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

In the matter of an appeal under and in terms of section 11 of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990 and under Part 1 of The Court of Appeal (Procedure for Appeals from High Courts) Rules 1988.

Matara Magistrate Court Case No: 97118 (Section 66)

High Court of Matara Revision Application No: HCRA 17/2019

Court of Appeal Case No: CA(PHC)0028/2021

Officer In Charge,
Police Station,
Kamburupitiya.

Plaintiff

Vs.

1. **Yakalla Kankanamge Sumanasena**,
   "Samara", Gode Gedara, Karagoda,
   Uyangoda.

2. **Yakalla Kankanamge Gnanathilaka**,
   "Samara", Gode Gedera, Karagoda,
   Uyangoda.

1st Party Respondents

1. **Samarawickrama Liyanage Nalin Randika**,
   "Samaragiri", Kadduwa, Karagoda,
   Uyangoda.

2. **L. Bimal Priyankara "Samaragiri"**,
   Kadduwa, Karagoda, Uyangoda.

2nd Party Respondents

AND

Somilat Kumanayake,
"Samaragiri", Kadduwa,
Karagoda, Uyangoda.

2nd Party Intervenient-Respondent

AND

Yakalla Kankanamge Karunasinghe,
No. 20, Madapara,
Welegoda.

1st Party Intervenient-Respondent

AND

1. **Yakalla Kankanamge Sumanasena**,
   "Samara", Gode Gedara, Karagoda,
   Uyangoda.

2. **Yakalla Kankanamge Gnanathilaka**,
   "Samara", Gode Gedera, Karagoda,
   Uyangoda.

Vs.

1. **Samarawickrama Liyanage Nalin Randika,**
   "Samaragiri", Kadduwa,
   Karagoda, Uyangoda.

2. **L. Bimal Priyankara**,
   "Samaragiri", Kadduwa,
   Karagoda, Uyangoda.

2nd Party Respondent-Respondents

Somilat Kumanayake,
"Samaragiri", Kadduwa,
Karagoda, Uyangoda.

2nd Party Intervenient-Respondent-Respondent

AND

1. **Yakalla Kankanamge Karunasinghe**,
   No. 20, Madapara,
   Welegoda.

AND

1. **Honourable Attorney General**,
   Attorney General's Department,
   Colombo 12.

2. **Officer In Charge**,
   Police Station,
   Kamburupitiya.

Plaintiff-Respondents

AND NOW BETWEEN

1. **Yakalla Kankanamge Sumanasena**,
   "Samara", Gode Gedara, Karagoda,
   Uyangoda.

2. **Yakalla Kankanamge Gnanathilaka**,
   "Samara", Gode Gedera, Karagoda,
   Uyangoda.

1st Party Respondent-Petitioner-Appellants

Vs.

1. **Samarawickrama Liyanage Nalin Randika,**
   "Samaragiri", Kadduwa,
   Karagoda, Uyangoda.

2. **L. Bimal Priyankara**,
   "Samaragiri", Kadduwa,
   Karagoda, Uyangoda.

2nd Party Respondent-Respondent-Respondents

AND

Somilat Kumanayake,
"Samaragiri", Kadduwa,
Karagoda, Uyangoda.

2nd Party Intervenient-Respondent-Respondent-Respondent

AND

Yakalla Kankanamge Karunasinghe,
"Samaragiri", Kadduwa,
Karagoda, Uyangoda.

1st Party Intervenient-Respondent-Respondent-Respondent

Before : **D. THOTAWATTA, J.**
K. M. S. DISSANAYAKE, J.

Counsel : Dr. Sunil Cooray with Buddhika Gamage and Rangana Warnasinghe for the 1st Party-Respondent-Petitioner-Appellants.

