

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

W.M.D. Osmand Victor Wijemanna  
Ralahami  
Madagoda

**Plaintiff Appellant**

**CA 962/98**  
DC Horana 13610/P

**Vs.**

L.W. Sirisena  
Madagoda

**Respondant**

And 06 Others

**C.A. 962/98 (F)**

**D.C. Horana Case No: 13610/P.**

**BEFORE** : Anil Gooneratne, J.

**COUNSEL** : Appellant is absent and unrepresented.  
T. Weragoda with J. Kroon for the 4<sup>th</sup> Respondent.  
T. Dinusha Perera for the 1<sup>st</sup> Respondent.

**DECIDED ON** : 03.10.2012

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**Anil Gooneratne, J.**

Registrar's minute on 25.08.2011 indicates that the Appellant has not deposited brief fees. Thereafter, this Court directed the Registrar to issue notice on the Appellant as well as the Respondent. This case has been listed in this Court from 02.11.2011 and subsequent to the said date this case has come up at least on six occasions. On all those days Appellant was absent and unrepresented. Since brief fees have not been deposited by the Appellant this Court directed the Registrar to issue Rule 13(b) notice in compliance with the Supreme Court Rules. Registrar of this Court in compliance with the said order has dispatched Rule 13(b) notice on the Appellant on 06.03.2012. There has been no response to the said notice. However, I note that the Respondent has deposited brief fees. The Rule 13(b) notice issued to

the Appellant has also not been returned to this Court. Notices have been dispatched by the Registrar of this Court according to the information available in the docket. Perusal of the docket I cannot find whether there was any attempt made by the Appellant to furnish particulars of any change of address or status. In the above circumstances it appears to this Court that the Appellant has failed to exercise due diligence to prosecute this appeal. This Court acting in terms of Rule 13(b) and 34 of the Supreme Court Rules is bound to reject this appeal. In the above circumstances this Court makes order rejecting this appeal.

Appeal dismissed. No costs.

JUDGE OF THE COURT OF APPEAL

NR/-