

- (b) Did their Lordships err in law when their Lordships came to a conclusion that in terms of two permits marked as 'ප්‍ර1' and 'ප්‍ර2' 'the Plaintiff/Appellant/Respondent has title to the corpus when the boundaries given in the said two permits are contrary to each other especially the northern boundary?
- (b) Did their Lordships err in law when they failed to draw their minds to the fact that a larger land has been surveyed than the land described in the plaint as the corpus?

As could be observed all 3 questions of law are based on the non identification of the corpus.

In the plaint that has been filed and in the permit issued to the Plaintiff under the Land Development Ordinance Chap.464 which was produced marked 'P1' at the District Court the extent of the corpus is given as 2 acres. On the commission issued by Court, the Licensed Surveyor prepared Plan No. 18/ද where the extent was given as 3 Acres, 1 Rood and 23.12 Perches. The permit issued under the Land Development Ordinance does not refer to a survey Plan describing the land that is given to the Respondent. The permit only describes the metes and bounds of the land. The difference between the extent given in the permit and the land surveyed and depicted in survey plan 'X' and document 'X1' is substantial. The difference is 1 Acre 1 Rood and 23.12 Perches. In the circumstances there is a difficulty in reconciling the difference in the extents given in the permit "P1" and survey plan "X".

The evidence given by the Surveyor who did the survey could easily be construed to say that he was not certain as to whether the land he surveyed and depicted in the survey plan was the land that is described in the permit 'P1'. The Learned President's Counsel for the Appellant drew the attention of Court to the following statements made by the Surveyor contained at page 3 of the proceedings of 28.04.2004 when he was cross examined during the trial;