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

In the matter of an Appeal in terms of Article 128 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

S.C. Appeal No:
125/2012

SC SPL LA No:
18/2011

CA. Appeal No:
916/2001 (F)

DC Kuliyapitiya No:
10808/L

1. Nettikumara Appuhamilage Seelawathie,
   "Walawwa", Sandalankawa Road,
   Sandalankawa.
2. S. M. Ashoka Lalith Subasinghe,
   No. 26, Pangiriwatte Road,
   Gangodawila, Nugegoda.
3. S. M. Gamini Ranjith Subasinghe,
   Medagarawatte, Sandalankawa.
4. S. M. Chandrika Padmini Weragoda,
   Makandura, Gonawila.
5. S. M. Anula Rohini Gunatunga,
   "Walawwa", Sandalankawa Road,
   Sandalankawa.
6. S. M. Sujatha Ranjanie Abeyratne,
   No. 125, Nawinna, Maharagama.

PLAINTIFFS

Vs.

1. N. M. Babynona,
2. A. G. Nihal Rohitha,
   Both of Hendiyagala,
   Sandalankawa.

DEFENDANTS

AND BETWEEN

1. N. M. Babynona,
2. A. G. Nihal Rohitha,
   Both of Hendiyagala,
   Sandalankawa.

DEFENDANT-APPELLANTS

Vs.

1. Nettikumara Appuhamilage
   Seelawathie,
   "Walawwa", Sandalankawa Road,
   Sandalankawa.
2. S. M. Ashoka Lalith Subasinghe,
   No. 26, Pangiriwatte Road,
   Gangodawila, Nugegoda.
3. S. M. Gamini Ranjith Subasinghe,
   Medagarawatte, Sandalankawa.
4. S. M. Chandrika Padmini Weragoda,
   Makandura, Gonawila.
5. S. M. Anula Rohini Gunatunga,
   "Walawwa", Sandalankawa Road,
   Sandalankawa.
6. S. M. Sujatha Ranjanie Abeyratne,
   No. 125, Nawinna, Maharagama.

PLAINTIFF-RESPONDENTS

AND NOW BETWEEN

2. S.M. Ashoka Lalith Subasinghe,
   No. 26, Pangiriwatte Road,
   Gangodawila, Nugegoda. (deceased)

Mallawa Arachchige Geethani Nilmini Senanayake,
No. 26, Pangiriwatte Road,
Gangodawila, Nugegoda.

SUBSTITUTED 2nd PLAINTIFF-RESPONDENT-APPELLANT

Vs.

3. N. M. Babynona (deceased)

3A. A. G. Manel Kanthi,
No. 649, Hendiyagala,
Sandalankawa.

By Her Power of Attorney

A. G. Nandana Lal Athula,
No. 649, Hendiyagala,
Sandalankawa.

3B. A.G. Nihal Rohitha,
No. 176, Thanipolgahawatte,
Korasa, Udugampola.

3C. A. G. Nandana Lal Athula,
No. 649, Hendiyagala,
Sandalankawa.

3D. A. G. Upul Hemantha,
Dasun Hardware, Sandalankawa.

3E. A. G. Niranjala Gamage,
No. 176, Thanipolgahawatte,
Korasa, Udugampola.

By Her Power of Attorney

A. G. Nihal Rohitha,
No. 176, Thanipolgahawatte,
Korasa, Udugampola.

4. A. G. Nihal Rohitha,
No. 176, Thanipolgahawatte,
Korasa, Udugampola.

3A-3E and 4th DEFENDANT-APPELLANT-RESPONDENTS

1. Nettikumara Appuhamilage
Seelawathie,
"Walawwa", Sandalankawa Road,
Sandalankawa. (Deceased)

1A. Gamini Ranjith Subasinghe,
Medagarawatte, Sandalankawa.

1B. S. M. Chandrika Padmini,
Makandura, Gonawila.

1C. Anula Rohini Subasinghe,
"Walawwa", Sandalankawa Road,
Sandalankawa.

1D. Sujatha Ranjanie Subasinghe,
No. 125, Nawinna,
Maharagama. (Deceased)

1D1. Witharana Kuruppu Arachchige
Praveen Karshana Abeyratne,
No. 125, Jayagath Road,
Nawinna, Maharagama.

