

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

In the matter of an Appeal under Article 128
of the Constitution and in terms of Section 9
of the High Court of Provisions (Special
Provisions) Act No. 19 of 1990 as amended.

U.L. Raihan Umma
No. 2, Main Street,
Gurotalawa.

**Respondent-Appellant-Appellant-
Appellant**

SC. APPEAL. NO. 133/2024

High Court of the Provinces (Badulla)

Appeal No. 27/2017

Agrarian Board of Review

Colombo No. AGRB/2016/21/06

Agrarian Tribunal Badulla

No. AT/21/19/Vaga. 7(3)2010/7/R/35

Vs.

M.L.M. Vineetha Chandrani

Sirisevana, 6th Mile Post,

Gurotalawa.

**Plaintiff-Respondent-Respondent-
Respondent**

BEFORE : YASANTHA KODAGODA, PC., J.
MENAKA WIJESUNDERA, J. &
K.M.G.H. KULATUNGA, J.

COUNSEL : Hejaaz Hizbullah with Nizaya Nizar instructed by
A.M. Jiffry for the Respondent-Appellant-
Appellant-Appellant.
Ravi Waidyalankara instructed by Udana de Silva
for the Plaintiff-Respondent-Respondent-
Respondent.

ARGUED & DECIDED ON : 29th January 2026

Judgment

YASANTHA KODAGODA, PC., J.

1. This Judgment relates to an Appeal from a Judgment dated 1st June 2023 of the High Court of the Provinces (holden in Badulla) on the following question of law:

Did the learned High Court Judge err in law in holding that the provisions of Act No. 46 of 2011 were operational and enforceable on the date material to this matter?

2. Albeit brief, the facts applicable to understand the need for adjudication of this matter are as follows:

The Appellant's late husband – A.L. Kaldeen (who had passed away in 2010), had been the owner of a paddy land known as *Ambagasdoowa*. During the lifetime of the Appellant's late husband, this land had been cultivated by the Respondent's late father M.L.M. Karunaratne in his capacity as the tenant cultivator of *Ambagasdoowa*. Following her husband's demise in 2010, the Appellant succeeded as the landlord of the paddy field. Karunaratne continued to cultivate the land under the

Appellant. Karunaratne passed away on 13th March 2011. For a period of approximately 9 years preceding the death of Karunaratne, he had been suffering from a terminal illness, and therefore, the Respondent had been cultivating the land as the *de-facto* tenant cultivator. Following Karunaratne's passing away, the Respondent attempted to continue cultivation of *Ambagasdoowa* on the premise that she had succeeded to the entitlement of her father to function as the tenant cultivator. The Appellant resisted that move and ousted the Respondent. Thus, the dispute between the Appellant and the Respondent commenced. On 15th July 2011, the Respondent filed a complaint with the Agrarian Tribunal. It was while that inquiry was pending, that Act No. 46 of 2011 was enacted by Parliament.

Legislative history

3. Under and in terms of the Agrarian Services Act, No. 58 of 1979 (as amended) succession to tenancy of a tenant cultivator was by operation of the law. Thus, had that law prevailed and was operational as at the time the Respondent's father's death on 13th March 2011, then the Respondent would have automatically become the tenant cultivator of *Ambagasdoowa*.
4. Act No. 58 of 1979 was repealed by the Agrarian Development Act No. 46 of 2000. That Act did not provide for automatic succession upon the death of the tenant cultivator. In fact, Act No. 46 of 2000 did not provide for succession of the entitlements of a tenant cultivator. Thus, upon the demise of a tenant cultivator, unless the landlord consented to a family member of the deceased tenant cultivator assuming the position of tenant cultivator, it was not possible for such a family member to succeed to the position of tenant cultivator.
5. Therefore, it was agreed between the two learned Counsel that, in view of the provisions of Act No. 46 of 2000 (unamended), upon the demise of Karunaratne (which occurred on 13th March 2011) the tenancy of *Ambagasdoowa* ended and the Respondent could not have claimed to have succeeded to the position of

tenant cultivator of the paddy field, without first obtaining the consent of the Appellant.

6. As the Appellant had not consented to the Respondent continuing with the cultivation of *Ambagasdoowa* and had gone to the extent of expelling her from the land, for all purposes the tenancy of the land had ended, and the Respondent did not succeed to the tenancy of her late father.
7. The question presented to this Court was whether the status quo changed due to a subsequent development, that being the enactment of Act No. 46 of 2011.

