

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

Case No. CA 653/98 (F)

DC Kuliypitiya 11142/L

Ilanganathilakage Premachandra Jayasinghe

No: 01/30,

Kurunegala Road,

Narammala.

Petitioner

Vs.

B.K. Steaphen Nikalas

No: 28,

Kurunegala Road,

Narammala.

Respondent

Case No. CA 653/98 (F)

DC Kuliyaipitiya 11142/L

BEFORE : K.T. Chitrasiri, J.

COUNSEL : Parties are absent and unrepresented.

DECIDED ON : 18.01.2013

K.T. CHITRASIRI, J.

This is an appeal seeking to set aside the order dated 17.09.1998 delivered by the learned District Judge of Kuliyaipitiya. In that order, learned District Judge allowed an application by the defendant and vacated the judgment delivered upon an ex-party trial.

In that order learned District Judge has considered the circumstances under which the defendant was absent on the day the case was taken up for trial. She has analyzed carefully, the reasons for the absence. I am unable to find any wrong, in the way the evidence to purge the default had been considered.

Accordingly, this Court is not inclined to interfere with the order made on 17.09.1998. For the reasons stated above, the appeal is

dismissed. Accordingly the order made on 17.09.1998 by the learned District Judge allowing the defendant to file answer would stand as it is.

Learned District Judge is directed to proceed with the case from that point onwards.

Appeal dismissed with costs.

JUDGE OF THE COURT OF APPEAL

KRL/-