

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

*In the matter of an Appeal in terms of Section 5(C) of the
High Court of the Provinces (Special Provisions) Act No.
19 of 1990, as amended by Act No. 54 of 2006, read with
Article 128 of the Constitution of the Democratic Socialist
Republic of Sri Lanka*

SC Appeal No. 147/ 2024

SC/HCCA/LA/34/2021

WP/HCCA/COL/155/2015(F)

DC Colombo No.21450/L

1. Munasiri Kankanange Ranjani
No.74, Maguruwila Road,
Gonawala,
Kelaniya.
2. Walpita Kankanamlage Tharindra Umesh
Perera
No.74, Maguruwila Road,
Gonawala,
Kelaniya.

Presently at,
P. O. Box 66319,
Subs and Salads Restaurant,
Juniera, Dubai, U.A.A
(Appearing by his Attorney)

PLAINTIFF

Vs.

1. Uyana Hewage Somawathi
"Nilwala",
Polhena,
Kelaniya.
2. Munasiri Kankanamge Nandasiri
No. 208, Polhena,
Kelaniya.

3. Munasiri Kankanamge Theja Hemali
No. 208, Polhena,
Kelaniya.

DEFENDANTS

AND

1. Munasiri Kankanange Ranjani
No.74, Maguruwila Road,
Gonawala,
Kelaniya.
2. Walpita Kankanamlage Tharindra Umesh
Perera,
No.74, Maguruwila Road,
Gonawala,
Kelaniya.

Presently at,
P. O. Box 66319,
Subs and Salads Restaurant, Juniera, Dubai,
U.A.A
(Appearing by his Attorney)

PLAINTIFF- APPELLANT

Vs.

1. Uyana Hewage Somawathi (Deceased)
"Nilwala",
Polhena, Kelaniya.
- 1A. Munasiri Kankanamge Theja Hemali
No. 208, Polhena,
Kelaniya.

SUBSTITUTED 1ST DEFENDANT-

RESPONDENT

2. Munasiri Kankanamge Nandasiri
No. 208, Polhena,
Kelaniya.
3. Munasiri Kankanamge Theja Hemali
No. 208, Polhena,
Kelaniya.

**2ND & 3RD DEFENDANTS-
RESPONDENTS**

AND NOW

Munasiri Kankanamge Theja Hemali
No. 208, Polhena,
Kelaniya.

**SUBSTITUTED 1ST DEFENDANT-
RESPONDENT -APPELLANT/
3RD DEFENDANT- RESPONDENT-
APPELLANT**

Vs.

1. Munasiri Kankanange Ranjani
No.74, Maguruwila Road,
Gonawala,
Kelaniya.
2. Walpita Kankanamlage Tharindra Umesh
Perera,
No.74, Maguruwila Road,
Gonawala,
Kelaniya.

Presently at,

P. O. Box 66319,
Subs and Salads Restaurant, Juniera,
Dubai,
U.A.A
(Appearing by his Attorney)

PLAINTIFFS- APPELLANTS- RESPONDENTS

Munasiri Kankanamge Nandasiri
No. 208, Polhena,
Kelaniya.

**2ND DEFENDANT-RESPONDENT-
RESPONDENT**

Munasiri Kankanamage Theja Hemali v Munasiri Kankanange Ranjani and Others
Case No. SC Appeal No. 147/ 2024

Before: Janak De Silva J.

Mahinda Samayawardhena J.

Dr. Sobhitha Rajakaruna J.

Counsel: Rasika Dissanayake with Shabbeer Huzair for the Substituted 1st Defendant-
Respondent-Appellant/ 3rd Defendant-Respondent-Appellant.

Nuwan Bopage with Lahiru Welgama for the 1st and 2nd Plaintiffs-Appellants-
Respondents.

Argued on: 02 September 2025

Written Submissions: Substituted 1st Defendant-Respondent-Appellant/ the 3rd Defendant-
Respondent-Appellant - 21 August 2025, 15 October 2025
1st and 2nd Plaintiffs-Appellants-Respondents - -

Decided on: 17 September 2026

Judgement

Dr. Sobhitha Rajakaruna J.

The original 1st Defendant of the District Court action ('1st Defendant') gifted the land marked lot No. 5, depicted in Plan No.1791 called "Auburn Estate" alias "Polhenwatta" to one of her daughters, who is the 1st Plaintiff-Appellant-Respondent ('1st Plaintiff') by virtue of a Deed of Gift bearing No. 416¹ marked 'P4'. The 1st Defendant in the said Deed expressly reserved to herself life interest over the said property as well as the right of revocation of the said Deed of Gift. The 2nd Plaintiff-Appellant-Respondent ('2nd Plaintiff') is the son of the said 1st Plaintiff.

