

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

Abdul Gaffor Jabeer,  
No 168, Patanegedara,  
Gurutalawa.

Plaintiff

C.A. No. 123 / 2000 F

**Vs.**

D.C. Bandarawela No. 1649 / M

Mohomad Salee Abdul Hameed,  
Seenimale,  
Alugolla,  
Bogahakumbura.

Defendant

**AND NOW BETWEEN**

Mohomad Salee Abdul Hameed,  
Seenimale,  
Alugolla,  
Bogahakumbura.

Defendant Appellant

**Vs**

Abdul Gaffor Jabeer,  
No 168, Patanegedara,  
Gurutalawa.

Plaintiff Respondent

BEFORE : UPALY ABEYRATHNE, J.

COUNSELS : Defendant Appellant- Absent and unrepresented  
Plaintiff Respondent- Absent and unrepresented

DECIDED ON : 23.01.2012

UPALY ABEYRATHNE, J.

The Plaintiff Respondent (hereinafter referred to as the Respondent) instituted the said action against the Defendant Appellant (hereinafter referred to as the Appellant) in the District Court of Bandarawela seeking to recover a sum of Rs. 75.000/- as damages caused to his tea plants.

The Appellant filed answer denying the Appellant's claim and prayed for a dismissal of the Respondent's action. On the date of trial, namely on 02.02.1999, since the Appellant was absent and unrepresented the case had been fixed for an ex-parte trial.

Thereafter the ex-parte trial had been held on 23.03.1999, the judgement also had been pronounced on the same date and an ex-parte decree had been entered accordingly. Thereafter a copy of the said ex-parte decree had been served on the Appellant. The Appellant upon the receipt of the said copy of the ex-parte decree has preferred an application under section 86(1) of the Civil Procedure Code (CPC) seeking to have the said ex-parte judgement and the decree vacated and after inquiry the learned District Judge by his order dated 20.03.2000 has

dismissed the Appellant's said application with costs. The Appellant has appealed to this court from the said order.

The Appellant has stated in his petition of appeal that the learned District Judge has failed to analyse the evidence and has not given the reasons for his decision.

I have carefully perused the said order of the learned District Judge. It seems to me that the said order is a well considered order which runs to five pages. He has given his mind to the evidence led in the case.

In the said circumstances I see no reason to interfere with the order of the learned District Judge dated 20.03.2000. Therefore I dismiss the appeal of the Appellant with costs.

*Appeal dismissed.*

Judge of the Court of Appeal