1D2. Nathasha Piyumali Abeyratne,
No. 76/16, 9th Lane,
Ekamuthu Mawatha, Mawitthara,
Piliyandala.

1A-1D2 SUBSTITUTED PLAINTIFF-RESPONDENT-RESPONDENTS

3. S. M. Gamini Ranjith Subasinghe, Medagarawatte, Sandalankawa.
5. S. M. Chandrika Padmini Weragoda, Makandura, Gonawila.
6. S. M. Anula Rohini Gunatunga, "Walawwa", Sandalankawa Road, Sandalankawa.
7. S. M. Sujatha Ranjanie Abeyratne, No. 125, Nawinna, Maharagama.

3rd, 5th, 6th, 7th, PLAINTIFF-RESPONDENT-RESPONDENTS

Before : S. Thurairaja, P.C., J.

: Kumudini Wickremasinghe, J.

: Sampath B. Abayakoon, J.

Counsel : Rohan Sahabandu, P.C., with Ms. Chathurika Elvitigala, Ms. Sachini Senanayake and Ms. Pubudu Weerasuriya instructed by M. D. J. Bandara for the Substituted 2nd Plaintiff-Respondent-Appellant.

: Manohara de Silva, P.C., with Ms. Dilmini De Silva instructed by Ms. Anusha Perusinghe for the 2nd Defendant-Appellant-Respondent.

Argued on : 12-06-2025

Written Submissions : 18-09-2012 and 02-07-2025 (By the 2nd Plaintiff-Respondent-Appellant)

: 11-07-2025 (By the Defendant-Appellant-Respondents)

Decided on **:** 25-09-2025

Sampath B. Abayakoon, J.

This is an appeal by the 2nd plaintiff-respondent-appellant (hereinafter referred to as the 2nd plaintiff) on the basis of being aggrieved by the judgment dated 17-12-2010 of the Court of Appeal, where the judgment pronounced by the learned District Judge of Kuliyapitiya on 16-10-2001, which was partly in favour of the plaintiffs of the action, was set aside.

When this matter was supported for Special Leave to Appeal before this Court on 17-07-2012, Leave to Appeal was allowed on the questions of law as set out in paragraph 18 (I) to (V) of the petition dated 23-01-2011.

The said questions of law read as follows,

I. Did the Court of Appeal err in law in its findings with regard to the scope and nature of the case of the plaintiffs.
II. Has the Court of Appeal misdirected itself in law by arriving at the conclusion that the claims of the both parties were on the basis of prescriptive title.
III. Did the Court of Appeal err in law by failing to appreciate that the appeal related to Lot No. 4 (schedule B) and already Lot 4B (schedule C) had been given to the respondents by the judgment of the District Court.
IV. Has the Court of Appeal misdirected in law by coming to the conclusion that the learned District Judge has placed the burden on the wrong party.
V. Did the Court of Appeal err in law by failing to consider that when the respondents claimed rights in Lot No. 4 in D1 and D2 allegedly executed by the predecessors of the plaintiffs it was incumbent of the District Court to come to a finding whether the said deeds related to the corpus.

At the hearing of this appeal, this Court heard the submissions of the learned President's Counsel who represented the 2nd plaintiff, as well as that of the learned President's Counsel who represented the defendant-appellant-

respondents (hereinafter referred to as the defendants.) This Court also had the benefit of considering the pre-argument, as well as, the post-argument written submissions tendered by the parties, for the purpose of pronouncing this judgment.

The matters that led to the impugned judgment pronounced by the Court of Appeal can be summarized in the following manner.

The plaintiffs of the District Court action, including the 2nd plaintiff, instituted an action in form of a vindicatory suit against the defendants, praying for the declaration of title for the two lands morefully described in schedule B and C of their plaint dated 29-12-1993, and also for an order of ejectment of the defendants, and for damages. From the averments of their plaint, they have pleaded title to the said lands based on a final partition decree, as well as on the basis of prescription.

The defendants in their answer have denied the title claimed by the plaintiffs. Having pleaded their title and also the prescriptive title as to the lands described in the plaint, they have moved for the dismissal of the action.

At the trial held in that regard, there had been no admissions by the parties, and the plaintiff of the action has raised 15 issues, while the defendants have raised issue No. 16 to 32.

