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

Brandywattage Siriyawathee,
No. 618, Eldeniya, Kadawatha.
Plaintiff-Respondent-Appellant

SC/APPEAL/162/2019
WP/HCCA/GPH/84/2012(F)
DC GAMPAHA 1261/L

Vs.

1. Hikkaduwa Galappathige Aheshani Menaka Kumari,
   No. 298/6, Shramadana Mawatha,
   Ihala Biyanwila, Kadawatha.
2. Abeykoon Jayasundara Mudiyanselage Devindu Tharuka Abeykoon,
   No. 298/6, Shramadana Mawatha,
   Ihala Biyanwila, Kadawatha.
3. Abeykoon Jayasundara Mudiyanselage Seneviratne,
   No. 298/6, Shramadana Mawatha,
   Ihala Biyanwila, Kadawatha.

Defendant-Appellant-Respondents

Before: Hon. Justice Janak de Silva
Hon. Justice Mahinda Samayawardhena
Hon. Justice Menaka Wijesundera

Counsel: Rohan Sahabandu, P.C., with Chathurika Elivitgala and Sachini Senanayake for the Plaintiff-Respondent-Appellant.

Ashiq Hassim with Sudharshani Cooray for the 1st to 3rd Defendant-Appellant-Respondents.

Argued on: 29.05.2025

Written submissions:

By the Plaintiff-Respondent-Appellant on 21.07.2025.

By the Defendant-Appellant-Respondents on 25.08.2025.

Decided on: 06.02.2026

Introduction

The Plaintiff instituted this action in the District Court of Gampaha against the 1st Defendant, her daughter, and the 2nd Defendant, the minor son of the 1st Defendant, seeking to set aside Deed of Gift No. 5 marked P4, by which she gifted the property to the 1st Defendant subject to her life interest, on the ground of gross ingratitude. She further sought a declaration that Deed of Gift No. 5272 marked P7, executed by the 1st Defendant in favour of the 2nd Defendant, has no force or avail in law.

The Defendants filed answer seeking dismissal of the action, contending that the property had been given to the 1st Defendant in consideration of her marriage (*donatio propter nuptias*), and therefore could not be revoked even if gross ingratitude was established.

After trial, the District Court entered judgment for the Plaintiff, holding that the gift in question was not a dotal gift and that the 1st Defendant was guilty of gross ingratitude. On appeal, the High Court of Civil Appeal of Gampaha reversed the judgment of the District Court and dismissed the Plaintiff's action, holding that P4 constituted a dotal gift and therefore could not be

revoked on the ground of gross ingratitude unless the right of revocation had been expressly reserved.

This Court had granted leave to appeal on the following questions of law:

(a) Is the Judgment of the High Court contrary to law and against the weight of evidence on record?
(b) Has the High Court erred in coming to the finding that the property gifted on Deed No. 5 to the 1st Defendant was given as a dotal gift?
(c) Has the High Court erred by coming into the finding that the wording used in the Deed is not the wording used for a usual Deed of Gift, but goes beyond that and explicitly states that the property is gifted for her future benefit?
(d) Has the High Court misapplied the ratio decidendi of the judgment in Dona Podi Nona Ranaweera Menike v. Rohini Senanayake and decided that the wording of Deed No. 5 suggested that the property was gifted to the 1st Defendant as dowry?
(e) In the event the Deed of Gift does not contain a recital to the effect that the donee be looked after, can there be an action for gross ingratitude?

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. This position has now been given statutory recognition by sections 2 and 3 of the Revocation of Irrevocable Deeds of Gift on the Ground of Gross Ingratitude Act, No. 5 of 2017, which provide that an irrevocable Deed of Gift may be revoked on the ground of ingratitude in an action instituted by the donor against the donee within ten years from the date of execution of the deed and within two years from the date on which the cause of action arose.

Is the gift in question a *donatio propter nuptias*?