The 3rd Defendant - Respondent- Appellant ('Appellant') was substituted during the relevant proceedings in the place of the 1st Defendant, following the demise of the said 1st Defendant. As such, the Appellant is now advancing the instant Appeal in her own capacity as well as representing the interests of the deceased 1st Defendant.

The Appellant, the second daughter of the 1st Defendant, states that the 1st Defendant fell seriously ill sometime after the execution of the said Deed No.416. According to the Appellant, she provided care and support to the 1st Defendant while residing with her in the home situated in the contested property, while the 1st Plaintiff entirely shirked her responsibilities toward the 1st Defendant. On this basis, the Appellant contends that the 1st Defendant proceeded to cancel the Deed of Gift No.416, which had originally been executed in favour of the 1st Plaintiff. Consequently, the 1st Defendant executed the Deed of Revocation bearing No. 2628² marked 'P16', revoking the prior gift and purportedly restoring her legal ownership of the property. The Appellant states that, subsequently, the 1st Defendant conveyed the property to both the 2nd Defendant- Respondent- Respondent ('2nd Defendant') as well as the Appellant, by the Deed of Gift bearing No. 2690³ marked 'P17'. The 1st Plaintiff, the 2nd Defendant and the Appellant are siblings.

¹ Attested by A. Champa Amarasinghe, Notary Public on 10.04.1991

² Attested by W.P. Ekanayake, Notary Public on 18.01.2006

³ Attested by W.B. Ekanayake, Notary Public on 07.07.2006

In the meantime, the Appellant claims that the 1st and 2nd Plaintiffs instituted the action bearing No. 21196/L, in the District Court of Colombo, seeking inter alia to annul the said Deed of Revocation No. 2628, though the matter was later withdrawn. Following which, the 1st and 2nd Plaintiffs instituted the action bearing case No. 21450/L in the District Court of Colombo (upon which the proceedings of this Court stemmed from) claiming inter alia that, the 1st Defendant's revocation of the said original Deed of Gift No.416 as well as the subsequent gifting of the said property to both the 2nd Defendant and the Appellant by way of the said Deed of Gift No.2690 was invalid since she no longer had title over the property. The 1st and 2nd Plaintiffs point out that the invalidity arose from the 1st Defendant's earlier revocation of rights over the land in dispute, under the Deed of Gift No.416 accomplished through the subsequent Deed No.1011⁴ marked 'P5'. Nonetheless, the learned Judge of the District Court of Colombo dismissed the action of the Plaintiffs, while granting relief in favour of the 1st Defendant, 2nd Defendant and Appellant in his judgement delivered on 08 April 2015.

Consequently, the 1st and 2nd Plaintiffs preferred an Appeal to the Provincial High Court of Western Province holden in Colombo ('High Court') against the said judgement of the District Court of Colombo. The said High Court, delivering its judgement dated 25 November 2020, granted relief in favour of the Plaintiffs. Being aggrieved by the said Judgement of the High Court, the Appellant instituted these proceedings, and accordingly, this Court granted leave to Appeal on the following question of law contained in paragraph 21(a) of the Petition dated 06 January 2021:

“Whether the judgment dated 25th November, 2020 of the Civil Appellate High Court of Western Province holden in Colombo in the Appeal bearing No. WP/HCCA/COL 155/2015 (F) is contrary to law and/or is against the material placed before that Court?”

However, owing to the broad scope of the above question, this Court, upon the suggestion of the parties during the hearing stage, narrowed down such question to the following three areas:

⁴ Attested by Aelien Wijayanayake, Notary Public on 16.10.2000

- 1) Is the Deed of Renunciation marked 'P5' valid in law?
- 2) Is the Deed of Revocation marked 'P16' valid in law?
- 3) Was the gross ingratitude on the part of the 1st Plaintiff proven?

The contention of the Plaintiff is that the 1st Defendant, by way of Deed of Renunciation No.1011 ('P5') renounced the above conditions in the year 2000. Such renunciation was 9 years after the execution of the above Deed No.416. Thereafter, the 1st Plaintiff, by Deed No.1685⁵ marked 'P15', transferred her rights to the 2nd Plaintiff during the same year, i.e 2000. Anyhow, the 1st Defendant allegedly revoked the Deed of Gift No.416 by way of the Deed of Revocation No. 2628 ('P16') in the year 2006. The 1st Defendant has executed the said Deed of Revocation purportedly on the basis of the conditions stipulated in Deed No.416.

The 1st and 2nd Plaintiffs contend that the said Deed No.2628 has no force or avail in law because the 1st Defendant had previously waived her right to revoke the original Deed of Gift No.416 by means of the said Deed of Renunciation No. 1011 marked 'P5'. In response, the Appellant disputes the genuineness and enforceability of the alleged Deed of Renunciation No. 1011, arguing that the 1st Defendant never relinquished her right to revoke the aforementioned Deed of Gift No. 416. The Appellant further contend that the 1st Defendant never executed any such document and that the Deed of Renunciation constitutes a forged instrument.

