

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

In the matter of an Application for Leave to Appeal from the Order dated 22<sup>nd</sup> March 2006 delivered by the Learned District Judge in the District Court of Kandy Colombo Case No 15128/L.

Willora Mudiyansele Shelton  
Bowatte of 84/3, Castle Bar Hill,  
Peradeniya (Deceased)

**PLAINTIFF**

Claris Bowatte  
of 84/3, Castle Bar Hill,  
Peradeniya

**SUBSTITUTED - PLAINTIFF**

C.A.L.A. Application No : 141/2006  
D.C.Kandy Case No: 15128/L-

Vs-

Merissa Lankage Ubeysena  
of 84/12 Castle Bar Hill,  
Peradeniya (Deceased)

**DEFENDANT**

Rajapakse Manimel Thambi  
Gunawathie de Silva  
Kururkularatne,  
of 84/12, Castle Bar Hill,  
Peradeniya

**SUBSTITUTED - DEFENDANT**

-AND-

Claris Bowatte  
of 84/3, Castle Bar Hill,  
Peradeniya

**SUBSTITUTED - PLAINTIFF -  
PETITIONER**

-Vs-



Rajapakse Manimel Thambi  
Gunawathie de Silva  
Kururkularatne,  
of 84/12, Castle Bar Hill,  
Peradeniya

**SUBSTITUTED -DEFENDANT-  
RESPONDENT**

**-AND NOW-**

Claris Bowatte  
of 84/3, Castle Bar Hill,  
Peradeniya

**SUBSTITUTED -PLAINTIFF-  
PETITIONER-PETITIONER**

**PETITIONER**

**-Vs-**

Rajapakse Manimel Thambi  
Gunawathie de Silva  
Kururkularatne,  
of 84/12, Castle Bar Hill,  
Peradeniya

**SUBSTITUTED -DEFENDANT-  
RESPONDENT-RESPONDENT**

**RESPONDENT**

C.A. L.A. No. 141/2006 - D.C. Kandy No. 15128/L

Before : **ERIC BASNAYAKE, J.**

Counsel : Surath Piyasena for the substituted-Plaintiff-Petitioner-Petitioner

Dr. Jayantha de Almada Gunaratne for the Substituted-Defendant-Respondent-Respondent

Argued &  
Decided on : 17.01.2012

**Eric Basnayake, J.**

Heard counsel.

The substituted-plaintiff-petitioner-petitioner filed this petition in the Court of Appeal on 7.4.2006 seeking inter alia to set aside the decree signed by the learned District Judge on 30<sup>th</sup> October, 2003 (P8) and to have the decree entered as per the decree of the Court of Appeal. The Court of Appeal entered decree in terms of Section 776 of the Civil Procedure Code. This decree was in terms of the judgment delivered on 12.7.2002 (P6). Counsel for the substituted defendant-respondent-respondent concedes that the decree of the District Court has to be as per the decree entered by the Court of Appeal.

The judgment of the Court of Appeal dated 12.07.2002 was sent to the District Court of Kandy and received by the District Court of Kandy on 2<sup>nd</sup> December 2002. This judgment was sent

along with the decree. The decree states that “ for the reasons given in this judgment dated 12<sup>th</sup> of July 2002, the appeal allowed with costs”.

Counsel concede that the decree signed by the learned District Judge dated 30<sup>th</sup> of October 2003 (drafted on 24<sup>th</sup> of September 2003) does not in conformity with the decree entered by the Court of Appeal.

Therefore Counsel concede that the decree entered be set aside. Counsel also concede that the learned District Judge could be directed to enter decree as per the Court of Appeal decree in terms of Section 776 of the Civil Procedure Code.

The learned District Judge is thus directed to enter decree as per the decree of the Court of Appeal.

The proceedings are terminated.

**JUDGE OF THE COURT OF APPEAL**

/mds