		2nd Party-Respondent-Respondent-Respondents, 2nd Party-Intervenient-Respondent-Respondent and 1st Party-Intervenient-Respondent-Respondent are absent and unrepresented.
Argued on	:	07.08.2025
Written Submissions of the Respondent-Petitioner -AppellantS tendered on	:	Not tendered.
Written Submissions of the 2nd Party-Respondent-Respondent-Respondents, 2nd Party-Intervenient -Respondent-Respondent and 1st Party-Intervenient -Respondent-Respondent tendered on	:	Not tendered.
Decided on	:	03.12.2025

K. M. S. DISSANAYAKE, J.

Instant appeal arises from an order dated 13.07.2021 made by the learned High Court Judge of the Southern Province holden at Matara (hereinafter called and referred to as the order) in an application in revision bearing No. මා / මහාධි/ නඩු අංකය/ ප්‍රතිශෝධන 17/19, preferred to it by the 1st Party-Respondent-Petitioner-Appellants (hereinafter called and referred to as the Appellants) against an order dated 11.12.2018 made by the learned Magistrate of Matara (hereinafter called and referred to as the learned Magistrate) in the proceedings commenced before her by the Officer in Charge, Police Station, Kamburupitiya upon furnishing information to it under and in terms of section 66(1)(a) of the Primary Courts Procedure Act No. 44 of 1979 (hereinafter called and referred to

as the Act) naming therein as parties the Appellants and the 2nd Party-Respondent-Respondent-Respondents, 2nd Party-Intervenient-Respondent-Respondent and 1st Party-Intervenient-Respondent-Respondent.

It is to be noted that the 2nd Party-Respondent-Respondent-Respondents, 2nd Party-Intervenient-Respondent-Respondent and 1st Party-Intervenient-Respondent-Respondent had made default in entering appearance before this Court right throughout from the very inception of the instant appeal despite notices being issued on them on several occasions as evident from the record, and hence, this Court had proceeded to hear only the learned President's Counsel for the Appellants in support of the instant appeal when this matter came up before us for argument.

The proceedings in the Magistrate Court of Matara commenced upon information being filed by the Officer-in-Charge of the Kamburupitiya Police on 22.05.2018 under section 66(1)(a) of the Act.

The Officer in Charge of the Police Station, Kamburupitiya filing information in Court states that, the dispute that was alleged to have arisen between the parties was one with regard to the possession of a land referred to therein, namely; Kaikawella High Land in extent of 25 perches (hereinafter called and referred to as the land in dispute). This had been clearly, and unequivocally, not only admitted but also, confirmed by Yakalle Kankanamge Sumanasena-1st Party-Respondent-Petitioner-Appellant (hereinafter called and referred to as the 1st Appellant) in his 1st complaint made to Police on 16.04.2018 as well as by Samarawickrama Liyanage Nalin Randika-the 2nd Party-Respondent-Respondent-Respondent (hereinafter called and referred to as the 2nd Party-1st Respondent) in his statement made to Police on 22.04.2018 pursuant to the complaint so made by Yakalle Kankanamge Sumanasena-the 1st Appellant and also in their affidavits and counter affidavits, filed in the Magistrate Court of Matara in the instant action wherein, they both had made adverse and/or rival claim against each other as to the possession of the land in dispute. It is

significant to observe that the learned Magistrate of Matara too, had in page 5 of her order, clearly, observed that dispute is with regard to the possession of the land in dispute.

However, the 2nd Party-Respondent-Respondent-Respondents had raised a jurisdictional objection as to the maintainability of the action on the basis that the land in dispute is a paddy land within the meaning of the definition given to the phrase "Paddy Land" in the Agrarian Development Act No. 46 of 2000, hence, governed by the provisions of the Agrarian Development Act and not by Part VII of the Act, and therefore, the Magistrate Court of Matara had no jurisdiction to hear and determine the dispute referred to it by the Officer-in-Charge of Police Station-Kamburupitiya. The learned Magistrate of Matara had upheld it and dismissed the information filed before her by the Police and the learned High Court Judge of Matara too, had dismissed the application in revision filed by the Appellants before it against the order of the learned Magistrate thereby, affirming the order of the learned Magistrate of Matara on the same line of reasoning as adduced therefor by the learned Magistrate of Matara and the reason adduced therefor, by both the learned Magistrate as well as the learned High Court Judge being that since the land in dispute is a paddy land, such a dispute has to be redressed through special means provided for in the Agrarian Development Act No. 46 of 2000 and hence, the general procedure laid down in part VII of the Act with regard to dispute affecting land where a breach of peace is threatened or likely, is not applicable in such situation and therefore, action was not maintainable in view of the special provisions contained in the Agrarian Development Act.

