

In the Court of Appeal of the Democratic  
Socialist Republic of Sri Lanka

CA 1152/96 F  
DC Tangalle 8871 M

K H Piyadasa,  
Dharshana Studio,  
Medakatiya Road, Tangalle.  
**Defendant-appellant**  
Vs  
P H Ekanayaka,  
Gatamanna,  
Walawwatta.  
**Plaintiff - respondent**

Before: A W A Salam, J  
Parties absent and unrepresented.  
Decided on: 29.09.2011.

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**A W Abdus Salam, J**

This is an action by the plaintiff-respondent against the defendant-appellant to recover a sum of Rs 4000/- due on cheque. The defendant-appellant has negotiated the cheque with the plaintiff in settlement of the sale of timber by the plaintiff-respondent. The defendant-appellant has taken up the position that the cheque in question had been given to the plaintiff-appellant as security which position the learned district judge has totally rejected.

After considering the evidence adduced at the trial the learned district judge has decided to place reliance on the evidence of the plaintiff-respondent and had entered judgment against the defendant-appellant. As the judgment of the learned district judge is based on the credibility of witnesses, I am not inclined to interfere with the impugned judgment. Moreover, the defendant-appellant has not established in a miscarriage of Justice or perversity that had resulted from the impugned judgment. Hence, this appeal stands dismissed subject to costs.

Judge of the Court of Appeal