

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

*In the matter of an Appeal in terms of
Section 5C of the High Court of the
Provinces (Special Provisions)
(Amendment) Act No. 54 of 2006.*

S.C. Appeal No:
96/2018

B. G. Podi Mahaththaya,
No. 13, Yaya 07,
Hansaya Palama.

SC/HC (CA) LA No:
131/2018

PLAINTIFF

Vs.

HCCA/Anuradhapura Case No:
NCP/HCCA/ANP/1125/2017(F)

01.Maduruthenna Bedum Ela Govi
Sanvidanaya,

DC Polonnaruwa Case No:
11317/06

Yaya 07, Hansaya Palama.
02.R.M. Dasanayaka (President)
No. 46, Yaya 07,
Hansaya Palama.
03.Illukwaththalage Wilbet (Secretary)
No. 75, Yaya 07,
Hansaya Palama.
04.Puranagedara Appuhami (Treasurer)
No. 7139, Yaya 07,
Hansaya Palama.
05.A.S. Kamal Jayasooriya,
Yaya 07,
Hansaya Palama.

06.P.R. Senevirathna Banda

Paranagama,

No. 84, Yaya 07,

Hansaya Palama.

07.S.M.W.M. Punnadasa,

No. 15, Yaya 07,

Hansaya Palama.

08.A.K. Wijesingha,

No. 49, Yaya 07,

Hansaya Palama.

DEFENDANTS

AND

02.R.M. Dasanayaka (President)

No. 46, Yaya 07,

Hansaya Palama.

03.Illukwaththalage Wilbet (Secretary)

No. 75, Yaya 07,

Hansaya Palama.

04.Puranagedara Appuhami (Treasurer)

No. 7139, Yaya 07,

Hansaya Palama.

DEFENDANT-APPELLANTS

Vs.

B. G. Podi Mahaththaya,

No. 13, Yaya 07,

Hansaya Palama.

PLAINTIFF-RESPONDENT

AND NOW BETWEEN

B. G. Podi Mahaththaya,
No. 13, Yaya 07,
Hansaya Palama.

PLAINTIFF-RESPONDENT-
APPELLANT

Vs.

02.R.M. Dasanayaka (President)
No. 46, Yaya 07,
Hansaya Palama.

03.Illukwaththalage Wilbet (Secretary)
No. 75, Yaya 07,
Hansaya Palama.

04.Puranagedara Appuhami (Treasurer)
No. 7139, Yaya 07,
Hansaya Palama.

02, 03, 04 DEFENDANT-APPELLANT-
RESPONDENTS

01.Maduruthenna Bedum Ela Govi
Sanvidanaya,
Yaya 07, Hansaya Palama.

05.A.S. Kamal Jayasooriya,
Yaya 07, Hansaya Palama.

06.P.R. Senevirathna Banda
Paranagama,
No. 84, Yaya 07,
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No. 15, Yaya 07, Hansaya Palama.

08.A.K. Wijesingha,
No. 49, Yaya 07,
Hansaya Palama.

**01, 05, 06, 07, 08 DEFENDANT-
RESPONDENTS**

Before : Mahinda Samayawardhena, J.

: Sampath B. Abayakoon, J.

: M. Sampath. K. B. Wijeratne, J.

Counsel : Chathura Galhena with Naduni Hemantha
instructed by Manoja Gunawardana for the
Plaintiff-Respondent-Appellant.

: Nuwan Bopage with Chathura Weththasinghe
instructed by Achala Wannigama for the 2nd, 3rd,
and 4th Defendant-Appellant-Respondents.

Argued on : 30-03-2026

Written Submissions : 22-01-2019 (By the 2nd, 3rd, and 4th, Defendant-
Appellant- Respondents)

: 13-12-2018 (By the Plaintiff-Respondent-Appellant)

Decided on : 07-08-2026

Sampath B. Abayakoon, J.,

This appeal preferred by the plaintiff-respondent-appellant (hereinafter referred to as the plaintiff) emanates from the judgment pronounced by the Provincial High Court of the North Central Province holden in Anuradhapura, while exercising its civil appellate jurisdiction.

The appellants before the High Court had been the 2nd, 3rd, and 4th defendants named in the plaint before the District Court, who were the President, Secretary, and the Treasurer of the 1st defendant of the action, namely Maduruthenna Bedum Ela Govi Sanvidanaya.