The High Court has decided that the learned Additional District Judge was misdirected as to the relevant law when he decided to dismiss the Plaintiffs' action on the basis that they have failed to prove the Deed of Renunciation No.1011 and that the 1st Defendant has a right to revoke the Deed of Gift on her own in view of the terms in the said Deed of Gift. The learned High Court Judge has taken the view that the Notary who executed the said Deed No.1011 has given clear and unambiguous evidence that it was he who executed the Deed and the executant signed the Deed in his presence. Additionally, the learned High Court Judge has noted that the 1st Defendant has never denied that she placed her signature before the Notary, whilst she maintains the position that she signed three blank papers. It had been suggested to

⁵ Attested by Aelien Wijayanayake on 16.10.2000

the Notary during his testimony that he obtained the signatures of the 1st Defendant on blank papers and converted them into a Deed, but no sustainable proof has been provided to that effect. The High Court was of the view that if it was the position of the 1st Defendant that she signed a Deed, but in blank, it was her burden to establish that fact with cogent evidence which she has failed to provide other than mere statements. Accordingly, the High Court has set aside the Judgment of the District Court allowing the reliefs sought by the 1st and 2nd Plaintiffs and dismissed the counterclaim of the Defendants.

The learned High Court Judge has found that the main matter to be considered in the Appeal before the High Court was whether the 1st Defendant had a legal right to cancel the said Deed of Gift No.416.

The 1st Defendant who is the original owner of the subject matter, gifted the said property to the 1st Plaintiff by Deed No.416, subject to the following two conditions:

- i) To take possess and receive the rent, income and profits of the said land and premises in the schedule thereto fully described
- ii) To revoke the said Deed of Gift
during her natural life, but otherwise absolutely and forever.

A thorough review of the terms in Deed of Gift No. 416, reveals that the 1st Defendant explicitly retained her authority to revoke the gift. Notably, the phrase "absolute and irrevocable," which appeared in fine print within the deed, has been crossed out. As such, it cannot be presumed that the said Deed No.416 is an irrevocable deed of gift.

Accordingly, it is necessary to evaluate whether court proceedings are necessary to validate a revocation clause referenced earlier. The facts of the present case originate from events prior to 2017, when the 'Revocation of Irrevocable Deeds of Gift on the Ground of Gross Ingratitude Act No. 5 of 2017' was certified. Nevertheless, Section 2 of the said Act clearly articulates the policy of the Legislature as follows:

“An irrevocable deed of gift may be revoked on the ground of gross ingratitude, only on an Order made by a competent court, in an action filed by the donor of such deed against the donee to have the said deed revoked”

His Lordship Justice Mahinda Samayawardhena decided (in the Court of Appeal- as His Lordship was then) in *Sirimevan Wanshanatha Sooriya Bandara vs. Jayaweera Arachchige Pushpawathie and Others* (CA/594/1996/F decided on 22 January 2019) that an irrevocable Deed of Gift cannot be revoked without a decision of the Court.

As cited in the aforesaid case of *Sirimevan Wanshanatha Sooriya Bandara* as well, Amaratunga J. in *Ariyawathie Meemaduma vs. Jeewani Buddhika Meemaduma* [2011] 1 Sri LR 124 stated that;

“A deed of gift is absolute and irrevocable. That is the rule. However, the law has recognized certain exceptions to the rule of irrevocability. A party applying to court to invoke the exceptions in his favour has to satisfy court, by cogent evidence, that the court would be justified in invoking the exception in favour of the party applying for the same.”

The Supreme Court in *Brandywattage Siriyawathee v H.G.A. Menaka Kumari* (SC Appeal No. 162/2019, SC Minutes of 06 February 2026) referring to the case of *Dona Podi Nona Ranaweera Menike v. Rohini Senanayake* [1992] 2 Sri. LR 180, observed that, under Roman-Dutch Law, the general rule is that a deed of gift is absolute and irrevocable. Nevertheless, Roman-Dutch Law recognises an exception to this principle, namely that even an irrevocable deed of gift may be revoked on the ground of gross ingratitude. In the said *Brandywattage Siriyawathee v H.G.A. Menaka Kumari*, the court further held that gross ingratitude must be established by cogent evidence and that the question whether particular conduct amounts to gross ingratitude must be determined according to the facts and circumstances of each case.

