

1897.
August 20.

NONA BABA v. NAMOHAMY *et al.*

D. C., Galle, 2,182.

Partition—Misconceived action—Questions appropriate to partition proceedings—Title.

The primary object of partition proceedings is not to try and determine contested questions of title, and a contest as to title should not be made the subject of such proceedings. They are really meant for those whose shares in the land are admitted. at least to some extent.

IN this case the plaintiff sued the defendants for partition of certain land. The defendants denied the plaintiff's title altogether. The District Judge, after evidence heard, dismissed the action. On appeal by the plaintiff—

Alwis, for appellant.

Aserappa, for respondents.

20th August, 1897. WITHERS, J.—

If there were no other grounds for supporting this judgment—and I do not say there are not—this is quite sufficient that this action for partition is an abuse of the Partition Ordinance.

This Court has constantly observed that a contest about title should not be made the subject of a suit appropriate to an inquiry of the kind.

The successful party if declared to be a co-owner with the losing party can then initiate partition proceedings if so advised.

Partition proceedings are really meant for those whose shares in the land are admitted at least to some extent.

The Court has of course to be satisfied with the titles of those, who claim to be shareholders, and contest as to amount or extent of shares, if it occurs, is incidental.

The primary object of partition proceedings is not to try and determine contested questions of title.

Affirmed with costs.