It is these findings of both the learned Magistrate of Matara as well as the learned High Court Judge of Matara, that the Appellants now, seek to canvas before us by mainly, contending that it is erroneous for the learned Magistrate and the learned High Court Judge to have misapplied the *ratio decidendi* of the case in Mansoor and Another Vs. O.I.C. Avissawella Police and Another-1991(2)

SLR 75 and to have given their orders, when it becomes manifest from the material on record that the dispute in this case is not a dispute between a landlord and a tenant cultivator regarding the tenant cultivator's tenurial rights and as such findings of both the learned Magistrate as well as the learned High Court Judge cannot sustain both in fact and law and therefore, they ought to be rejected *in-limine.*

It may now, be examined.

It is in this context, I would think it expedient and appropriate at this juncture to carefully, examine the scheme embodied in the Agrarian Development Act No. 46 of 2000.

Agrarian Development Act No. 46 of 2000 at the very outset delineates the prime objective intended to be achieved by the legislature by enacting it in that it recites that “An Act to provide for matters relating to landlords and tenant cultivators of paddy lands, for the utilization of agricultural lands in accordance with agricultural policies; for the establishment of agrarian development councils, to provide for the establishment of a land bank; to provide the establishment of agrarian tribunals, to provide for the repeal of the agrarian services act. no. 58 of 1979. and for matters connected therewith or incidental thereto.”

Preamble thereto, enacts that “whereas it has become necessary to set out a national policy in relation to the rights of tenant cultivators" and the restrictions to be imposed on persons using agricultural land for non-agricultural purposes in order to ensure maximum utilization of agricultural land for agricultural production”.

Part I of the Agrarian Development Act No. 46 of 2000 provides for the tenant cultivator of paddy lands; Part IA provides for the rights of tenant cultivators of paddy lands; Part II provides for the utilizing agricultural lands in accordance with agricultural policies; and Part III provides for appointment and powers

and duties or the Commissioner General, Additional Commissioner General, the Commissioners, the Deputy Commissioners, the Assistant Commissioners and Agrarian Development Officers; Part IV provides for the establishment of Agrarian Tribunals; Part IVA provides for Boards of Review; Part V provides for institutional structure of farmers' organizations; Part VI provides for Agrarian Development Councils; Part VII provides for irrigation works and the management of irrigation water; Part VIII provides for general provisions.

It was held in Mansoor and Another Vs. OIC Avissawella, Police and Another (Supra) that, "It has to be noted that there is specific provision in the Agricultural Lands Law and the Agrarian Services Act which gives a right to a tenant as against the landlord and any other person to use and occupy the paddy land and to secure restoration of possession if he is unlawfully evicted. These provisions in the Agricultural Lands Law and the Agrarian Services Act are in the nature of a special right and a remedy for the infringement of that right. Therefore, I hold that the machinery under the Agricultural Lands Law and the Agrarian Services Act is the only one available to a tenant cultivator of paddy land to secure and vindicate his tenurial rights. The general procedure obtaining in Part VII of the Primary Courts Procedure Act with regard to disputes affecting land where a breach of the peace is threatened or likely, is not applicable in such a situation.

See also; Loku Banda vs. Ukku Banda-1982(2) SLR 704

Upon a careful consideration of the scheme embodied in the Agrarian Development Act No. 46 of 2000 in its totality, particularly, in conjunction with its objectives and the preamble and the principle enunciated by Court in Mansoor and Another Vs. OIC Avissawella, Police and Another (Supra) it becomes abundantly, clear without any doubt that the machinery thereunder is the one only available to a tenant cultivator of paddy land to secure and vindicate his tenurial rights and in such a situation only, the Agrarian

Development Act of 46 of 2000 will oust the jurisdiction of a Magistrate vested in him by Part VII of the Act.

Hence, nowhere in the decision in Mansoor and Another Vs. OIC Avissawella, Police and Another (Supra) had it been laid down by this Court that not only a dispute with regard to a tenurial right of a tenant cultivator but also any kind of dispute with regard to the possession of a paddy land, is governed by the provisions of the Agrarian Development Act No. 46 of 2000 and therefore, the general procedure laid down in Part VII of the Act with regard to disputes affecting land where a breach of the peace is threatened or likely, is not applicable in such a situation.

In the result, I am of the view that the mere fact that the dispute that has arisen between the parties is one with regard to the possession of a paddy land, does not in any manner, oust the jurisdiction of a Magistrate vested in him by Part VII by the provisions of the Agrarian Development Act of 46 of 2000 except only when it relates to a dispute with regard to the tenurial rights of a tenant cultivator.

