

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

Vijitha Malini Dias Jayasekera,
No. 21, New Street,
Galle.
(deceased)
2nd Defendant-Appellant-Appellant

Theekshana Shakya Premalal,
No. 21, New Street, Galle.
Substituted 2A Defendant-Appellant-
Appellant

SC/APPEAL/37/2019
SP/HCCA/GA/49/2005(F)
DC GALLE 11132/P

Vs.

Umagiliyage Kanthi Hemalatha,
No. 08, Deniyawatta,
Kapuhempala, Akmeemana.
(deceased)
Plaintiff-Respondent-Respondent

Paandigamage Mendis de Silva *alias*
Lesly Paandigama,
No. 68/1,
Hospital Road, Kalubowila,
Colombo.
1st Defendant-Respondent-
Respondent

Deepani Paandigama,
No. 167/1, Hospital Road,
Kalubowila, Colombo.
1A Defendant-Respondent-
Respondent

Before: Hon. Justice Mahinda Samayawardhena
Hon. Justice Sobhitha Rajakaruna
Hon. Justice Sampath B. Abayakoon

Counsel: Manohara de Silva, P.C., with Hirosha Munasinghe and
Dilmini de Silva for the 2nd Defendant-Appellant-Appellant.

Shiraz Hassan for the Plaintiff-Respondent-Respondent.

Argued on: 31.10.2025

Decided on: 05.12.2025

Samayawardhena, J.

The plaintiff filed this action in the District Court of Galle in 1990, seeking partition of the land morefully described in paragraph 2 of the plaint between the plaintiff and the 1st defendant. The 2nd defendant was named as a party as she disputed the plaintiff's rights to the land. It is admitted that the 2nd defendant is not a co-owner of the land. The 2nd defendant claimed title to the land on prescription.

After trial, the District Court entered judgment partitioning the land between the plaintiff and the 1st defendant, and rejected the 2nd defendant's prescriptive claim. On appeal by the 2nd defendant, the High Court of Civil Appeal of Galle affirmed the judgment of the District Court. Hence this appeal to this Court. A previous Bench of this Court granted leave on the

question whether the High Court erred in fact and in law in rejecting the prescriptive claim of the 2nd defendant.

On the facts and circumstances of this case, I have no hesitation in holding that the 2nd defendant's prescriptive claim must fail. There is no necessity to rewrite the well-written judgment of the District Court. At the trial, a number of witnesses were called and a number of documents were marked. I do not wish to refer to all of them. I will refer only to three documents, the author of which is the 2nd defendant herself.

The 2nd defendant, who is now deceased, was a close relative of the parties and their predecessors in title. The 2nd defendant was a lawyer. This partition action was filed on 06.07.1990. The 2nd defendant's complaint to the police dated 16.01.1990 was marked P21. In that complaint she states that the land in suit is a co-owned land. She does not state that the land belongs to her by prescriptive title.

More importantly, the 2nd defendant had sent letters marked P1 dated 13.05.1989 and P2 in the same year to Piyaseeli Jayaweera, the wife of Soloman De Silva, in which she offered to purchase the land. This completely cuts across her prescriptive claim. Piyaseeli and the 2nd defendant are not strangers. They are close relatives. Soloman was a predecessor in title of the plaintiff and a brother of the 2nd defendant's mother, Misina. These letters were produced by the recipient, namely Piyaseeli herself. The envelopes were marked P1(a) and P2(a). Although the 2nd defendant denied these letters, the Court can accept them as evidence having regard to the facts and circumstances of the case.

There is no need to further dwell on this appeal. I answer the question of law in the negative. I affirm the judgments of the District Court and the High Court and dismiss the appeal with costs.

Judge of the Supreme Court

Sobhitha Rajakaruna, J.

I agree.

Judge of the Supreme Court

Sampath B. Abayakoon, J.

I agree.

Judge of the Supreme Court