From the impugned judgment, which was pronounced on 20-03-2018, the High Court set aside the judgment pronounced by the learned District Judge of Polonnaruwa on 09-09-2016 in District Court of Polonnaruwa Case No. 11317/චන්ද්‍ර/06, which was in favour of the plaintiff for a sum of Rs. 200 000/- determined as compensation that should be paid by the defendants mentioned in the said action.

Having set aside the District Court judgment, the High Court proceeded to re-answer the issues raised at the trial, and for the reasons set out in the appellate judgment, dismissed the action initiated by the plaintiff.

When this matter was considered before this Court for the purpose of granting of leave to appeal from the impugned appellate judgment, this Court granted leave on the questions of law as set out in paragraph 17 (i)-(iv) of the petition dated 25-04-2018.

The said questions of law read as follows-

1. Did the Civil Appellate High Court misdirect itself in deciding that the respondents are not personally liable for the damage suffered by the petitioner?
2. Did the Civil Appellate High Court err in arriving at their finding disregarding the *locus standi* of the 1st defendant *Govi Sanvidanaya*?

3. Did the Civil Appellate High Court err in deciding that the petitioner acted in a rigid manner which led the respondents to act illegally and arbitrarily; hence, the petitioner is not entitled to claim damages?
4. Did the Civil Appellate High Court misdirected in re-considering the issues by disregarding the evidence led on behalf of the petitioner at the trial?

This appeal was considered together with the appeal in SC Appeal No. 133/2018, which was an appeal based on another case initiated by the brother of the plaintiff before the District Court of Polonnaruwa on similar facts. At the hearing of this appeal, the learned Counsel who represented the appellants in both the appeals agreed that the two appeals can be considered together but two separate judgments should be pronounced by this Court.

It is evident that the evidence adduced in both these cases has been taken in a single trial before the trial Court as most of the facts are similar in nature and the issues raised by the parties are likewise aligned. However, the learned District Judge of Polonnaruwa has proceeded to pronounce two separate judgments due to the reason that the two cases pertained to separate claims for compensation.

Accordingly, the High Court has also pronounced two separate appellate judgments after hearing the parties in both the appeals filed before the High Court.

The Facts

The plaintiff has initiated proceedings before the District Court of Polonnaruwa by his plaint dated 20-07-2006 against eight defendants mentioned in the plaint.

The 1st defendant mentioned has been the Govi Sanvidanaya of the relevant area, while the 2nd, 3rd, and 4th defendants have been the President, Secretary, and the Treasurer of the said Govi Sanvidanaya, and the other defendants have been the members or office bearers of the said Sanvidanaya.

The plaintiff's claim for compensation had been on the basis that due to the arbitrary and unlawful actions of the defendants, whereby they obstructed the water access to his paddy field, he suffered damages as claimed. It has been stated that as a result, he could not plant seed paddy for the 2006 Yala season, which resulted in his inability to proceed with his paddy farming.

The defendants, filing a common answer, have denied any responsibility for the alleged damage caused to the plaintiff while explaining the reasons for the temporary closure of the water access to the plaintiff's paddy field as his failure to pay a fine imposed by the Govi Sanvidanaya.

At the trial, the parties have recorded several admissions as per their pleadings, and the trial has proceeded on issue No. 01-09 and 19-23 settled by the plaintiff, and issue No. 10-18 settled by the defendants.

The evidence led before the trial Court has established the following facts-

1. The 1st defendant, namely the Govi Sanvidanaya of the area, has been functioning as a voluntary organization in order to manage the water distribution and other matters relating to agricultural activities of the area under the patronage of the Mahaweli Development Authority.
2. The 2nd, 3rd, and 4th defendant-appellant-respondents (hereinafter sometimes referred to as the defendants) have been the relevant office bearers at the time relevant to this incident and the plaintiff and all the other defendants named have been the members of the said Govi Sanvidanaya.
3. It has been established that the plaintiff did not take part in the meeting held on 07-04-2006 by the Govi Sanvidanaya. This was a meeting attended by the relevant officials of the Mahaweli Authority as well. The letter of excuse sent by the plaintiff who did not attend the meeting has been refused due to the protests of the general membership of the Sanvidanaya. It was stated that although the plaintiff has sent a letter giving reasons for his inability to attend the meeting, such reasons cannot be accepted since he has avoided attending the meeting on purpose, and he was seen playing near a boutique in the area.