At the conclusion of the trial, the learned District Judge of Kuliyapitiya, pronouncing her judgment on 16-10-2001 (page 177 of the appeal brief) has correctly identified that the plaintiffs have come before the Court to get a declaration of title to the land morefully described in schedules B and C of the plaint, and also for the ejectment of the defendants and other incidental reliefs.

After having determined that the plaintiffs have come before the Court in order to get a declaration of title to the Northern portion of Lot 4 of plan No. 4455 dated 12-07-1942 prepared by G. A. de Silva Licenced Surveyor for the purpose of Partition Action No. 230, and also for the Lot marked as 4B in the same plan, the learned District Judge has proceeded to consider the title pleaded by the plaintiffs.

The earlier mentioned plan has been marked and produced as P-02 at the trial (page 212 of the appeal brief), which is the final partition plan prepared for the purposes of the District Court of Kurunegala Partition Action No. 230. According to the final partition decree marked P-01, the said Lot 4 as depicted in schedule A of the plaint has been allocated to the 3rd defendant of the action, one Punchi Banda, while Lot 4B, which is the land depicted in schedule C of the plaint, has been allocated to the 12th defendant of the action, one Kirimenika. It has been the position of the plaintiffs that the said Punchi Banda, to whom they have referred to as Punchi Banda Subasinghe, sold the portion of the land South to the road that runs through Lot 4, and he was in possession of the balance portion of Lot 4, which was to the North of the earlier mentioned road.

The plaintiffs have claimed that the said portion of the land was held and possessed by the earlier mentioned Punchi Banda Subasinghe, and upon his death, his son Premachandra held and possessed the said portion of the land along with Lot No. 4B of the final partition plan, and established prescriptive title to the said two portions of the land. The plaintiffs have raised their issues on the basis that upon the death of said Premachandra Subasinghe, the plaintiffs inherited the said portions of the land and established prescriptive title as well.

It was on the basis that the defendants forcibly evicted the plaintiffs on or about 28-10-1993, which resulted in accruing a cause of action for them to get a declaration of title and ejectment of the defendants, as well as damages, the plaintiffs have initiated action before the District Court.

Although the defendants have only claimed for a dismissal of the action, they have also raised their issues based on several title deeds as stated in their pleadings and have also raised an issue on the basis of *Res Judicata*.

The learned District Judge in her judgment has determined that the plaintiffs have established their title to the portion of land described in schedule B of the plaint, while determining that they have failed to establish the title to Lot

4B of the final partition plan. The said Lot 4B is the land described in schedule C of the plaint.

While determining that the defendants have also failed to establish the title as claimed by them in relation to the said Lot 4 of the final partition plan, it has been determined that they have established title with regard to Lot 4B.

On the said basis, the learned District Judge has answered the issues in favour of the plaintiffs in relation to schedule B of the plaint, while allowing damages and also ejectment of the defendants from the said portion of the land.

Being aggrieved of the said judgment, the defendants have appealed to the Court of Appeal.

The Court of Appeal, of its judgment dated 17-12-2010, has determined that the action before the District Court being a *rei vindicatio* action, it was paramount on the plaintiffs to prove their title. It has been determined that since the plaintiffs did not have documentary title, it was incumbent upon them to prove the prescriptive title as claimed by them, however, they have failed to establish any documentary or prescriptive title to the lands claimed by them. It has also been determined that the learned trial Judge has placed an unnecessary burden on the defendants to prove their title and had failed to consider whether the plaintiffs have proved their title as claimed by them.

Holding that the learned trial Judge has misconstrued the principles in relation to a *rei vindicatio* action, the judgment of the learned District Judge has been set aside and the appeal has been allowed.

At the hearing of this appeal, it was the position of the learned President's Counsel who represented the 2nd plaintiff, who is the appellant in this case, that the plaintiffs have properly identified the subject matter of this action and have also pleaded their title to the satisfaction of the Court.

However, the learned President's Counsel intimated to the Court that he will not challenge the determination of the learned District Judge where it was held that the plaintiffs have failed to prove their title to the land described in

schedule C of the plaint, which was Lot 4B of the final partition plan marked P-02.

He also submitted that the defendants who have claimed prescriptive title to the land depicted in schedule B of the plaint have failed to establish their title, and hence, the title established by the plaintiffs should prevail.

