

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

1. Karandana Lekamlage Sarath Wijesiri
Dharmawardana Gunawardana,
Near 4th Mile Post, Karandana North,
Karandana.
2. Karandana Lekamlage Kithsiri
Lakshman
Gunawardana, No. 314A, Temple Road,
Dalugamgoda, Kelaniya.
4. Karandana Lekamlage Tissa Ranjith
Gunawardana, No. 314A, Temple
Road, Dalugamgoda, Kelaniya.
1st, 2nd, 4th Plaintiff-Appellant-
Appellants

SC/APPEAL/92/2022

WP/HCCA/AV/1831/2018(F)

DC AVISSAWELLA 20326/P

Vs.

- 3a. Wijitha Kumari Nugaduwa,
No. 15, Spathodea Mawatha,
Thimbirigasyaya, Colombo 05.
Substituted 3a Plaintiff-Respondent-
Respondent
1. W.R. Gunawardana, No. 19/6,
Mission Road, Kotte.
2. Angamana Vitharanalage Mekala
(Deceased)
- 2a. Rathnayaka Mudiyanseelage Aberathna,
Near 4th mile post, Karandana North,
Karandana.

3. Iddagodage Dayananda, Near 4th mile post, Karandana Road, Karandana.
4. Vithanage Sirisena,
Naragahakandewatte. (Deceased)
- 4a. Muthukuda Arachchige Somawathi,
Near 4th mile post Karandana North,
Karandana.
5. Seelaman Arachchige Chandasekara,
Dammulla, Karnadana.
6. Karanadana Lekamlage Lionel
Sugathadasa, Near 5th mile post,
Karanadana North, Karanadana.
7. Karanadana Gamladdalage Dharmasiri,
Near 5th mile post, Karanadana North,
Karanadana.
8. Mitipola Arachchige Sumanawathi,
Karanadana North.
9. Lekamlage Uchithani Indrani
Karanadana, No. 331, Wewala,
Horana.
10. Lekamlage Jeewaka Chamikara
Karanadana,
11. Lekamlage Manitha Nodana
Karanadana,
12. Lekamlage Paraga Manodana
Karanadana,
13. Lekamlage Imanthi Udayangani
Karanadana,
14. Mohottige Dona Wimalawathi
Nandatilaka Karanadana (Deceased)
- 14a. Lekamlage Manitha Nodana
Karanadana,
All of No. 331, Wewala, Horana.

15. Ganiachchige Sarath Kithsiri,
Karanadana South.
16. Weerakoon Arachchige Chandrapala,
Karanadana North, Karanadana.
17. Balasuriya Arachchige Seelawathi
Mettananda, Siyambalagoda,
Polgasowita.

Defendant-Respondent-Respondents

Before: Mahinda Samayawardhena, J.
M. Sampath K.B. Wijeratne, J.
K.M.G.H. Kulatunga, J.

Counsel: S.A.D.S. Suraweera with K.A.T. Fernando for the 1st, 2nd
and 4th Plaintiff-Appellant-Appellants.

Asanka Samaraweera for the 2nd, 3rd, 4a, 6th, 9th, 10th and
17th Defendant-Respondent-Respondents.

S.W. Premaratne for the 5th and 8th Defendant-Respondent-
Respondents.

Argued on: 18.06.2026

Decided on: 27.07.2026

Samayawardhena, J.

This is a partition action.

The plaintiffs instituted this action in 1999 seeking the partition of the land described in the schedule to the plaint. After trial, the District Court, by judgment dated 26.04.2018, partitioned the land among the plaintiffs and several defendants. Being dissatisfied with that judgment, the plaintiffs preferred an appeal to the High Court of Civil Appeal. By judgment dated 31.03.2021, the High Court dismissed the appeal, subject to a clarification that the land to be partitioned consists of Lots

A, B, C, D and G depicted in Preliminary Plan No. 843. The plaintiffs have preferred the present appeal against that judgment.

At the hearing before this Court, learned Counsel for the plaintiffs confined his submissions to a single issue.

According to paragraph 5 of the amended plaint dated 23.04.1999, Gunawardena Appuhamy, by Deed No. 11332 dated 03.05.1925 (P2), conveyed his rights in the corpus to his wife, namely Manik Ethana, and his four children, namely Punchi Manike, Yasawardena Hamine, Somawathie and Dharmadasa. Upon the death of Manik Ethana, her rights devolved on the said four children. Accordingly, each of the four children became entitled to a 1/6 share of the corpus. This position was admitted by the contesting defendants, namely the 2nd, 3rd and 8th to 13th defendants, in paragraph 4 of their statement of claim dated 07.10.2002. Learned Counsel for the contesting defendants maintained the same position before this Court.

According to paragraph 6 of the said statement of claim, Yasawardena Hamine and one Karunadasa Karadana transferred their rights to the 3rd defendant by Deed No. 252 dated 03.10.1984 (3D1).

According to paragraph 7 of the amended plaint, Yasawardena Hamine and her sister Somawathie, by Deed No. 3151 dated 18.07.1988 (P3), gifted to the 1st plaintiff the rights they had derived under Deed No. 11332 and by inheritance from their mother.

Both the District Court and the High Court accepted the title claimed under Deed No. 252 in preference to the title claimed under Deed No. 3151.

By Deed No. 252, Yasawardena Hamine purported to transfer to the 3rd defendant the rights she had derived by paternal inheritance from her father, Gunawardena Appuhamy. The argument advanced by learned Counsel for the plaintiffs is that Yasawardena Hamine could not have

conveyed any rights to the 3rd defendant on that basis. By Deed No. 11332 dated 03.05.1925, Gunawardena Appuhamy had alienated all his rights in the corpus during his lifetime. Accordingly, upon his death, no rights in the corpus remained to devolve on Yasawardena Hamine by paternal inheritance. It follows that, in so far as Deed No. 252 purported to convey rights derived by paternal inheritance from Gunawardena Appuhamy, it conveyed nothing.

Consequently, the rights which Yasawardena Hamine had acquired under Deed No. 11332, together with the rights that subsequently devolved on her from her mother, remained vested in her and were capable of being gifted by Deed No. 3151 dated 18.07.1988 to the 1st plaintiff.

Learned Counsel for the contesting defendants was unable to dispute that proposition.

We are therefore inclined to agree with the submission of learned Counsel for the plaintiffs. To that extent, the judgments of the District Court and the High Court cannot stand.

Accordingly, the judgments of the District Court and the High Court are set aside in so far as they reject the title claimed by the 1st plaintiff under Deed No. 3151 dated 18.07.1988. The District Court is directed to recognise the title of the 1st plaintiff under the said deed and to allot to him the 1/6 share derived through Yasawardena Hamine, in addition to the shares otherwise found due to him.

Learned Counsel for the contesting defendants submitted that there are errors in the computation of shares in the judgment of the District Court. Once the shares are reallocated in accordance with this judgment, it will be open to the learned District Judge to examine and rectify any consequential errors in the computation of shares.

The appeal is allowed. No costs.

Judge of the Supreme Court

M. Sampath K.B. Wijeratne, J.

I agree.

Judge of the Supreme Court

K.M.G.H. Kulatunga, J.

I agree.

Judge of the Supreme Court