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

C.A No. 454/98 (F)
D.C. Colombo Case No. 4216 / SPL

P. Charlie Fernando
No. 495,
Anura Mawatha,
Hokandara North,
Hokandara.
(Deceased)
Plaintiff- Respondent

P. Sunil Fernando
102, 1st Lane, Kandy Road,
Wedamulla,
Kelaniya.
Petitioner
Vs.

Colombo North Regional Transport Board
No. 200/30,
Kirula Road,
Colombo 05.

Defendant -Appellant-Respondent

Panawennage Ranjani Fernando

Panawennage IranganiFernando
494/B,
Hokandara North,
Hokandara.
Respondants

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

Counsel   :   S.Karunadhara for the Petitioner

                  Anusha Nandasena with Mr.Palitha Mathew for the 3rd
                  and 4th -Respondents

Argued &
Decided on :   28.01.2013

K.T.Chitrasiri, J.

Mr.Karunadhara who appears for the petitioner P.Sunil Fernando was directed on the last occasion to file substitution papers in order to substitute the heirs of the deceased plaintiff-respondent. He was directed to file papers, two weeks before today after having issued notice to the persons sought to be substituted.

The appellant in this case is not being represented. It is the duty of the appellant to take necessary steps such as substitution to proceed with the appeal. The Registrar of this Court has sent notices on several occasions to the appellant directing him to be present in this Court but has failed to do so. Accordingly, it is clear that the appellant does not prosecute the appeal diligently.

In these circumstances it is evident that no steps have been taken to substitute the heirs of the deceased plaintiff-respondent either by the heirs of the deceased plaintiff-respondent or by the defendant-appellant. Therefore Court decides that the appellant is not prosecuting the appeal diligently. Accordingly, acting upon Rule 34 of the Supreme Court Rules, Court makes an order abating the appeal

Accordingly the proceedings in this Court is terminated.

Appeal abated and proceedings terminated..

JUDGE OF THE COURT OF APPEAL

KLP/-