and this was the reason why the membership decided to refuse his excuse letter, which clearly shows that he was trying to avoid facing the Govi Sanvidanaya due to his loan default.
5. It appears that in order to make him repay the loan, the Govi Sanvidanaya had decided to close the water access to his paddy field, which was adjacent to his brother Podi Mahaththaya's field. The officials of the Govi Sanvidanaya have closed the water access on 19-05-2006.
6. At the time of the closure, the plaintiff had completed the ploughing of the field and was in the process of preparing it for the planting of seed paddy.
7. Despite the above, the plaintiff has not taken any steps to mitigate the situation by negotiating with the Govi Sanvidanaya in order to come to a settlement as to the repayment of the loan. There is no evidence to show that the plaintiff settled the loan taken from the 1st defendant Sanvidanaya either.

The above factual matrix shows that the plaintiff has filed this action on the basis that because of the actions by the defendants, he could not plant paddy for the Yala season of the year 2006, and as a result, he suffered damages valued at Rs. 200,000/-.

In his evidence, he has stated that he could have harvested a crop for such a value if not for the actions of the defendants, whereby justifying his claim.

The position of the defendants had been that they acted on the resolution passed by the Govi Sanvidanaya at the General Meeting held on that day. It had been their contention that, for the common good of the farming community, the Govi Sanvidanaya always acted in good faith and they followed the general practices and traditions of the association. It has also been the position of the defendants that the 2nd to 4th defendants acted only upon the decisions taken by the whole membership of Govi Sanvidanaya, which were decisions taken not by the said defendants in their personal

capacity, and hence, they cannot be held liable for the decisions taken by the 1st defendant. They have also taken up the position that the evidence before the trial Court has clearly established the claim made by the plaintiff was an exaggeration and he never suffered any damages as claimed by him.

Consideration of the Questions of law and the Conclusion

It is my view that this is a matter where facts and circumstances taken as a whole should assume greater significance than the mere consideration of procedural technicalities in relation to the conduct of the parties.

It is abundantly clear that the 2nd to 4th defendants named in the original plaint had been the office bearers of the 1st defendant Govi Sanvidanaya at all times relevant to this action, and they have acted as office bearers in a purely honourary capacity with the intention of working for the common good of the farming community of that area. The relevant area is an area used predominantly for farming under the supervision of the Mahaweli Authority of Sri Lanka. There is no dispute that the relevant society has been established under the relevant rules and regulations governing such societies for the betterment of the plaintiff, the defendants, and the whole community of the area.

I find that it should be the duty of all the members of Sanvidanaya, which included the plaintiff, to abide by the rules and regulations and follow the traditions that are inherent to their farming affairs. There is no doubt that the supply of water has been, and is up-to-date, an essential amenity provided for the farmers enabling them to grow crops and improve their living standard. The evidence clearly suggests that under such circumstances, even if a single person behaves in a manner showing disrespect for the traditions and customs followed by other farmers, it would eventually lead to a situation where there will be no control over the proper management of the agricultural practices of the area.

The evidence led before the trial Court show that the meeting where the plaintiff failed to attend was a General Meeting assembled to elect office

bearers for the Sanvidanaya and to discuss other matters relevant to the farming community.

The plaintiff has not attended the meeting, but has sent an excuse letter which has been refused by the general membership on the basis that his excuse cannot be justified. It is in evidence that the plaintiff was in arrears of repaying a loan of Rs. 15,000/- obtained from the Sanvidanaya for the purpose of building his house. It is clear that the plaintiff's absence from the meeting has been to avoid of being confronted about his failure to settle the loan. It is also clear that the plaintiff has shown scant disregard towards his duties and responsibilities by not only failing to attend the meeting, but by exhibiting a behaviour of contempt towards the Govi Sanvidanaya.

There cannot be any dispute that the Govi Sanvidanaya has lent the money using the funds they have accumulated over time in order to provide assistance to its members and also to earn an income for the betterment of the Govi Sanvidanaya and the community in general. It appears that the Govi Sanvidanaya has taken a decision to close the water access, which was obviously a temporary measure to bring home a message to the plaintiff in order to stress the importance of abiding by and honouring the promises and undertakings given by him when he obtained the loan.

It is clear that instead of repaying the loan and if he had a difficulty in paying as agreed, rather than attempting to negotiate a settlement, the plaintiff has taken a high stand stating that if they wanted to recover the loan, the Govi Sanvidanaya should recourse to a legal remedy.

It is obvious that going before a Court of law to recover such a meager sum would not be worthwhile. It may be that under these circumstances the Govi Sanvidanaya has decided to use the best tool they have, which is access to water, in order to convince the plaintiff to repay the money or at least negotiate with them in that regard. The plaintiff, being a beneficiary of the facilities granted to the farmer community, which needs regulation, would have understood the reasoning for the decision much better than anyone else.