In reply to a question raised by the Court during the hearing of this appeal, the learned President's Counsel was of the view that it is not necessary always to obtain the services of a surveyor and to show the land in dispute in relation to a commission obtained through the Court in a *rei vindicatio* action. It was contended that since the plaintiffs have described the land with its metes and bounds and also by way of a final partition plan, there was no difficulty for the trial Court to identify the subject matter of the action. It was submitted further that the Court of Appeal erred in its determinations, and had failed to consider the evidence placed before the trial Court and the judgment of the learned District Judge in its correct perspective, when it was determined that the plaintiffs had failed to establish their title as claimed before the trial Court.

It was the position of the learned President's Counsel who represented the defendants that it has been established before the trial Court that the portion South of the road that runs through Lot 4 of the final partition plan marked P-02, had been sold to the predecessor in title of the defendants by Punchi Banda, who was the person who became entitled to the said portion by the partition decree. It was also pointed out that it was undisputed that Lot 4A of the final partition plan is also held and possessed by the defendants, while the trial Court held that Lot 4B, though claimed by the plaintiffs, was held and possessed by the defendants.

It was the position of the learned President's Counsel that the disputed portion referred to in schedule B of the plaint was also held and possessed by the predecessors of the defendants and the defendants through title deeds as pleaded by them. It was contended that they have established prescriptive title as well to the said portion by holding and possessing the said portion along with the balance portion of Lot 4, Lot 4A, and Lot 4B as one single entity.

It was his submission that the plaintiffs have failed to prove that they held and possessed the said disputed portion of the land until 28-10-1993 as claimed by them in their plaint, and it was the defendants who possessed it throughout, even after the entering of the final partition decree.

The learned President's Counsel went on to contend that the plaintiffs have failed to prove the title to an identified subject matter, and had failed to prove any material proof of prescription, and hence, the Court of Appeal was correct in setting aside the judgment of the learned District Judge of Kuliyapitiya.

Having in mind the facts relating to this matter, the arguments presented to this Court, and the relevant law in that regard, I will now proceed to consider whether the 2nd plaintiff has a basis to succeed in this appeal.

I do not find any misdirection as to the relevant law when the Court of Appeal determined that in a *rei vindicatio* action, the burden is entirely on the plaintiff to prove his title.

It was held in the case of **D.A. Wanigaratne Vs. Juwanis Appuhamy 65 NLR 167 at 168**;

> "*It had been laid down now by this Court that in an action rei vindicatio the plaintiff should set out his title on the basis on which he claims a declaration of title to the land and must, in Court, prove that the title against the defendant in the action. The defendant in a rei vindicatio action need not prove anything, still less, his own title. The plaintiff cannot ask for a declaration of title in his favour merely on the strength that the defendant's title is poor or not established. The plaintiff must prove and establish his title.*"

However, I am not in a position to fully agree with the determination of the Court of Appeal that the plaintiffs of the action do not possess a documentary title, and therefore, they have failed to establish documentary or prescriptive title.

It is clear from the pleadings and the evidence placed before the Court on behalf of the plaintiffs that they have relied on the final partition decree marked as P-01 to claim their title. It has been their position that the 3rd defendant mentioned in that final partition decree, namely, Punchi Banda, who became entitled to Lot 4 of the final partition plan marked P-02, was their predecessor in title. They have claimed title based on inheritance, which they are entitled when claiming title.

Although they could claim title to the land described in schedule B of the plaint on the basis of inheritance, when it comes to the land mentioned in schedule C, the only mode they could claim title would be by claiming prescription through their predecessor in title. Therefore, it is clear that plaintiffs have relied on paper title and prescription in relation to the land described in schedule B, while claiming prescription in relation to the land mentioned in schedule C of the plaint in order to pray for a declaration of title.

In the case of **Leisa and Another Vs. Simon and Another (2002) 1 SLR 148**, it was held;

1. The contest is between the right of dominium of the plaintiffs and the declaration of adverse possession amounting to prescription by the defendants.
2. The moment title is proved the right to possess is presumed.
3. …
4. An averment of prescription by a plaintiff in a plaint after pleading paper title is employed only to buttress his paper title.
5. For the Court to have come to its decisions as to whether the plaintiff had dominium, the proving of paper title is sufficient.
6. The mere fact that the plaintiff claimed both on deeds as well as by long possession did not entail the plaintiff to prove prescriptive title thereto. Their possession was presumed on proving paper title. The averment of prescription in the plaint did not cast any burden upon the plaintiff to prove a separate title by prescription in addition to paper title.

