

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

SC/APPEAL/51/2022

CP/HCCA/KANDY/91/2016 (FA)

DC KANDY 22051/L

1. Ranasinghe Mudiyanselage Bandara
Menike *alias* Bandu Menike, (deceased)
No. 208 A, Kurunduwatta Road,
Kadugannawa.

1st Defendant-Appellant-Appellant

1A. R.M. Chandrawathie,
No. 203/A, Kurunduwatta Road,
Kotabogoda, Kadugannawa.

1B. V.G. Amitha Kumarihamy,
No. 208 B, Kuruduwatta Road,
Kotabogoda, Kadugannawa.

1C. V.J. Sheelawathie Podimenike,
“Adhikari Sewana”, Alpitiya, Dewanagala.

1D. V.J. Seetha Menike,
No. 227, Pussepitiya Walawwa,
Menikdiwela.

1E. Ranasinghe Mudiyanselage Punchi
Mahaththayo,
No. 208/3, Kurunduwatta Road,
Kotabogoda, Kadugannawa.

1F. Saumya Kumari Ranasinghe,
Muthupanawatta, Urapola, Kadugannawa.

1G. Laxman Bandara Ranasinghe,
Muthupanawatta, Urapola, Kadugannawa.

- 1H. Ranasinghe Mudiyanselage Dinesh
 Prasanna Herath,
 Kuruduwatta Road, Kotabogoda,
 Kadugannawa.
- 1I. Ranasinghe Mudiyanselage Chanaka
 Pradeep Ranasinghe,
 Kuruduwatta Road, Kotabogoda,
 Kadugannawa.
- 1J. Ranasinghe Mudiyanselage Dharshika
 Nishadi Herath,
 Kuruduwatta Road, Kotabogoda,
 Kadugannawa.
- Substituted 1A to 1J Defendant-Appellant-Appellants
2. Ranasinghe Mudiyanselage Anura
 Ranasinghe Bandara, No. 208/A,
 Kurunduwatta Road, Kadugannawa.
2nd Defendant-Appellant-Appellant

Vs.

1. Senevirathna Bandaralage Karunathilleka
 Bandara, No. 208/C, Karase Gedara
 Watta, Kurunduwatta Road,
 Kadugannawa.
2. Senevirathna Bandaralage
 Chandrathilleke Bandara, No. 208/C,
 Karase Gedara Watta, Kurunduwatta
 Road, Kadugannawa.
3. Senevirathna Bandaralage Senevirathna
 Dissanayake, No. 208/C, Karase Gedara

Watta, Kurunduwatta Road,
Kadugannawa.

4. Senevirathna Bandaralage
Senevirathna Bandara, No. 208/C/1,
Kurunduwatta Road, Kadugannawa.
 5. Senevirathna Bandaralage Biso Menike
Epitahagedara,
Wewathenna, Gampola.
 6. Senevirathna Bandaralage
Dayawathie Menike,
No. 39, Haliyadda, Danture.
 7. Ekanayake Mudiyanselage
Nawarathna Bandara, No. 41,
Kurunduwatta Road, Kadugannawa.
- Plaintiff-Respondent-Respondents

Before: Hon. Justice Janak de Silva
Hon. Justice Mahinda Samayawardhena
Hon. Justice Dr. Sobhitha Rajakaruna

Counsel: Upul Ranjan Hewage for the 1A to 1E and 2nd Defendants-Appellants-Appellants.
Lasanthie Wijewardena for the Plaintiffs-Respondents-Respondents.

Argued on: 14.07.2025

Written submissions

By the 1A to 1E and 2nd Defendants-Appellants-Appellants on 06.07.2022.

By the Plaintiffs-Respondents-Respondents on 25.08.2025.

Decided on: 20.01.2026

Samayawardhena, J.

The Plaintiffs instituted this action against the Defendants in the District Court of Kandy seeking a declaration of title to the land described in the schedule to the plaint, namely Lot 7 in Plan No. 649 marked P2, cancellation of Deed No. 515 marked P16 by which the 1st Defendant purported to transfer the said Lot to the 2nd Defendant, a direction for the removal of the corresponding entries in the Land Registry relating to the registration of that deed, and damages. The Defendants filed answer seeking dismissal of the Plaintiffs' action and, in addition, a declaration that the 2nd Defendant is the lawful owner of the said Lot. After trial, the learned District Judge entered judgment for the Plaintiffs, except for damages. On appeal, the High Court of Civil Appeal of Kandy affirmed the judgment of the District Court. This appeal by the Defendants is against the judgment of the High Court.

It is common ground that Plan No. 649 is the final partition plan prepared in Partition Case No. P 4976 of the District Court of Kandy. In terms of the final decree of partition marked P1, Lot 7, together with part of house H5, was allotted to the plaintiff in that case, namely Ram Menike. Ram Menike thereafter transferred "an undivided portion of six lahas paddy sowing out of all that divided portion of Lot marked 7", together with "part of house H5 in Lot 6", to Madduma Banda by Deed No. 3612 marked P3.

Thereafter, Ram Menike and Madduma Banda executed Deed of Transfer No. 1403 marked P15 in favour of the 1st Defendant. The central question that arises is whether, by this deed, Ram Menike and Madduma Banda transferred only house H5 and the land covered thereby together with the road reservation of approximately four perches (as described in Schedule 1 to the deed), or whether they also transferred Lot 7 (as described in Schedule 3 to the deed). The land described in Schedule 2 to the deed is Lot 6.

Both the District Court and the High Court held that what was transferred by Deed P15 was only house H5 and the land covered thereby together with the road reservation, as described in Schedule 1, and that Lots 6 and 7, described respectively in Schedules 2 and 3, were included merely to properly identify and explain the subject matter of the transfer set out in Schedule 1.

I have no hesitation in accepting this as the correct interpretation of Deed P15. What was conveyed by that deed was house H5 and the land covered thereby, together with the road reservation, as described in Schedule 1. House H5 and the road reservation providing access to Lot 7 are situated within Lot 6. In order to clearly identify and contextualise the property conveyed, the Notary has described both Lot 6 and Lot 7. This intention is made explicit by the wording at the end of Schedule 1, where the Notary states “from and out of the following”, before proceeding to describe Lots 6 and 7 in the second and third schedules respectively.

If the Defendants’ argument is correct, it would necessarily follow that Ram Menike and Madduma Banda also transferred Lot 6 to the 1st Defendant by Deed P15. However, the Defendants themselves do not advance such a case. On the contrary, the 2nd Defendant, in his evidence, expressly accepted that under the final decree of partition, Lot 6 was allotted to his father, Abeyratna Banda, and that they are in possession of that Lot on the basis of their father’s title.

Accordingly, the question of law on which leave to appeal was granted namely, whether the District Court and the High Court erred in law by failing to consider that house H5 and the road reservation depicted in Plan No. 649 form part of Lot 7, is answered in the negative.

The judgment of the High Court is affirmed, and the appeal is dismissed with costs.

Judge of the Supreme Court

Janak de Silva, J.

I agree.

Judge of the Supreme Court

Dr. Sobhitha Rajakaruna, J.

I agree.

Judge of the Supreme Court