

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

CA Case No. **188/98(F)**

DC Kurunegala No. 2346/P

H.M. Suwaim
Maliyadewa Weediya,
Kurunegala.

Plaintiff

Vs.

R.Surasewa
Nugagahawela,
Meegahahena,
Kahadanwala.

N.G Hawwa Umma
Yatilla,
Weuda.
N.G. Samith
Yatilla,
Weuda.

O.L Samila Begam
Samith Bare,
Yatilla,
Weuda.

Respondents

Before : **K.T. Chitrasiri, J.**

Counsel : Substituted Plaintiff Appellant is absent and
unrepresented.
Swarnalatha Ginige for the 1st Defendant Respondent.
Other Defendant Respondents are absent and
unrepresented.

Argued &

Decided on : 23.10.2012

K.T. Chitrasiri, J.

Counsel for the 1st Defendant Respondent submits that the 5th Defendant is the mother of the 1st Defendant.

Registrar of this Court had sent several notices to the substituted Plaintiff Appellant namely, Abdul Hameed Suwaib and also to his Attorney-at-law, T.S.I. Wettewa informing that this matter has already been fixed for argument.

Substituted Plaintiff Appellant has never been present in this Court even though several notices had been sent by the Registry.

Accordingly, it is evident that the Appellant is not prosecuting this appeal diligently.

This action was filed in the District Court of Kurunegala to have the land referred to in the schedule to the plaint, partitioned. Having considered the evidence led before the learned District Judge, he has come to the conclusion that the Plaintiff has failed to prove the pedigree relied upon by him. In coming to the said conclusion learned District Judge had considered the relevant deeds marked P 2 – P 8.

Having referred to the preliminary plan marked P 1, learned District Judge also had decided that there was no sufficient evidence to prove the identity of the land sought to be partitioned.

I do not see any reason to disturb the aforesaid findings of the learned District Judge. Therefore, it is clear that there is no merit in this appeal.

Accordingly, the appeal is dismissed without costs.

JUDGE OF THE COURT OF APPEAL

KRL./-