

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

**Case No: CA (PHC) 51/2016**

DC Case No: 63742

High Court Ratnapura

Case No: HCR/RA/61/2008

OIC,  
Police Station,  
Ratnapura.

**Appellant**

**Vs.**

01. Kuruppu Mohottalalage  
Ravindra Bandara,  
No: 183/33,  
Angamma Road,  
Ratnapura.

02. Wasthu Kankanamalage  
Nalaka Gunathilake,  
Good shed Road,  
Ratnapura.

**Party**

**AND BETWEEN**

01. Kuruppu Mohottalalage  
Ravindra Bandara,  
No: 183/33,  
Angamma Road,  
Ratnapura.

**1<sup>st</sup> Party - Petitioner**

**Vs.**

01. Wasthu Kankanamalage  
Nalaka Gunathilake,  
Good shed Road,  
Ratnapura.

1<sup>st</sup> Party - Respondent

OIC,  
Police Station,  
Ratnapura.

**Appellant - Respondent**

***AND NOW BETWEEN***

Kuruppu Mohottalalage  
Ravindra Bandara,  
No: 183/33,  
Angamma Road,  
Ratnapura.

**1<sup>ST</sup> Party - Petitioner -  
Appellant**

Wasthu Kankanamalage  
Nalaka Gunathilake,  
Good shed Road,  
Ratnapura.

**2<sup>nd</sup> Party - Respondent -**

**Respondent**

OIC,  
Police Station,  
Ratnapura.

**Appellant - Respondent -**

**Respondent**

**Before : P.R. Walgama, J**  
**: L.T.B. Dehideniya, J**

**Council : Parties absent and unrepresented.**

**Argued on : 23.05.2016**

**Decided on : 29.08.2016**

CA (PHC)- 51- 2010 - JUDGMENT- 29.08.2016

**P.R. Walgama, J**

On the day that this case was fixed for argument,  
both parties were absent and unrepresented. Therefore

this court concluded the argument and fixed the case for judgment.

The officer in charged of the police station Ratnapura filed an information in terms of Section 66 (1) (a) of the Primary Court Procedure Act No. 44 of 1979 of a dispute in respect of a boutique claimed by both parties which culminated to the breach of the peace.

The Learned Magistrate after giving due consideration to the facts placed before him had made order that the boutique which is the subject matter of this action should be given to the 2<sup>nd</sup> Party -Respondent.

The Learned Magistrate was of the view that the 1<sup>st</sup> Party Respondent has not satisfied Court that he was in possession of the said boutique or two months prior to the dispute that 2<sup>nd</sup> Party - Respondent had disposed him.

In the above setting he Learned Magistrate was inclined to determine that the said boutique should be handed over to the 2<sup>nd</sup> Party- Respondent.

Being aggrieved by the said order of the Learned Magistrate the 2<sup>nd</sup> Party- Respondent- Petitioner moved the Provincial High Court in revision to revise the said order.

It is been noted that, as the Petitioner was absent the Learned High Court has dismissed the

application. But nevertheless on a subsequent occasion the Petitioner once again made an application to reopen the matter. But it is salient to note that once the revision application is dismissed cannot be fixed for argument again.

Therefore for the fore going reasons this Court is of the view that Petitioner- Appellant's application is unmeritorious and should stand rejected.

Appeal dismissed without costs

**JUDGE OF THE COURT OF APPEAL**

L.T.B. Dehideniya, J

I agree.

**JUDGE OF THE COURT OF APPEAL**