

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

CA Appeal No.1000/98(F)

DC Matale 4505/L

Karupaiya Gandimathi
No: 46,
Raththota,
Matale.

Complainant

Vs.

Abeysekara Arachchilage Abeyrathne
No 653,
Mandandawela,
Matale.

Defendant

C.A.Appeal No.1000/98(F)

D.C.Matale 4505/L

Before : K.T.Chitrasiri, J.

Counsel : Parties are absent and unrepresented.

Argued &

Decided on : 01.02.2013

K.T.Chitrasiri, J.

Registrar of this Court has sent notices to both parties on several occasions directing them to be present in this Court to proceed with the appeal. No party has come to Court on any of those occasions. When this matter was mentioned on 28.11.12, it is recorded that the notice sent to the Registered Attorney of the appellant had been returned with an endorsement that the registered Attorney had left the given address. Even after the last date, the Registrar of this Court has sent a notice to the plaintiff-appellant by his letter dated 05.12.12, directing her to be present in this Court today. The said letter has also been returned with an endorsement that the appellant has left the country. Therefore, it is clear that the plaintiff-appellant is not prosecuting this appeal diligently.

This is an appeal, seeking to set aside the judgment dated 09.10.1998 of the learned District Judge of Matale. In the said petition of appeal, it is stated

that the learned District Judge had not properly evaluated the evidence led before him.

This is an action to demarcate the boundary between the two lands referred to in the two schedules found in the plaint dated 04.06.1992. The learned District Judge having considered the evidence as to the boundary between the two lands, particularly the evidence of the two surveyors had come to the conclusion that the defendant had not altered the boundary between the two lands. Learned District Judge having analyzed the evidence in this regard and also having considered the evidence as to the damages, claimed by the plaintiff had dismissed the plaint.

I do not see any wrong on the part of the learned District Judge when he came to his conclusion and therefore there is no reason to interfere with his findings. Accordingly the appeal of the appellant is dismissed with costs.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

KLP/-