A donation *propter nuptias* cannot be revoked on gross ingratitude. In *Ponnamperume v. Goonesekera* (1921) 23 NLR 235 the Supreme Court held that "*A donation propter nuptias is not revocable for ingratitude during the subsistence of the marriage. But it may be revoked by a donor who has reserved the power of revocation. A donation proper nuptias is not a mere gift made on the occasion of a marriage, but a contract made as an inducement to marry.*"

The distinction between a *donatio propter nuptias* and an ordinary gift given on the occasion of a marriage must be understood in the light of the unique facts of each case, since the character of the donation depends upon the intention of the donor and the surrounding circumstances.

In the celebrated case of *Dona Podi Nona Ranaweera Menike v. Rohini Senanayake* [1992] 2 Sri LR 181, Amarasinghe J. highlighted the distinction between a *donatio propter nuptias* and an ordinary gift given on the occasion of a marriage. His Lordship observed that an ordinary donation made on the occasion of a marriage, as an act of love and affection or for the sake of enrichment, is a pure act of disinterested benevolence and liberality, unconditionally given, without any sense of compulsion or obligation, and without any further expectation or hope. In contrast, a *donatio propter nuptias* is a gift made in contemplation of a marriage with a view to enabling or supporting that marriage. It is given in consideration of the marriage and not merely on the joyful occasion of the marriage.

His Lordship explained this at page 206 in this manner:

> *And so, a donatio propter nuptias is, in one sense, made in consideration of marriage in that the transfer made is having regard to the fact that a marriage shall be entered into. The property is given because, in the sense that in order or so that, the marriage shall take*

> *place. It is the reason why the marriage takes place. It is that which brings about the promise of marriage or the wedding. The property is given, more or less, as something akin to a payment, something given in exchange, a quid pro quo, or reward or compensation. The transfer is prompted by the promise or performance of something by the donee, thereby making it a donatio non mera, and not a pure act of liberality (donatio mera). In the case of a donatio propter nuptias, the property may also be said to have been given in consideration of marriage, but in the sense that it is given merely by reason of, or on account of, or having regard to the fact or circumstance of, or motivated by, or on the occasion of, the marriage. Perhaps the distinction between a donatio propter nuptias and an ordinary gift given on the occasion of a marriage might become somewhat clearer if I might say this: People do not marry because of the wedding presents - the gifts - they might receive; nor are wedding presents given to bring about the marriage. A wedding present is a pure act of liberality, unconditionally given, without any sense of compulsion or obligation, with no hope of recall or recovery if the marriage does not take place. A donatio propter nuptias is not.*

The Institutes by Rudolph Sohm (translated by James Crawford Ledlie), 3rd Edition (Oxford Clarendon Press London 1907) at page 478 states:

> *A donation ante nuptias was thus primarily, not a gift in consideration of natural affection, but a gift with a perfectly definite material object—the object, namely, of endowing the future marriage with the requisite pecuniary means.*

In the instant case, there is no reference in the deed whatsoever to the 1st Defendant's marriage or to the property being given as dowry property. There is no indication of any promise or inducement to marry. The Deed itself states that the donation was made out of natural love and affection and for the future enrichment of the donee: "මෙහි පහත සඳහන් උපලේඛණයෙහි

විස්තර කරන දේපල සහ ඊට අයිති සියළු දේත් ශ්‍රී ලංකාවේ වලංගු මුදලින් රුපියල් එක්ලක්ෂය (රු: 100,000.00) කට මිල නියමකර එකී තෑගි දීමනාකාර මගේ ආදරණීය දියණිය වන මෙහි තෑගි ලැබුම්කාරිය යනුවෙන් හඳුන්වනු ලබන කඩවත, ඇල්දෙනිය, අංක 618 දරණ ස්ථානයේ පදිංචි හික්කඩුව ගලප්පත්තිගේ අහේෂානි මේනකා කුමාරි යන අය කෙරෙහි මා සිත තුළ පවතින ස්වාභාවික ආදර කාරුණාව සහ වෙනත් විවිධ යහපත් කාරණ ද කරන කොටගෙන ඇගේ අනාගත අභිවෘද්ධිය සඳහා ඉහත සඳහන් දේපල කිසි කලෙක කවර ආකාරයකින්වත් අවලංගු කළ නොහැකි ස්ථිර තෑග්ගක් කොට එකී හික්කඩුව ගලප්පත්තිගේ අහේෂානි මේනකා කුමාරි යන අයට ඉහත කී තෑගී දීමනාකාර මගේ ජීවිතාන්තය දක්වා මනාප අන්දමකින් බුක්ති විඳීමට පුළුවන් මුළු බලය මෙයින් ඉතිරි කර තබාගෙන මෙයින් තෑගි වශයෙන් අයිති කර හිමිකම් පවරා දුනිමි.'' A donation made for future enrichment and a donation made in contemplation of marriage as a *donatio propter nuptias* are not identical concepts.