Nevertheless, I am aware that Section 04 of the Kandyan Law Declaration and Amendment Ordinance No. 39 of 1938 stipulates that subject to the provisions and exceptions thereafter contained, a donor may, during his lifetime and without the consent of the donee or of any other person, cancel or revoke in whole or in part any gift, whether made before or after the

commencement of the said Ordinance. Furthermore, Section 5 of the said Ordinance declares that notwithstanding the provisions of section 4 (1), it shall not be lawful for a donor to cancel or revoke any of the gifts detailed⁶ in the said Section.

I now turn to judicial precedent relating to deeds of gift that include express provisions reserving to the donor the right to revoke the gift.

In *Visenthi Baduge Piyasiri v. Dissanayaka Mudiyanseelage Gunarathna Banda* (SC Appeal No. 42/2010, SC Minutes of 17 June 2022), L. T. B. Dehideniya, J. held that, in law, a deed of gift is irrevocable unless the donor has reserved the right to revoke the gift. The Supreme Court further observed that the donee may consent to the revocation of a gift and held that the question whether a donor may revoke a deed of gift with the express consent of the donee must be determined by examining the expressed intention of the parties.

In *Jinaratana Thero v. Somananda Thero* [1946] 32 C.L.W. 11, it was held that, in construing a deed, the expressed intention of the parties must be ascertained. Similarly, in *Rathnayake Mudiyanseelage Jayathilaka v. R. M. Siriwardena of Ihlagama* (S.C. Appeal No. 221/2012, SC Minutes of 19 December 2019, at p. 8), E. A. G. R. Amarasekara, J. observed:

“The afore-quoted legal texts, decisions and authorities indicate that when interpreting a deed, a court has to;

- Find the expressed intention of the parties;
- Find such intention through the meaning of the words used in the deed while considering the whole document to ascertain the true meaning of its several clauses.

Sometimes the very form of the document may help in ascertaining the intention...”

Thus, I take the view that where the donor and the donee subsequently mutually agree to revoke a deed of gift, they may give effect to such agreement by an appropriate legal

⁶ Gift to a temple, Gift in consideration of marriage, Gift effecting a charitable trust, Gift where right to revoke is renounced

instrument, without the necessity of recourse to court. Even in the absence of such subsequent consensus, a deed of gift may, in my view, be revoked by an appropriate legal instrument where the deed itself contains: (a) unambiguous provisions governing revocation; or (b) unambiguous provisions governing revocation upon the occurrence of a specified event and the occurrence of that event is readily apparent or objectively ascertainable to both parties or to any reasonable person.

Upon a broader consideration of this legal framework, I am of the view that the right of revocation on the ground of gross ingratitude ought likewise to extend to deeds of gift which contain conditions for revocation, provided that the deed itself expressly declares its revocable nature. It is also noteworthy that, under general principles of law, a deed of gift may be revoked by a court on recognised grounds such as undue influence, misrepresentation or fraud.

In the circumstances of the present Case, I find that Deed of Gift No. 416 contains a valid provision reserving to the donor the right to revoke the gift without recourse to judicial proceedings. This is particularly so because the 1st Defendant has expressly reserved her right to revoke the gift, without stipulating that the deed would stand revoked automatically upon the occurrence of any specified event. Rather, the provision reserves to her the right to revoke the gift at her discretion. It is equally undisputed that the 1st Plaintiff accepted the gift by affixing her signature to Deed No. 416. I therefore hold that Deed No. 416 is a revocable deed of gift and that the donor was entitled, under the terms thereof, to revoke the gift without resorting to court proceedings but through the said Deed of Revocation No. 2628 ('P16').

I have, moreover, carefully considered the evidence led before the learned District Judge and find no reason to depart from his conclusion that the Plaintiffs failed to establish the existence or legal effect of Deed No. 1011, by which they alleged that the 1st Defendant had relinquished or otherwise lost her right to revoke Deed No. 416. The evidence discloses that, although the 1st Defendant had signed Deed No. 1011, she had done so upon blank papers. A Notary Public could not properly act upon such an act in the execution of a valid notarial instrument. It is also material that, in her Answer dated 09 June 2011, the 1st Defendant specifically pleaded, inter alia, that Deed No. 1011 was not an independent act on her part. Having considered the

evidence in its entirety, I am satisfied with the analysis of the evidence and the reasoning of the learned District Judge in relation to Deed No. 1011.

Hence, there is no necessity to examine whether the gross ingratitude on the part of the 1st Plaintiff is proven.

Having regard to all the circumstances of this case and for the reasons set out above, I answer the aforesaid Question of Law in the affirmative. Accordingly, I set aside the Judgment dated 25 November 2020 of the High Court and affirm the Judgment dated 04 August 2015 of the District Court. The Appeal is accordingly allowed. There shall be no order as to costs.

Judge of the Supreme Court

Janak De Silva J.

I agree.

Judge of the Supreme Court

Mahinda Samayawardhena J.

I agree.

Judge of the Supreme Court