Although it can be said that the plaintiffs have claimed prescription in relation to the land described in schedule B of the plaint, it may have been that the prescription has been mentioned in order to buttress their paper title.

However, as I have stated before, when it comes to the land described in schedule C of the plaint, they will necessarily have to establish the prescriptive title.

Therefore, it is my view that this was a case where the plaintiffs were required to establish paper title, as well as prescriptive title, in relation to the two respective lands for which they claimed a declaration of title against the defendants. It is also important to have in mind that the defendants have claimed prescriptive title to both the lands mentioned in the respective schedules of the plaint, besides claiming paper title based on deeds they have produced before the trial Court.

It was undisputed during the hearing of this appeal that, the determination of the learned District Judge that the land mentioned in schedule C of the plaint, namely, Lot 4B of the final partition plan marked P-02, is a land belonging to and held and possessed by the defendants. It was also undisputed that the land mentioned as 4A in the same plan, which is the land to the South of Lot 4B, is also a land held and possessed by the 1st defendant of the action. In such a scenario, I find it necessary to consider whether the learned District Judge was correct in the finding that the plaintiffs have established the title to the land depicted in schedule B of the plaint.

When it comes to the title in relation to the said portion of land as claimed by the plaintiffs, they have gone on the basis that their immediate predecessor in title, namely Premachandra Subasinghe, was the son of Punchi Banda Subasinghe, who became entitled to Lot 4 of the final partition plan marked P-02.

However, the deeds marked as V-01 and V-02 by the defendants show that in fact the said Punchi Banda and Premachandra were sons of Kirimundyanse Korala of Sandalankawa, which means they are in fact brothers. The plaintiffs have failed to explain this discrepancy as to their claimed title.

If they were indeed brothers as it appears, contrary to the claim by the plaintiffs that they are father and son, the plaintiffs' title pleaded based on inheritance shall fail since they have failed to establish the inheritance they claimed.

It is my considered view that in a *rei vindicatio* action, proving of title to the subject matter of an action includes the proper identification of the land for which a plaintiff is claiming title.

I am in agreement with the submissions of the learned President's Counsel on behalf of the 2nd plaintiff, that in terms of Section 41 of the Civil Procedure Code, when a claim is made in an action for some specific part of a land or some share or interest in a specific portion of land, then the portion of land must be described in the plaint so far as possible by reference to physical metes and bounds or by reference to a sufficient sketch, map or plan appended to the plaint and not by name only.

However, it is also my view that whether stating as such in a plaint would be sufficient to succeed in an action in the nature of a *rei vindicatio* would depend on facts and circumstances specific to each case.

The case under appeal is a matter where there has been no admission as to the corpus. It is true that the plaintiffs have described the land in question in relation to a final partition plan that was prepared in the year 1942. The plaint in this action has been filed in the year 1993, more than five decades after the final partition plan was prepared.

The plaintiffs have claimed not the entire Lot 4 of the final partition plan marked P-02, but only the Northern portion separated through a road running through the Lot 4. The evidence placed before the Court has established the fact that the Southern portion of the said Lot 4 has been sold to the predecessor in title of the defendants by way of the deed marked V-02, by the person who became entitled to the entire Lot 4, who is also the predecessor in title as claimed by the plaintiffs.

Although the said deed appears to be a deed executed after the conclusion of the partition action, there is no reference to the title in relation to the final partition decree in the said deed. However, the fact remains that the predecessors in title of the defendants have had the possession of the Southern portion of the Lot 4 since the year 1942.

The plaintiffs have come before the Court on the basis that the defendants entered the Northern portion of the Lot 4, a few months before they instituted the action, which means they have admitted that the questioned land was in the possession of the defendants.

When it comes to the facts and the circumstances specific to the case under appeal, it is clear that the defendants have also claimed title to the disputed portion through deeds, although the said deeds have been executed in relation to a final determination of the partition action. They have claimed that on the strength of their deeds, they held and possessed the entire land.