The property was gifted subject to the life interest of the donor. This reservation is cogently stated in the Deed: "හික්කඩුව ගලප්පත්තිගේ අහේෂානි මේනකා කුමාරි යන අයට ඉහත කී තෑගි දීමනාකාර මගේ ජීවිතාන්තය දක්වා මනාප අන්දමකින් භුක්ති විඳීමට පුළුවන් මුළු බලය මෙයින් ඉතිරි කර තබාගෙන මෙයින් තෑගි වශයෙන් අයිතිකර හිමිකම් පවරා දුනිමි." It is noteworthy that, as submitted on behalf of the Defendants, "*the Defendants have no objection to including the life interest of the Plaintiff's husband and disabled sister as well.*" In *Ponnamperuma v. Goonesekera* (supra) at page 239, De Sampayo J. observed that "*the nature of the gift, if it is to be claimed as being of a special kind, should be disclosed in the instrument itself*". In *Dona Podi Nona Ranaweera Menike v. Rohini Senanayake*, Amarasinghe J., at page 213, regarded a reservation of life interest of this nature as a factor inconsistent with a *donatio propter nuptias*.

> *The transfer was subject to a life interest. The enjoyment of the property was postponed. It was a case of dies cedit sed non venit. How could the marriage be made attractive by a reduction of its burdens when the right to enjoy the property and take its fruits, when the right to remain in full and undisturbed possession and enjoy the produce and profits of the Estate, remained, even after the marriage, exclusively*

and undisturbed in the donors who had reserved to themselves a life interest—an interest, incidentally, which the appellant-donor yet enjoys, many years after the occasion of the marriage? The reservation of a life interest showed that the conveyance was not propter nuptias.

In the case at hand, during cross-examination, the 1st Defendant admitted that she was unaware of the contents of Deed P4 at the time she signed it, stating that she accompanied her mother to the Notary's office and merely signed.

ප්‍ර: යම්කිසි විවාහයක් වෙන කොට දැවැද්දක් වශයෙන් දෙනවා?

උ: එච්චර විස්තරයක් දන්නේ නෑ .

ප්‍ර: පැ.04 වශයෙන් ලකුණු කරලා තියෙන අංක 5 ඔප්පුවෙන් සඳහන්වෙලා තියෙනවා සිරියාවති තෑගි දිපු යන අයගේ සිත තුල ස්වභාවික ආදරය සහ කරුණාව නිසා දුන්නා කියල සඳහන්වෙලා තියෙනවා?

උ: එහෙමයි.

ප්‍ර: ඒ බව පිළිඅරගෙන ඔප්පුවේ අත්සන් කරලාත් තියෙනවා?

උ: එහෙමයි.

ප්‍ර: තමන් එම ඔප්පුව අත්සන් කරන වෙලාවේ ඔප්පුවේ සඳහන් කාරණා ගැන අවබෝධයක් ඇතිවද අත්සන් කලේ?

උ: පස්සේ විස්තර දන්නේ ඊට කලින් දැනගෙන හිටියේ නෑ.

ප්‍ර: නොතාරිස් වරයෙක් ළඟට ගිහින් ඔප්පුව ලියවා ගත්තා?

උ: ඔව්.

