

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

CA No. 779/1986 (F)

DC Kalutara Case No. 4443/P

01. Mohamed Lebbe Abdul Rasak.
02. Abdul Razak Mariyam Beevi,
03. Abdul Rasak Mohamed Hussain
04. Abdul Razak Mohamed Nalir alias Haleel
05. Abdul Razak Zeenath Umma
06. Abdul Rasak Mohamed Ibrahim

All of:

No: 179, Old Road, Mahagoda,
Beruwela.

**1st, 10th, 11th, 12th, 13th and 14th
Defendant-Appellants**

Vs.

01. Abdul Rahuman Marikkar Mohamed Thahir
No. 382, Old Road,
Beruwela.

02. Abdul Majeed Marikkar Mohamed Sally
No. 14, Awwal Zavia Road,
Colombo 14.

Plaintiff-Respondents

03. Abdul Majeed Noorul Naseema.
04. Abdul Majeed Marikkar Noorul Nasma.
05. Abdul Majeed Marikkar Noorul Sanuma.
06. Mohamed Hanifa Mohamed Sameer.
07. Mahamed Hanifa Mohamed Mubarak.
08. Mahamed Hanifa Mohamed Fareed.
09. Abdul Rahuman Marikkar Mohamed Husein.

Defendant - Respondents

And Now

Abdul Razak Mohamed Nalir alias Haleel

13th Defendant- Appellant- Petitioner

- Vs –

01. Mohamed Lebbe Abdul Rasak.
02. Abdul Razak Mariyam Beevi,
03. Abdul Rasak Mohamed Hussain
04. Abdul Razak Mohamed Nalir alias Haleel
05. Abdul Razak Zeenath Umma
06. Abdul Raszak Mohamed Ibrahim

All of:

No: 179, Old Road, Mahagoda,
Beruwela.

Defendant-Appellants- Respondents

C.A. No. 779/1986(F)

D.C. Kalutara Case No. 4443/P.

Before : Upaly Abeyrathne, J.

Counsel : A.C.M. Ismail appears for 12th, 13th and 14th
Defendant-Appellants.

Argued &
Decided on : 30.08.2012.

Upaly Abeyrathne, J.

Heard Counsel in support of the application for substitution. The 1st Defendant-Appellant Mohamed Lebbe Abdul Rasak has died on 26.04.1990. Death certificate has been produced marked 'A'. He has died leaving 6 children as heirs of his estate. The petitioner is one of the said 6 children. The petitioner has produced the birth certificates of the said children marked A, B, C, D, E and G. I have perused all required documents. I am of the view that the petitioner is a fit and proper person to be substituted in place of the deceased 1st Defendant-Appellant. Hence I order to substitute Abdul Razak Mohamed Nalir alias Haleel as the Substituted 1st Defendant-Appellant.

Registrar is directed to amend the caption accordingly. Tender amended caption. The learned Counsel for the 1st, 10th, 11th,

12th and 14th Defendant-Appellants makes an application to withdraw this appeal. Application for withdrawal is allowed. Appeal is dismissed without costs. Registrar is directed to send the main record to the relevant District Court.

JUDGE OF THE COURT OF APPEAL

AKN