4. As a result, it has been decided by the Govi Sanvidanaya to impose a fine of Rs. 500/- on the plaintiff as in usual practice and the decision has been conveyed to the plaintiff for which he has shown scant disregard.
5. This has resulted in the closure of the plaintiff's water access to his paddy field by the officials of the Govi Sanvidanaya on 19-05-2006.
6. By this time, the plaintiff had completed the ploughing of the field and was in the process of preparing it for the planting of seed paddy.
7. After having considered an appeal by the plaintiff, the Govi Sanvidanaya has reopened the water access on 22-05-2006.

The above factual matrix shows that the plaintiff has filed this action on the basis that because of the actions by the defendants, he could not plant paddy for the Yala season of the year 2006, and as a result, he suffered damages valued at Rs. 200,000/-.

In his evidence, he has stated that he could have harvested a crop for such a value if not for the actions of the defendants, whereby justifying his claim.

The position of the defendants had been that they acted on the resolution passed by the Govi Sanvidanaya at the General Meeting held on that day. It had been their contention that for the common good of the farming community, the Govi Sanvidanaya always acted in good faith and they followed the general practices and traditions of the association. It has also been the position of the defendants that the 2nd to 4th defendants acted only upon the decisions taken by the whole membership of Govi Sanvidanaya, which were decisions taken not by the said defendants in their personal capacity, and hence, they cannot be held liable for the collective decisions taken by the 1st defendant.

They have also taken up the position that the evidence before the trial Court has clearly established that the claim made by the plaintiff was an exaggeration and he never suffered any damages as claimed by him.

Consideration of the Questions of Law and the Conclusion

It is my view that this is a matter where facts and circumstances taken as a whole should assume greater significance than mere consideration of procedural technicalities relating to the conduct of the parties.

It is abundantly clear that the 2nd to 4th defendants named in the original plaint had been the office bearers of the 1st defendant Govi Sanvidanaya at all times relevant to this action. They have acted as office bearers in a purely honorary capacity with the intention of working for the common good of the farming community of that area. The relevant area is an area used predominantly for farming under the supervision of the Mahaweli Authority of Sri Lanka. There is no dispute that the relevant society has been established under the relevant rules and regulations governing such societies for the betterment of the plaintiff, the defendants, and the whole community of the area.

I find that it should be the duty of all the members of the Sanvidanaya, which included the plaintiff, to abide by the rules and regulations and follow the traditions that are inherent to their farming affairs. There is no doubt that the supply of water has been, and is up to date, an essential amenity provided for the farmers enabling them to grow crops and improve their living standards. The evidence clearly suggests that under such circumstances, even if a single person behaves in a manner showing disrespect for the traditions and customs followed by other farmers, it would eventually lead to a situation where there will be no control over the proper management of the agricultural practices of the area.

The evidence led before the trial Court shows that the meeting where the plaintiff failed to attend was a General Meeting assembled to elect office bearers for the Sanvidanaya and to discuss other matters relevant to the farming community. The plaintiff has not attended the meeting, but has sent an excuse letter, which has been refused by the general membership on the basis that his excuse cannot be justified.

Following this decision, it has been decided to impose a fine on the plaintiff, which appears to be a decision taken in accordance with the past practices of the Sanvidanaya in similar instances. The plaintiff, being a beneficiary of the facilities granted to the farmer community, which obviously need regulation, would be in a position to understand the reasoning for the fine more readily than others.

The evidence placed before the trial Court clearly establishes the fact that the decision to impose a fine has been duly conveyed to the plaintiff together with the repercussions for failure to pay the fine. However, the evidence shows that he has acted in contempt of the decision of the Sanvidanaya by his utterances directed at the official who conveyed the decision to him.

In my view, it is under these factual circumstances one has to consider whether there were any justifications for the actions of the 1st defendant Sanvidanaya. It is clear that the closure of the water access had been only to show the importance of actively taking part in the affairs of the Sanvidanaya and the respect that should be shown to its decisions. The fact that the closure was in effect for only three days clearly demonstrates that the moment the plaintiff relented from his earlier stance of showing disrespect to the Sanvidanaya, the status quo has been restored.

