

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

Court of Appeal Case No. CA 1039/98(F)

01. Don Karolis Jasingh Dissanayake (Deceased)
Paranawatta, Rotumba

**01.A. Don Charlis Jasingh Dissanayake
Rotumba**

02. Don Charlis Jasingh Dissanayake (Deceased)

**02.A. Ajantha Pushpakumara Jasingh Dissanayake
Heiamurawatta, Rotumba**

PLAINTIFFS

Vs.

01. Don Hendrick Jasingh Dissanayake
Bengamuwa.

02. Don Pedrik Jayasingh Dissanayake.
Bengamuwa.

03. Dona Sisiliyana Jasingh Disanayake. (Deceased)
Bengamuwa.

**03.A. Don Pedrik Jasingh Dissanayake.
Bengamuwa.**

04. Kumasaruge Sirisena.
Godawela, Kolonna Korale, Ratnapura

05. Pemawathi Kllmasaru
Godawela, Kolonna Korale. Ratnapura

06. Titus Sunil Jasingh Dissanayake, Rotumba.
07. Sepala Rathnayake seelic. Rotumba.
- 07.A. Piyadasa Jasingh Dissanyake, Rotumba.**
08. Piyadasa Jasingh Dissanyake, Rotumba.
09. Ariyadasa Jasingh Dissanayake, Rotumba.
10. Karunathilaka Jasingh Dissanayake. Rotumba.
11. Dhanapala Jasingh Dissanayake, Rotumba
12. Kandage Dingihami, Rotumba.
13. Ranaweera Senanayake, Batugahakoratuwa.
Rotumba.
14. Ranawakage Hamina, Pitawatta, Rotumba.
15. Prathapage Martin Appuhamy, Pitawatta, Rotumba.

AND 37 OTHERS

DEFENDANT -RESPONDENTS

C.A. No. 1039/98(F)

D.C. Matara Case No. 11571/P

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

Counsel : M.S. Kusala Wijesundera instructed by
Nayana Athukorale appears for the appellant.

Plaintiff-Respondent is absent and unrepresented.

Nilantha Sirimanne for the Substituted 2A Defendant-Respondent.

W. Dayaratne, P.C. with D. Dayaratne for 23rd to 25th,
33rd to 36th, 43rd, 44th, 45th and 51st Defendant-Respondents.

B. Gamage for 52nd Defendant-Respondent.

Argued &
Decided on : 24.10.2012.

K. T. Chitrasiri, J.

Counsel for the appellant submits that she, as well as the Registered Attorney of the appellant have not received instructions from the appellant even though the Registered Attorney by her letter dated 21.07.2012 had informed the appellant to instruct them in order to pursue this appeal. She further submits that the appellant has sent a letter to

the Registered Attorney stating that the appellant does not wish to proceed with this appeal. Those two letters, namely the letter dated 21.07.2012 sent by the Registered Attorney and the letter dated 31.07.2012 sent by the appellant are being tendered to Court. She moves that those two letters be filed in the docket.

In these circumstances, Counsel for the appellant moves to withdraw this appeal. Counsel for the Respondents have no objections for the appeal being withdrawn. Application for withdrawal of the appeal is allowed. Accordingly the appeal is dismissed without costs.

At this stage, Counsel appearing for the party sought to be substituted in place of the 2nd plaintiff-respondent, submits that the 1A defendant-respondent and 2nd defendant-respondent are the sons of the deceased 2nd plaintiff-respondent. He also submits that this appeal had been filed after the delivery of the impugned judgment. Accordingly he further submits that the substitution has not been effected yet in order to substitute 1A and 2nd plaintiff-respondent in the room of deceased 2nd plaintiff-respondent.

In the circumstances, learned District Judge is directed to consider the application to substitute the heirs of the 2nd plaintiff-respondent in the room of the deceased 2nd plaintiff-respondent in the event an application is made.

Appeal dismissed without costs.

JUDGE OF THE COURT OF APPEAL

AKN