ප්‍ර: තමන් ගියාද නොතාරිස්වරයෙක් ගාවට?

උ: අම්මා යන් කියපු නිසා මම ගියා. වැඩි විස්තරයක් දැන ගෙන නෑ.

ප්‍ර: පැ.04 කියන ඔප්පුව වැරදිද?

උ: හරි.

ප්‍ර: ඒකෙ තියෙන කාරණා තමන් පිළිගන්නවා?

උ: පිළිගන්නවා.

ප්‍ර: පැ.04 ඔප්පුවේ තියෙන දේපල විවාහයේදී දැවැද්දක් වශයෙන් දෙනවා කියල සඳහන් වෙලා නැහැ?

උ: එහෙම සඳහන් වෙලා නැහැ.

If this was a dotal gift, as the defendants now suggest, promised on the occasion of the arranged marriage, the 1st defendant could not have been unaware of that fact. She states that, since she had been told that the property was given as a gift, she did not inquire further into the matter.

> ප්‍ර: ඔප්පුව ඒ අවස්ථාවේදී කිව්වේ නැද්ද?
>
> උ: නැහැ. මම අත්සන් කළා පමණයි.
>
> ප්‍ර: නොතාරිස් මොකක් කලා කියාද කිව්වේ?
>
> උ: අම්මා තාත්තා අයියා සමග ගිහින් ලිව්වේ. තෑග්ගක් වශයෙන් දෙනවා කිව්ව නිසා මම සෙව්වේ නැහැ.

Having regard to the contents of the Deed P4, the reservation of life interest, the absence of any reference whatsoever to marriage or dowry, the clear recital that the donation was made out of natural love and affection for the future enrichment of the donee, and the 1st defendant's own admissions under cross-examination that she neither inquired into the nature of the transaction nor understood it to be a dowry or a gift made in contemplation of marriage, there is no sufficient material on record to characterise this transfer as a *donatio propter nuptias*. The evidence does not disclose any inducement to marry or any *quid pro quo* of the nature contemplated in the authorities. What emerges instead is a voluntary donation prompted by natural love and affection, subject to the reservation of a life interest in favour of the donor. The transaction is therefore consistent with a *donatio mera*, rather than a *donatio non mera*. The defendants' belated attempt to recast it as a dotal gift lacks both documentary foundation and evidentiary support.

Has gross ingratitude been proved?

In order to revoke a deed of gift, slight ingratitude is not sufficient. There shall be gross ingratitude. No hard and fast rule can be laid down on what constitutes gross ingratitude. It is a question of fact, not of law. The failure

to fulfil the conditions of the gift, such as that the donee shall provide succour and assistance to the doner, is an incidence of gross ingratitude. An assault on the donor by the donee is a clear instance of gross ingratitude. A single act or a series of acts can constitute gross ingratitude. Depending on the facts and circumstances of each case, for instance, threats to cause bodily injury to the donor by the donee, continuous slander and insult, damage to the donor's property, ill-treatment of the donor can constitute gross ingratitude. The onus of proof is on the donor and the standard of proof is on a balance of probabilities.

Van Leeuwan's Commentaries on Roman Dutch Law, Vol. II, Stevens and Haynes (1986) at page 241 states:

> *§ 7. Donations again may also be revoked and cancelled by reason of great ingratitude and injury done to the donor; as where the donee has attempted the life of the donor, assaulted him, or publicly slandered him, or has refused support to the donor who has been reduced to poverty, and the like.*

Laws of Ceylon by Walter Pereira, 2nd Edition (1913) at page 610 states:

> *A donation by its nature is irrevocable. This irrevocability is, however, subject to some exceptions—(1) On the ground of gross ingratitude or misbehaviour, as, for instance, when the donee attempts the life of the donor, or strikes him, or attempts to ruin his estate. Malicious slander or any other injury gives the same right, except to mothers who marry a second time. Causes of equal or greater weight are also held to have the same force; amongst others, the neglect of the donee, if he has the means, to maintain the donor in his utmost need. …*