Agrarian Development (Amendment) Act No. 46 of 2011

8. The Agrarian Development Act No. 46 of 2000 was amended by the Agrarian Development (Amendment) Act No. 46 of 2011. It came into operation on 22nd November 2011. Act No. 46 of 2011 introduced inter-alia section **1A**.
9. Section 2 of Act No. 46 of 2011 introduced "Part I" to the principal Act, which inter-alia introduced section **1A** to the Act. Section **1A** reads as follows:

"A person being a citizen of Sri Lanka shall, from and after the date of the coming into operation of this Act, be deemed to be a tenant cultivator within the meaning and for the purposes of the principal enactment, if, at any time during the period commencing on the eighteenth day of August two thousand and ending on the day immediately preceding the date of the coming into operation of this Act, -

- (a) *such person had cultivated an extent of paddy land under an agreement, whether written or oral, entered prior to, or on, the eighteenth day of August two thousand;*
- (b) *such person, **being in terms of the provisions of section 1D, a successor, of a tenant cultivator who is deceased or is permanently disabled, who had been evicted from the extent of paddy land which had previously been cultivated by such deceased or disabled tenant cultivator."***

[Emphasis added by me.]

10. Before providing a construction to section **1A** of the Agrarian Development Act (as amended by Act No. 46 of 2011), I must place on record that, learned Counsel for the Respondent presented to this Court the proceedings of the Parliament of 20th October 2011, pertaining to the debate relating to the

enactment of Act, No. 46 of 2011. We had the benefit of reading such proceedings, and paid special attention to the speech made in Parliament by Honourable S.M. Chandrasena, the Minister of Agrarian Services and Wildlife, who had introduced the Bill for the amendment of the Agrarian Development Act. A reading of the Minister's speech assisted us in securing a clear understanding of the intention of Parliament, which became useful for the purpose of developing the construction to section 1A, which is propounded below. The Honourable Minister had explained to the House the reasons for the enactment of the new law, which included the plight of successors of tenant cultivators, who had been left stranded due to the provisions of the Agrarian Development Act, No. 46 of 2000.

11. An examination of section 1A reveals that, it provides the conferment of a particular status of being a tenant cultivator to a citizen of Sri Lanka, who falls within the ambit of that section. In other words, a person who in fact had not functioned as a tenant cultivator, is deemed to have been a tenant cultivator for the purposes of the Act, should he satisfy the requirements contained in the section.
12. Thus, the issue to be answered by this Court is whether the Respondent (being the daughter of Karunaratne, who admittedly passed away on 13th March 2011 at a time when he was functioning as a tenant cultivator of the *Ambagasdoowa* of the Appellant), falls within the ambit of section 1A.
13. The actual issue before this Court is whether, section 1A of Act No. 46 of 2011 confers on the Respondent tenancy, through retrospective application of section 1A to the factual circumstances pertaining to this Appeal.
14. As the Court sees it, to the extent relevant to the facts and circumstances of this Appeal, the following requirements should be satisfied by a person who seeks the application of the deeming provision contained in section 1A, to be recognized in the eyes of the law as a tenant cultivator:
 - a. The deceased should have previously cultivated the paddy land in issue as a tenant cultivator.

- b. Upon the death of such tenant cultivator, in terms of section 1D of the Act, the person concerned should have become a successor of such deceased tenant cultivator.
- c. Such succession should have occurred during the period 18th August 2000 (that being the day on which Act No. 46 of 2000 came into operation) and 21st November 2011 (that being the day before Act No. 46 of 2011 came into operation).
- d. The person who is seeking recognition through this deeming provision (referred to above as the 'person concerned'), should have been evicted from the land in issue.

15. It would be seen that all these requirements have been satisfied by the Respondent. Thus, as a consequence of the application of section 1A, it must be deemed that the Respondent had succeeded to the tenancy of *Ambagasdoowa* previously enjoyed by her late father Karunaratne. Thus, the Respondent's expulsion from *Ambagasdoowa* is unlawful. Accordingly, this Court declares that the Respondent is entitled to continue cultivation of *Ambagasdoowa* as its tenant cultivator.

16. I wish to note that, as intended by Parliament, what section 1A introduced by Act No. 46 of 2011 has done is to restore the *status quo* relating to the rights and entitlements of successor tenant cultivators in the manner provided by the Agrarian Service Act, No. 58 of 1979, wiping out the hapless situation relating to successors of tenant cultivators that arose sequel to the enactment of the Agrarian Development Act No. 46 of 2000.

17. Therefore, it is the view of this Court, that the learned Judge who pronounced the impugned Judgment of the High Court dated 1st June 2023 has correctly appreciated the purpose of Section 1(A) of Act, No. 46 of 2011, interpreted it lawfully and applied it correctly to the facts and circumstances of this matter.

18. In those circumstances, this Court is of the view that the question has already been correctly answered by the learned Judge of the High Court. In those circumstances, this Court reiterates that answer in the following manner:

The learned Judge of the High Court has not erred in law when he arrived at the finding that Section 1(A) of Act, No. 46 of 2011 is applicable to the Respondent in this case.

19. In those circumstances, this Appeal is dismissed by Court.

JUDGE OF THE SUPREME COURT

MENAKA WIJESUNDERA, J.

I agree.

JUDGE OF THE SUPREME COURT

K.M.G.H. KULATUNGA, J.

I agree.

JUDGE OF THE SUPREME COURT