The evidence placed before the trial Court clearly establishes the fact that the decision has been conveyed to the plaintiff and the repercussions for failure to repay the loan had also been communicated to him. However, the evidence shows that he has acted in contempt of the decision of Sanvidanaya, knowing very well it is his duty to repay the loan. If he had any difficulty, as any prudent person would do, he should have attended the meeting of the Govi Sanvidanaya and explained the reasons for his failure and should have sought further time to repay the loan. By failing to attend even a meeting and not settling the loan as he should have, the implied message he had sent to Govi Sanvidanaya had been confrontational rather than an attempt to mitigate the circumstances.

In my view, it is under these factual circumstances one has to consider whether there were any justifications for the actions of the 1st defendant Sanvidanaya. It is clear that the closure of the water access had been only to show the importance of taking part actively in the affairs of the Sanvidanaya and the respect that should be shown to its decisions. Had he thought it fit to negotiate with the officials of the Govi Sanvidanaya as I have stated before, his water access would have also been restored similar to his brother Podi Mahaththaya's access within a few days of the closure, since it is obvious that the closure was not to deprive the plaintiff of his farming activities.

I am of the view that having created a situation knowingly and by failing to take necessary measures to rectify the same through a reconciliatory process rather than being confrontational, the plaintiff cannot claim that he could not proceed with his cultivation as a result of the actions of the Govi Sanvidanaya. In my view, it was within himself to remedy the situation and proceed with his cultivation activities, and to not blame someone else subsequently for his failure.

I find that it was under the above context that the High Court has decided to set aside the judgment of the learned District Judge for the reasons stated in the judgment. It has been decided that the 2nd to 4th defendants have acted only on behalf of the 1st defendant Sanvidanaya, and had only carried out the

common decisions taken by the members of the Sanvidanaya without any malice towards the plaintiff.

In the case of **Silva Vs. Silva (2002) 2 SLR 29 at page 32** it was observed that,

“Malice is a feature of the mind and must be gathered from the circumstances. In cases of doubt it cannot be presumed nor can it make itself apparent or be proved otherwise than by the nature of the act itself. One should not presume the existence of a delict so long as it is possible to suppose the contrary. (Page 59 De injuriis Et Famasis Libellius, VOET, BK 47 title 10)”

The learned Judges of the High Court have considered the proceedings that took place before the District Court on 16-08-2011 (page 257 of the appeal brief) as relevant. It appears that while the trial was in progress, the main office bearers of the Sanvidanaya, namely 2nd, 3rd, and 4th defendants mentioned by their names had vacated their positions. When this was made to the notice of the plaintiff, it has been informed to the Court that the plaintiff is proceeding with the action against the 2nd to 8th defendants in their personal capacities and not in their official capacities.

For the above reason, the High Court has decided not to consider the appeal on the basis of whether the defendants can be held liable in their official capacities. I find no reason to disagree with the said determination.

The learned Judges of the High Court had well considered the judgment cited by the learned District Judge in order to conclude that the decision of the aforesaid voluntary organization had violated common law principles; therefore, the decision of the Govi Sanvidanaya was illegal.

The learned District Judge has considered the observations made in the case of **Bulankulama and Others Vs. Secretary, Ministry of Industrial Development and Others (2000) 3 Sri L.R. 243** in relation to the historical and socio-economic background of the area relevant in that case and the importance of following traditional practices in harmony with the nature in

relation to the environmental impact that can be caused as a result of a project where large scale mining was to take place.

Although I find that the considered case may be relevant up to the extent of the importance of considering the socio-economic background and the historical practices of a relevant area, the observations made in the said case should have been considered in the context of the facts and the circumstances relevant to the case before the District Court, having considered the matters relevant to both sides to the dispute.

After having considered the relevant facts and circumstances, I am in agreement with the conclusion of the High Court that the plaintiff as well as all the defendants of this action, being the members of the said voluntary Govi Sanvidanaya, had agreed and are bound by their contractual obligations that need to be respected towards the betterment of the whole community in order to achieve their own goals. I am also in the agreement with the determination that the plaintiff is bound by the decisions of the Sanvidanaya as those decisions do not violate the laws of the country.

Moreover, I find that other than a general statement to that effect, the plaintiff has failed to substantiate his claim of damage he suffered as a result of the closure of water access. He has failed to show that he made any reasonable attempt mitigate the situation or to cultivate the land other than claiming that he had to abandon paddy cultivation. In my view, the plaintiff has failed to place sufficient evidence to substantiate the quantum of damages claimed.

I am of the view that the High Court was correct in determining that the defendants cannot be held liable for the collective actions of the Govi Sanvidanaya in their personal capacities.

It is very much clear that after having determined that the appeal should be allowed, the learned Judges of the High Court have proceeded to re-answer the issues placed before the District Court in order to bring clarity to their judgment as well as the judgment of the trial Court, which I find to be the correct approach given the facts and circumstances and the nature of the action.

For the reasons as considered above, I find no basis to interfere with the impugned judgment and answer the questions of law under which this appeal was considered in the negative.

Accordingly, the appeal is dismissed for want of merit.

There will be no costs of the appeal.

Judge of the Supreme Court

Mahinda Samayawardhena, J.

I agree.

Judge of the Supreme Court

M. Sampath. K. B. Wijeratne, J.

I agree.

Judge of the Supreme Court