In *Sinnammah v. Nallanathar* (1946) 47 NLR 32, the wife executed the Deed of Gift in favour of the husband, which was expressly stated to be irrevocable. On one occasion, the defendant assaulted her and fractured

her arm. Jayathileke J. held that "*In the Roman-Dutch law there is the most ample authority that a donation can be revoked if the donee assaults the donor (Voet 39.5.22, Krause's Translation, page 50; Grotius 3.2.17, Herbert's Translation page 286: Van Leeuwen 30.4.7, Kotze's Translation, page 235; 2 Burge, page 146).*" It was further held that, in any event, under the Roman-Dutch law a donation inter *vivos* may be revoked if the donee assaults the donor, although the latter may have agreed not to revoke it.

In *Krishnaswamy v. Thillaiyampalam* (1957) 59 NLR 265 at 269, Basnayake C.J. stated:

> *It would be unwise to lay down a hard and fast rule as to what conduct on the part of a donee may be regarded as ingratitude for which a donor may ask for revocation of his gift. Voet's view is that ingratitude for which a donation may be revoked must be ingratitude which a court does not regard as trifling. He says: "Of course slighter causes of ingratitude are by no means enough to bring about a revocation. Although both the laws and right reason entirely condemn every blot and blemish of ingratitude, albeit somewhat slight, nevertheless they have not intended that for that reason it should be forthwith penalized by revocation of the gift." The ways in which a donee may show that he is ungrateful being legion, it is not possible to state what is "slight ingratitude" and what is not, except in regard to the facts of a given case. There is nothing in the books which lays down the rule that a revocation may not be granted on the commission of a single act of ingratitude. Ingratitude is a frame of mind which has to be inferred from the donee's conduct. Such an attitude of mind will be indicated either by a single act or by a series of acts.*

The case of *Fernando v. Perera* (1959) 63 NLR 236 establishes that a single act of ingratitude may be sufficient to revoke a deed of gift. In that case, the plaintiff, the foster mother of the defendant, her adopted son, alleged three

acts of ingratitude, namely an assault on her with a broomstick, a threat to cause bodily harm, and damage to the house occupied by her. The District Judge found that the plaintiff had exaggerated certain incidents. However, he accepted her evidence relating to the threat to cause bodily injury, which was corroborated by an independent witness. Nevertheless, he held that this incident did not amount to ingratitude. The evidence revealed that the defendant chased the plaintiff while threatening to kill her, compelling her to seek refuge in the house of a third party, who testified: "*When I was living in the Tuduwe Road house, I remember the plaintiff coming running into my house. I asked her why she came running, and she said that her son was coming to kill her.*" There was also evidence that the defendant had attempted to dissuade this witness from giving evidence on behalf of the plaintiff. Basnayake C.J., disagreeing with the conclusion of the District Judge, held that "*This incident by itself is sufficient to support the allegation of ingratitude on the part of the defendant, and the plaintiff is therefore entitled to the relief she seeks.*"

In *De Silva v. De Croos* [2002] 2 Sri LR 409, Dissanayake J. set aside the judgment of the District Court on the basis that "*the learned District Judge applied too strict a standard of proof. He has not applied correctly the test of balance of probabilities in evaluating the evidence.*"

In *Dona Podi Nona Ranaweera's* case, at 220, Amarasinghe J. states:

> *A donor is entitled to revoke a donation on account of ingratitude (1) if the donee lays manus impias on the donor; (2) if he does him an atrocious injury; (3) if he wilfully causes him great loss of property; (4) if he makes an attempt upon his life; (5) if he does not fulfil the conditions attached to the gift. In addition, a gift may be revoked for other, equally grave, causes.*

Although the law recognises limited exceptions to the general rule that a deed of gift is absolute and irrevocable, those exceptions are not lightly invoked. The need for sufficient proof before a Court may be persuaded to depart from the rule of irrevocability was underscored in *Ariyawathie Meemaduma v. Jeewani Budhdhika Meemaduma* [2011] 1 Sri LR 124 at 133, where it was held:

> *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. In this case even if the appellant's evidence in the District Court is considered alone (without any reference to the contents of documents P4A and P4B) her evidence falls short of the standard of proof required to invoke any recognized exception to defeat the rule of irrevocability. A mere ipse dixit like "he threatened to kill me" is not sufficient to discharge that burden.*

In the instant case, after the property was gifted to the 1st Defendant daughter subject to the life interest of the Plaintiff by Deed marked P4, the 1st Defendant gifted it to her minor son by Deed marked P7. In the latter Deed, the 1st Defendant did not reserve life interest for her donor mother. Instead, she reserved life interest for herself and for her husband. The Plaintiff had not been informed of the execution of Deed P7. She became aware of it only later, when the 1st Defendant, during a quarrel, mocked her by saying that the property now no longer belonged to her. This prompted the donor mother to inquire at the Land Registry and confirm the transfer effected by Deed P7. This conduct on the part of the 1st Defendant is a significant indication of gross ingratitude.

The Plaintiff, in her evidence, stated that she decided to lodge a complaint with the police after the 1st Defendant had threatened her on several occasions. In her complaint made to the police on 29.11.2006 marked P5, the Plaintiff *inter alia* states:

> ඊට පසු දුව විවාහ වී නිවසේ සිටිය අතර මා සමග ආරවුල් ඇති කරගෙන නිවසින් ගියා. දැන් ඇය අප කිසිවෙකු ගැන බලන්නේ නැති අතර, ඇය මට කියනවා මා ජීවත්ව ඉන්නකම් ඉඳපන් ඊට පසු සේරම පන්නනවා. ඉන්න දෙන්නේ නෑ කියා ඇය මා බල්ලෙකුට ජාතක කරන ලද බව කියා නින්දා කරනවා. දැන් මට භය මා හට කරදරයක් වූ විට පුරුෂයාට හා අබ්බගාත දුවට කරන්නට හැකි දෙයක් නෑ.

In her complaint dated 13.02.2007 marked P6, the Plaintiff complains of death threats:

> මගේ දුව එච්. ජී. අහේෂානි මේනකා කුමාරි නොමිබර 298/06 ශ්‍රමදාන මාවත ඉහල බියන්විල යන අය මට හා මගේ පවුලේ අයට නිතරම පැමිණ කරදර කරනවා. බැණ තර්ජනය කරනවා. අපිව මරනවා කියලා. උඹව තමයි මට මරන්න ඕනේ. ඒක කරන්න මට රු:5000/= වියදම් වෙයි කියලා කියනවා. මගේ මනුස්සයාටත් නාකියා කියලා බනිනවා. නඩු කියන්න දෙන්නේ නෑ කියලා මට හැමදාම ගේ ළඟට පැමිණ තර්ජනය කරනවා. මීට පෙර පැමිණිලි දමා ඇත. නමුත් ඇය කිසිම දෙයක් අහන්න නෑ. ඒ නිසා මම ඉල්ලා සිටින්නේ මට කරදර නොකර ඉන්න කියන්න. මට නඩු කියලා මොනවා හරි කරගන්නා තෙක් ඇයට සද්ද නැතිව ඉන්න කියන්න. නිතරම නිර්නාමික දුරකථන ඇමතුම් දෙනවා. ඒවා නතර කරන්න කියන්න. මට කීමට ඇත්තේ එපමණයි.

Sudharma Damayanthi, who resided in the adjoining house, gave evidence for the Plaintiff. She stated that the 1st Defendant abused and blamed the Plaintiff, her own mother, in language unbecoming of a child addressing a parent. (මටත් අම්මා කෙනෙක් ඉන්නවානේ. අම්මට කතා කරන විදිහට නෙමයි චිත්තිකාරිය කතා කරන්නේ.) In her evidence she stated as follows:

> 1 චිත්තිකාරිය සිරියාවතීට බනිනවා. ගෑස් සිලින්ඩරය ඇරලා තියෙනවා කිව්වා ගෙදර අම්මා මැරෙන්න. කඩ ලග ගෙවල් ලග බනිනවා. අම්මට ඉස්සෙල්ලා මැරුණොත් නයෙක් වෙලා ඇවිල්ලා කනවා කිව්වා. ඒ කිව්වේ කඩේ ලහදි. මට ඇහුනා එහෙම කියනවා.

