

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

Case No: **C.A. 911 / 98 F**  
D.C. Kegalle Case No. 1492/L

Warsa Devayalage Babanis of  
Gabbala , Rambukkana

**Plaintiff**

- (1)** Rajakandathagedara Lamindu of  
Gabbala , Rambukkana (dead)
- (1A)** Moratannalage Kiri of  
Belgodakanda, Walalgoda, Kosgolla,  
Katupitiya, Kurunegala
- (1B)** Moratannalage Punchi of  
Nehelgama, Kotawella
- (1C)** Moratannalage Baby Nona of  
4th mile post, Kalugalla
- (1D)** Moratannalage Podi Nona of  
No;254, Wehara, Kurunegala
- (1E)** Moratannalage Albi Nona of  
Udainguruwatta, Inguruwatta,  
Kotawella, Gabbala, Rambukkana
- (1F)** Moratannalage Jane Nona of  
Heenatiwela, Gabbala, Rambukkana
- (1G)** Moratannalage Premaratne
- (1H)** Moratannalage Dayawathi

(1I) Moratannalage Piyasena

**Substituted- Defendants**

(2) Moratannalage Piyasena all of  
Walpola, Kotawella, Gabbala,  
Rambukkana

**Defendants**

**And Between**

Warsa Devayalage Babanis of  
Gabbala , Rambukkana (deceased)

**Plaintiff –Appellant**

Warsa Devayalage Somawathie of  
Gabbala , Rambukkana

**Substituted Plaintiff –Appellant**

**Vs.**

(1A) Moratannalage Kiri of  
Belgodakanda, Walalgoda, Kosgolla,  
Katupitiya, Kurunegala

(1B) Moratannalage Punchi of  
Nehelgama, Kotawella

(1C) Moratannalage Baby Nona of  
4th mile post, Kalugalla

(1D) Moratannalage Podi Nona of  
No;254, Wehara, Kurunegala

- (1E) Moratannalage Albi Nona of  
Udainguruwatta, Inguruwatta,  
Kotawella, Gabbala, Rambukkana
- (1F) Moratannalage Jane Nona of  
Heenatiwela, Gabbala, Rambukkana
- (1G) Moratannalage Premaratne
- (1H) Moratannalage Dayawathi
- (1I) Moratannalage Piyasena

**Substituted- Defendants- Respondent**

- (2) Moratannalage Piyasena all of  
Walpola, Kotawella, Gabbala,  
Rambukkana

**2nd Defendants-Respondent**

**C.A. No. 911/98(F)**

**D.C. Kegalle Case No. 1492/L**

**Before** : K.T. Chitrasiri, J.

**Counsel** : Niluka Dissanayake for the Substituted-  
Plaintiff-Appellant.

Channamali Ranatunga for the 1(g)  
Defendant-Respondent.

**Argued &**  
**Decided on** : 05.02.2013.

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**K.T. Chitrasiri, J.**

The plaintiff-appellant had been directed to effect the substitution in order to substitute the heirs of the deceased 1b, 1c and 1e defendant-respondents from the time that the briefs were ready. When this matter was mentioned on 25.07.2012 and on 02.11.2012, appellant had obtained dates to file substitution papers. However, the appellant has not filed substitution papers yet.

Counsel for the appellant admits that the appellant has not taken steps to substitute the heirs of the deceased respondents.

She further states that the 1b defendant had died on 19.11.1994 which was a date prior to the delivery of the impugned judgment.

The aforesaid inaction of the plaintiff-appellant shows that the appellant is not prosecuting this appeal diligently. Without substitution being made this appeal cannot be taken up for hearing. In the circumstances, acting under Rule 34 of the Supreme Court Rules, this Court makes an order dismissing the appeal with costs.

*Appeal dismissed.*

JUDGE OF THE COURT OF APPEAL

AKN