

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

CA 528/98(F)

DC Gampaha Case No. 34467/P

R.P Allin Sinnyo

No: 100,

Kalatuwawa,

Kalagedihena.

Appellant

Vs.

R. Ardiman Sinnyo

Kalatuwawa,

Kalagedihena.

Respondent

C.A. 528/98(F) : D.C. Gampaha Case No. 34467/P

Before : K.T. Chitrasiri, J.

Counsel : S.A.D.S. Suraweera watching the interest of the heirs of the
deceased Appellant

W. Dayaratne, P.C. with Sakunthala Jayalath for the 1st & 5th

Defendant-Respondents

Argued &

Decided on : 17.12.2012.

K.T. Chitrasiri, J.

The Registrar of this Court, having prepared the briefs, had issued notices on the parties to be present in Court in order to proceed with the appeal. Thereafter when this matter was mentioned on 03.10.2011, appellant was absent and unrepresented though a notice had been sent to him under registered post. Even thereafter on several occasions notices were sent to the Appellant directing him to appear in Court but he has never come to Court. On 09.03.2012, a Counsel appearing in Court had moved to file substitution papers in order to substitute the heirs of the deceased Appellant. Mr. S.A.D.S. Suraweera who is in Court today informs Court that the Appellant had died pending the hearing of the

appeal around four years ago. Several dates had been given for the heirs of the Appellant to take necessary steps for them to be substituted for the purpose of proceeding with this appeal. They had failed to take any action. Mr. S.A.D.S.Suraweera today informs Court that even though he had handed over the necessary papers to the heirs of the deceased Appellant, they have not instructed him to take necessary steps.

Therefore, it is clear that the heirs of the deceased Plaintiff-Appellant is not taking steps to proceed with this appeal diligently. In the circumstances, this Court makes an order abating the appeal.

The judgment of the learned District Judge of Gampaha should remain as it is. The learned District Judge is free to take necessary steps according to law if and when any application is made. Accordingly, the appeal is abated and the proceedings in this Court therefore is terminated.

JUDGE OF THE COURT OF APPEAL

Cr/-