Now, the pertinent question is; **Was the dispute arisen between the Appellants and the Respondents, a dispute with regard to the securing and vindicating of the tenurial rights of the Appellants within the meaning of Agrarian Development Act No. 46 of 2000? or else Was it a dispute with regard to the possession of the land in dispute?**

It may now, be examined.

As rightly, found by the learned Magistrate at page 5 of her order, the dispute in the instant action being a dispute with regard to the possession of the land in dispute within the meaning of section 68(1) of the Act and these findings of the learned Magistrate had been fortified and well supported by the fact that Yakalle Kankanamge Sumanasena-1st Party-Respondent-Petitioner-Appellant (hereinafter called and referred to as the 1st Appellant) in his 1st complaint

made to Police on 16.04.2018 as well as Samarawickrama Liyanage Nalin Randika-the 2nd Party-Respondent-Respondent-Respondent (hereinafter called and referred to as the 2nd Party-1st Respondent) in his statement made to Police on 22.04.2018 pursuant to the complaint so made by Yakalle Kankanamge Sumanasena-the 1st Appellant as well as in their affidavits and counter affidavits, had both made adverse and/or rival claim against each of them with regard to the possession of the land in dispute and not with regard to any dispute in relation to tenurial rights of the Appellants being tenant cultivator and hence, the question as to the rights of the tenant cultivator did not in any manner, arise before the learned Magistrate of Matara for her consideration and therefore, the dispute was governed by the provisions of the Part VII of the Act and not by the provisions of the Agrarian Development Act of 46 of 2000.

However, it is to be observed that the learned Magistrate who having even, rightly, found at page 5 of her judgement that the dispute is one with regard to the possession of the land in dispute, had nevertheless, erroneously, proceeded by totally, misconstruing the *ratio decidendi* of the decision in Mansoor and Another Vs. OIC Avissawella, Police and Another (Supra), to dismiss the information filed before her by the Police under section 66(1)(a) of the Act on a total misapprehension and/or total misconception that not only a dispute with regard to a tenurial right of a tenant cultivator but also any kind of dispute with regard to the possession of a paddy land, is governed by the provisions of the Agrarian Development Act No. 46 of 2000 and therefore, the general procedure laid down in Part VII of the Act with regard to disputes affecting land where a breach of the peace is threatened or likely, is not applicable in such a situation.

It is to be further observed that the learned High Court Judge of Matara too, had proceeded to dismiss the application in revision filed by the Appellants against the order of the learned Magistrate on the same line of reasoning as the

learned Magistrate did, thereby, gravely, misdirecting himself as to the correct law applicable to the instant dispute between the parties.

I would therefore, hold that the learned Magistrate of Matara had gravely, erred both in fact and law when she had proceeded to dismiss the information so filed before her by Police under section 66(1)(a) of the Act on a total misapprehension and/or on a total misconception of the law applicable to the instant dispute between the parties as enumerated above.

Hence, I would, hold that the order of the learned Magistrate of Matara, cannot in any manner, sustain both in fact and law and as such it, should not be allowed to stand both in fact and law.

I would, therefore, proceed to set aside the Judgement of the learned Magistrate of Matara dated 11.12.2018.

Hence, I would further, hold that the order of the learned High Court Judge of Matara too, cannot in any manner, sustain both in fact and law and as such it too, should not be allowed to stand both in fact and law.

I would, therefore, proceed to set aside the Order of the learned High Court Judge of Matara dated 13.07.2021.

In the result, I would direct the learned Magistrate of Matara to hear and determine as expeditiously, as possible, the instant action filed before her by the Police on the strength of the material already, available on record, namely; information filed by the Police together with the observations made by it, and any other connected materials thereto, the 1st complaint made to Police by the Appellants and the statement made thereto by the Respondents to the Police, affidavits and counter affidavits filed by the respective parties before the Court and the written submissions of the respective parties and any other material having evidentiary value that may be available on record.

In the circumstances, I would allow the appeal however, without costs.

Registrar is directed to send the original case record to the Magistrate Court of Matara in due course.

JUDGE OF THE COURT OF APPEAL

D. THOTAWATTA, J.

I agree.

JUDGE OF THE COURT OF APPEAL