

This is an appeal from the Civil Appellate High Court of the Southern Province holden at Matara. Where the Civil Appellate High Court set aside the judgment of the District Court of Walasmulla and granted the reliefs prayed for by the Plaintiff-Appellant-Respondent hereinafter referred to as the "Respondent".

Respondent instituted action in the District Court of Walasmulla seeking a declaration of title to the corpus, ejectment of the Defendant-Respondent-Appellants hereinafter referred to as the "Appellants", and for damages

The subject matter of this case is a land where the Respondent became entitled by virtue of a permit given by the State under the Provisions of the Land Development Ordinance. The extent of the land is given in the plaint as 2 acres and is described in paragraph 2. It is averred in the plaint that the Appellants forcibly entered a part of the land which is the subject matter in this case and was in unauthorized possession of the said part. The possession of the Appellants were also fortified by an order given by the Primary Court under Section 66 of the Primary Courts Procedure Act No.44 of 1979. In the circumstances, the Respondent filed action in the District Court to obtain relief as prayed for in the plaint. After the trial was concluded in the case, District Judge of Walasmulla by his Judgment dated 5th November 2004 dismissed the action of the Respondent. The main ground for dismissal appears to be the non identification of the subject matter. The Civil Appellate High Court in its judgment dated 2nd July 2010 has set aside the judgment of the District Court and granted relief to the Respondent. The Appellant appealed to the Supreme Court from the said judgment of the Civil Appellate High Court and the Supreme Court granted Leave to Appeal on the following questions of law;

- (a) Did their Lordships err in law when they came to the conclusion that the Plaintiff/Appellant/Respondent has established his title to the corpus when it is clearly proved that the corpus described in the plaint has not been identified properly?