

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

CA case No: 208/2000 (f)

D.C. Kandy case No: 12717/L

Wattarantenna Mudiyanseleage Tikiri Banda
Kalotuwagodawatta, Waharkgoda,
Danture.

Plaintiff

Vs.

1. Weerasekara Mudiyanseleage Bandara Menike (Deceased)
2. Weerasekara Mudiyanseleage Wijerathna Banda (Deceased)

Defendants

1. Dasanayake Ralalage Podimenike
2. Weerasekara Mudiyanseleage Sarath Bandara Weerasekara
3. Weerasekara Mudiyanseleage Upul Bandara Weerasekara
4. Weerasekara Mudiyanseleage Nimal Bandara Weerasekara
5. Weerasekara Mudiyanseleage Shantha Bandara Weerasekara

Substituted Defendants

AND BETWEEN

1. Dasanayake Ralalage Podimenike
2. Weerasekara Mudiyanseleage Sarath Bandara Weerasekara
3. Weerasekara Mudiyanseleage Upul Bandara Weerasekara (Deceased)
4. Weerasekara Mudiyanseleage Nimal Bandara Weerasekara
5. Weerasekara Mudiyanseleage Shantha Bandara Weerasekara

all of

Delgahakotuw , Walgampaya ,
Danture.

Substituted Defendants-Appellants

Vs.

Wattarantenna Mudiyanseleage Tikiri Banda
Kalotuwagodawatta , Waharkgoda ,
Danture.

Plaintiff-Respondent

C .A. Appeal No. 208/2000(F)

-D.C. Kandy No. 12717/L

Before : **UPALY ABEYRATHNE, J.**

Counsel : Upul Ranjan Hewage for the Defendant-Appellant.

Plaintiff-Respondent is absent and unrepresented.

Argued &
Decided on : 31.01.2013.

Upaly Abeyrathne, J.

Learned Counsel for the Appellants informs court that the learned Additional District Judge of Kandy had delivered judgment in this case on 28.01.2000. The substituted 3rd defendant namely Weerasekera Mudiyansele Upul Bandara Weerasekera had died on 08.06.1998 before the delivery of said judgment. Counsel further informs court that plaintiff-respondent had not taken steps for substitution in place of the deceased 3rd defendant. He further informs that learned Additional District Judge had delivered her judgment without effecting the substitution. In proof of the said fact the death certificate of said Weerasekera Mudiyansele Upul Bandara Weerasekera, the substituted 3rd defendant has been produced marked 'X1'.

I have perused the said death certificate. According to the death certificate Weerasekera Mudiyansele Upul Bandara Weerasekera had died on 08.06.1998. The judgment had been delivered on 28.01.2000. I have perused the journal entries of the main case record. It appears from the said journal entries that no steps had been taken for substitution in place of the deceased substituted 3rd defendant, Weerasekera Mudiyansele Upul Bandara Weerasekera. In these circumstances, the judgment delivered by the learned Additional District Judge dated 20.01.2000 is therefore void. Hence I direct the registrar of this Court to send back the main case record to the District Court of Kandy for the purpose of substitution and all consequential steps and thereafter to deliver judgment.

The present District Judge is competent to deliver judgment in this case.

JUDGE OF THE COURT OF APPEAL

/mds