I am unable to accept that under any circumstances, not having a continuous water supply for 3 days would result in a significant loss to the farming activities that had already been carried out by the plaintiff. If at all, it would have resulted in a delay of 3 days or a few more days in planting the seed paddy, which in my view would not have caused any damage in the magnitude claimed by the plaintiff. If the plaintiff failed or did not carry on with his farming as he should have, that is a matter that cannot be held against the defendants as claimed by the plaintiff.

I find that it was under the above context that the High Court has decided to set aside the judgment of the learned District Judge for the reasons stated in the judgment. It has been decided that the 2nd to 4th defendants have acted only on behalf of the 1st defendant Sanvidanaya, and had only carried out the

common decisions taken by the members of the Sanvidanaya without any malice towards the plaintiff.

In the case of **Silva Vs. Silva (2002) 2 SLR 29 at page 32**, it was observed that;

“Malice is a feature of the mind and must be gathered from the circumstances. In cases of doubt it cannot be presumed nor can it make itself apparent or be proved otherwise than by the nature of the act itself. One should not presume the existence of a delict so long as it is possible to suppose the contrary. (Page 59 De injuriis Et Famasis Libellius, VOET, BK 47 title 10)”

The learned Judges of the High Court have considered the proceedings that took place before the District Court on 16-08-2011 (page 294 of the appeal brief) as relevant. It appears that while the trial was in progress, the main office bearers of the Sanvidanaya, namely the 2nd, 3rd, and 4th defendants mentioned by their name, had vacated their positions. When this was made to the notice of the plaintiff, it has been informed to the Court that the plaintiff is proceeding with the action against the 2nd to 8th defendants in their personal capacities and not in their official capacities.

For the above reason, the High Court has decided not to consider the appeal on the basis of whether the defendants can be held liable in their official capacities. I find no reason to disagree with the said determination.

The learned Judges of the High Court have well considered the judgment cited by the learned District Judge in order to conclude that the decision of the aforesaid voluntary organization had violated common law principles; therefore, the decision of the Govi Sanvidanaya was illegal.

The learned District Judge has considered the observations made in the case of **Bulankulama and Others Vs. Secretary, Ministry of Industrial Development and Others (2000) 3 Sri L.R. 243** in relation to the historical and socio-economic background of the area relevant in the said case and the importance of following traditional practices in harmony with the nature in

relation to the environmental impact that can be caused as a result of a project where large scale mining was to take place.

Although I find the considered case may be relevant up to the extent of the importance of considering the socio-economic background and the historical practices of a relevant area, the observations made in the said case should have been considered in the context of the facts and the circumstances relevant to the case before the Court, having considered the matters relevant to both sides to the dispute.

After having considered the relevant facts and circumstances, I am in agreement with the conclusion of the High Court that the plaintiff as well as all the defendants of this action, being the members of the said voluntary Govi Sanvidanaya, had agreed and are bound by their contractual obligations that need to be respected towards the betterment of the whole community in order to achieve their own goals. I am also in agreement with the determination that the plaintiff is bound by the decisions of the Sanvidanaya as those decisions do not violate the laws of the country.

Moreover, I find that other than a general statement to that effect, the plaintiff has failed to substantiate his claim of damage he suffered as a result of the closure of water access for a period of three days. He has failed to show that he made any reasonable attempt to cultivate the land other than claiming that he had to abandon the paddy cultivation. In my view, the plaintiff has failed to place sufficient evidence to substantiate the quantum of damages claimed.

I am of the view that the High Court was correct in determining that the defendants cannot be held liable for the collective actions of the Govi Sanvidanaya in their personal capacities.

It is very much clear that after having come to the determination that the appeal should be allowed, the learned Judges of the High Court have proceeded to re-answer the issues placed before the District Court in order to bring clarity to the appellate judgment as well as the judgment of the trial Court, which I find to be the correct approach that should have been adopted given the facts and the circumstances and also the nature of the action.

For the reasons as considered above, I find no basis to interfere with the impugned judgment. Hence, I answer the questions of law under which this appeal was considered in the negative.

Accordingly, the appeal is dismissed for want of merit.

There will be no costs of the appeal.

Judge of the Supreme Court

Mahinda Samayawardhena, J.

I agree.

Judge of the Supreme Court

M. Sampath. K. B. Wijeratne, J.

I agree.

Judge of the Supreme Court