Justin Perera, another neighbour of the plaintiff had also confirmed this behaviour of the 1st defendant.

The plaintiff's son, who is also the 1st defendant's brother and was a witness to Deed P4, further corroborated the plaintiff's version. He testified to acts of hostility by the 1st defendant allegedly directed at compelling the plaintiff and the family to vacate the residence, and stated that the 1st defendant had neglected her parents despite the execution of the Deed of Gift in the hope of future care and support.

The 1st defendant herself conceded that the disagreements between her and the plaintiff mother escalated to a serious level:

> දරුවාට වසරක් වුනාට පසු දැන් ඉන්න ගෙදරට එන්න විශේෂ හේතුවක් සිදු වුනා. අම්මා නිතරම පුරුෂයාට බනිනවා ගෙදර වැඩ කරන්නේනැහැ කියා. මම කිව්වා පුරුෂයාට බනින්න එපා කියා. ඒ මත අම්මාගේ හිත හොඳ නැතිව ගියා. අම්මා පුරුෂාට බනින විට මම එක පැත්තක්වත් ගත්තේ නැහැ. මම අම්මට කිව්වා පුරුෂයාට බනින්න එපා මම හදාගගන්නම් කියා. ඒ වෙලාවේ අම්මා හිතුවා මම ඔහුගේ පැත්ත ගත්තා කියා. ඉන්පසු ආරවුල් දරුණු අන්දමට ගියා.

However, the learned High Court Judge appears not to have given due attention to the evidence, probably because he proceeded on the erroneous basis that the gift was a dotal gift, and thus not revocable even upon proof of gross ingratitude.

The 1st Defendant had, on two separate occasions, left the property in question after quarrelling with her mother, without any regard for the well-being or financial needs of her mother, her father, or disabled sister. In her own evidence, the 1st Defendant admitted that she had no contact with her brother and that she had not visited her parents for a period of six years.

> ප්‍ර: තමාගේ දෙමාපියන්ට තමා සමඟ දරුවන් තිදෙනෙක් ඉන්නවා?
>
> උ: ඔව්. වැඩිමහල් අයියා. දෙවැනි අක්කා ආබාධිත කෙනෙක්.

ප්‍ර: සහෝදරයා මොනවද කරන්නේ කියා දන්නේ නැහැ කිව්වා?

උ: ඔව්.

ප්‍ර: තමා සහෝදරයා සමඟ ආශ්‍රයක් නැද්ද?

උ: දැනට නැහැ.

ප්‍ර: ඒ කොයි කාලයේ සිටද?

උ: මම ගෙදරින් ගියාට පසු.

ප්‍ර: තමාගේ සහෝදරිය ආබාධිත, මොලය වැඩ කරන්නේ නැහැ. උපතින්ම ආබාධිත තැනැත්තියක්?

උ: ඔව්.

ප්‍ර: ඇයට විවාහයක් කර ගන්න බැහැ?

උ: බැහැ.

ප්‍ර: සදාකාලිකවම ආබාධිත තත්ත්වයෙන් සිටින තැනැත්තියක්?

උ: ඔව්.

ප්‍ර: ඇයට විවාහයක් කරගන්න බැහැ?

උ: බැහැ

ප්‍ර: ඇයට ඉන්න වෙන්නේ අම්මා තාත්තා සමඟ?

උ: ඔව්

ප්‍ර: තාත්තාගේ වයස කියද?

උ: අවුරුදු 72යි. කලින් රියදුරෙක් වශයෙන් වැඩ කලා. දැනට වැඩ කරන්නේ නැහැ. මම ගෙදරින් එනවිට රැකියාවක් කලේ නැහැ. දැන් කරනවද මම දන්නේ නැහැ.