It is also clear from the evidence that the two plots of land mentioned as Lot 4A and Lot 4B have been held and possessed by the defendants' predecessors in title as well as the defendants, along with the Southern portion of Lot 4 and also the Northern portion of the said Lot 4 now claimed by the plaintiffs. Because of such a possession, it is reasonable to assume that there would not be identifiable boundaries between the Northern portion of the Lot 4, Lot 4A and Lot 4B.

Therefore, it is my considered view that for the plaintiffs to claim title to a part of Lot 4 which they have described as the Northern portion of the said Lot separated by a road that runs through the said land, it was paramount on them to identify the land claimed for which they are seeking a declaration of title through a survey plan obtained for the purposes of the action.

This is so necessary due to the fact of the defendants' claim of title to the said Lot along with the lands adjacent to the disputed portion.

In the case of **Jamaldeen Abdul Latheef Vs. Abdul Majeed Mohamed Masoor and Another (2010) 2 SLR 333 Saleem Marsoof, P.C., J., at page 377** observed as follows;

> "*It is trite law that the identity of the property with respect to which a vindicatory action is instituted is an fundamental to the success of the action as the proof of the ownership (dominum) of the owner (dominus). The passage from Wille's Principles of South African Laws (9th Edition - 2007) at pages 539-540, which I have already quoted in this judgement, stresses that to succeed with an action rei vindicatio, which this case clearly is, the owner must prove on a balance of probabilities, not only his or her ownership in the property, but also that the property exists and is clearly identifiable. It is also essential to show that the defendant is "in possession or detention of the thing at the moment the action is instituted." Wille also observes that the rationale for this "is to ensure that the defendant is in a position to comply with an order for restoration."*
>
> *The identity of the subject matter is of paramount importance in a rei vindicatio action because the object of such an action is to determine ownership of the property, which objective cannot be achieved without the property being clearly identified. Where the property sought to be vindicated consists of land, the land sought to be vindicated must be identified by reference to a survey plan or other equally expeditious method. It is obvious that ownership cannot be ascribed without clear identification of the property that is subjected to such ownership, and furthermore, the ultimate objective of a person seeking to vindicate immovable property by obtaining a writ of execution in terms of Section 323 of the Civil Procedure Code will be frustrated if the fiscal to whom the writ is addressed, cannot clearly identify the property by reference to the decree for the purpose of giving effect to it. It is therefore essential in a vindicatory action, as much as in a partition action, for the corpus to be identified with precision.*"

There can be no argument that the plaintiffs have not obtained the services of a surveyor to prepare a plan and a report, depicting the disputed portion of the land in relation to the final partition plan under which they claim title. If there was a plan and a report of such a nature, it would have been clear to the trial Court as to the corpus in dispute. The trial Court would be in a much better position to determine the plaintiffs' claim that they were dispossessed of the land only in the year 1993, a few months before they instituted the action.

For the reasons as considered above, I am of the view that this was a case where the learned District Judge, as well as Her Ladyship of the Court of Appeal who pronounced the appellate judgment, had failed to consider whether the corpus for which the plaintiffs claimed title, has been properly identified.

The learned District Judge has gone on the basis of the plan prepared for the partition action which has been concluded in the year 1942. As I have considered earlier, this would not give a clear understanding of the disputed portion of the land claimed by the plaintiffs.

Although the Court of Appeal in its determination has not considered the question of the identity of the land separately, it is my view that proving the title as claimed by the party includes the proper identification of the land for which such a party claims title.

Under the circumstances, I am of the view that the learned District Judge has failed to consider the necessary ingredients that needs to be established in an action for declaration of title, when the matter was determined in relation to the land morefully described in schedule B of the plaint in favour of the plaintiffs.

I find that the Court of Appeal was correct in its final determination to allow the appeal and set aside the District Court judgment, based on the premise that the plaintiffs have failed to prove the title claimed by them, though the question of identity of the land has not been discussed in any detail.

Accordingly, I answer the questions of law under which this appeal was considered in the following manner.

I. No.
II. Although it was not only on the basis of prescriptive title the parties have claimed their rights, it is not a basis to interfere with the Court of Appeal judgment.
III. No.
IV. No.
V. No.

Hence, the appeal is dismissed due to the aforementioned reasons, as I find no merit in the appeal.

The parties shall bear their own costs.

Judge of the Supreme Court

S. Thurairaja, P.C., J.

I agree.

Judge of the Supreme Court

Kumudini Wickremasinghe, J.

I agree.

Judge of the Supreme Court