

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

**CA 988/98 (F)**

DC Matara Case No.8000/L.

01. W.M Mahawidana Muhandiramge Dayananda

02. M.D. Nishantha

All are

No: 130,  
Borala Road,  
Weligama.

**Plaintiff – Appellant**

**Vs.**

Kaum Hajjiyar Siththi Fathima  
No: 90,  
Galbokka,  
Weligama.

**Appellant - Defendant - Respondent**

C.A. Appeal No. 988/98(F) - D.C. Matara No. 8000/L

BEFORE : **ANIL GOONERATNE, J.**

COUNSEL : Appellant and the Respondent are absent and unrepresented.

DECIDED ON : 30.08.2012

**Anil Gooneratne, J.**

On previous three occasions, counsel appeared for the Appellant. Respondent has been absent and unrepresented. Today there is no appearance for either party. When this matter came up before this court on 25.10.2011 counsel for the Appellant informed Court that the respondent has expired and moved to file necessary substitution papers. Again counsel for the Appellant repeatedly moved to file same on 14.12.2011, 08.03.2012 and 10.05.2012, but he had not filed the necessary substitution papers. Today there is no appearance for either party. It appears that counsel who appeared for the Appellant has not exercised due diligent to prosecute this appeal. In all above circumstances, this court has no alternative but to reject this appeal. The appeal is abated.

In the event an application is made to re-list the appeal, this court will consider such application.

*Appeal abated.*

**JUDGE OF THE COURT OF APPEAL**

/mds