ප්‍ර: තාත්තාගේ වයස සහ දුර්වල තත්ත්වය නිසා රැකියාව කරන්නේ නැහැ වසර ගනනාවක් සිට?

උ: දැනට වසර පහක් පමණ සිට කරන්නේ නැහැ. මම දැන් වසර 6කින් ගෙදර ගියේත් නැහැ.

ප්‍ර: අම්මාටත් ස්ථීර රැකියාවක් නැහැ.

උ: නැහැ. කඩයප්පන් හදනවා.

ප්‍ර: දැනට අම්මාත් තාත්තාත් ආබාධිත අක්කාත් තිදෙනාටම ජීවත් වෙන්න තිබෙන එකම ආදායම අම්මා කඩයප්පන් හදා ගන්න ආදායම තමයි?

උ: ඔව්. ඒ දවස්වල එහෙමයි දැන් කියන්න දන්නේ නැහැ. මට ස්ථීර පිළිතුරක් දෙන්න අමාරුයි.

ප්‍ර: කොයි කාලයේ සිටද තමා කියන්න දන්නේ?

උ: මම 2006 වසරේ සිට යන්නේ නැහැ.

ප්‍ර: 2006 වසරේන් තමා අම්මා තාත්තා සමග කිසිම සම්බන්ධයක් නැහැ?

උ: නැහැ.

ප්‍ර: එම අය කොහොම ඉන්නවද මොනවා කරනවද කියන එක ගැන තමාට අවබෝධයක් නැහැ?

උ: නැහැ.

ප්‍ර: තමාගේ දෙමාපියන්ට තමා සමඟ දරුවන් තිදෙනෙක් ඉන්නවා?

උ: ඔව්. වැඩිමහල් අයියා. දෙවැනි අක්කා ආබාධිත කෙනෙක්.

ප්‍ර: සහෝදරයා මොනවද කරන්නේ කියා දන්නේ නැහැ කිව්වා?

උ: ඔව්.

ප්‍ර: තමා සහෝදරයා සමඟ ආශ්‍රයක් නැද්ද?

උ: දැනට නැහැ.

ප්‍ර: ඒ කොයි කාලයේ සිටද?

උ: මම ගෙදරින් ගියාට පසු.

When the evidence is evaluated as a whole and on the standard of balance of probabilities, the conduct of the 1st Defendant cannot be dismissed as ordinary domestic disagreements or isolated incidents of strained family relations. The execution of Deed P7 alienating the gifted property without reserving the donor mother's life interest and without informing her, the taunting assertion that the property no longer belonged to the plaintiff, threats of death, persistent verbal abuse directed at the donor, and the prolonged neglect of aged and vulnerable parents, including an incapacitated sister, disclose a sustained pattern of hostility and disregard towards the donor. These acts, taken cumulatively, go beyond mere slight ingratitude and amount to gross ingratitude of a serious nature, sufficient in law to warrant the revocation of the Deed of Gift.

Conclusion

It is evident that the property gifted under Deed No. 5 was conveyed as an ordinary gift and not as a dotal gift, since the marriage did not take place in consideration of, or in exchange for, the property. The essential

requirement of a dowry, namely that the marriage is contracted in consideration of the gift, is therefore absent. The conduct of the 1st Defendant, as outlined above, establishes gross ingratitude towards the donor on a balance of probabilities, which in law justifies the revocation of Deed No. 5 and, as a necessary consequence, the nullification of Deed No. 5272.

In the totality of the facts and circumstances of this case, the High Court ought not to have reversed the judgment of the District Court on the merits.

Accordingly, the questions of law upon which leave to appeal was granted are answered in the affirmative. The judgment of the High Court is set aside, and the judgment of the District Court is restored. I make no order as to costs.

Judge of the Supreme Court

Janak de Silva, J.
I agree.

Judge of the Supreme Court

Menaka Wijesundera, J.
I agree.

Judge of the Supreme Court