

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

CA 223/98(F)

D.C. Colombo Case No: 4473/SPL

Udiri Appuwaduge Mark Hilton Fernando,
No. 03,
Janapriya Mawatha,
Koralawella,
Moratuwa.

Plaintiff-Appellant

Vs.

Ceylon Electricity Board (Pvt) Limited,
E.H. Cooray Building,
3rd Floor,
No. 411, Galle Road,
Kollupitiya,
Colombo-03.

and 02 Others.

Defendant-Respondents

C.A. No. 223/98(F)

D.C. Colombo Case No. 4473/Spl

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

Counsel : Appellant is absent and unrepresented.

Anusha Fernando, S.S.C. for Defendant-Respondent.

Argued &

Decided on : 14.02.2013.

K.T. Chitrasiri, J.

The Registrar of this court has sent several notices to the appellant since 11.07.2011 directing him to be present in this court in order to take up the argument. Even though several notices had been sent to the appellant under registered cover, he has not come to this court on a single occasion. Accordingly, it is clear that the appellant is not prosecuting this appeal diligently.

This is an appeal to set aside the judgment dated 16.12.1997 of the learned District Judge of Colombo. In that judgment the learned District Judge relying upon the finality clause namely

Section 49(3) of the Electricity Act had dismissed the plaint. Accordingly, the plaintiff-appellant was prevented having the reliefs prayed for in the amended plaint dated 04.09.1996. The said relief prayed for by the plaintiff is to review the seven accounts pertaining to the electricity supply that the plaintiff had obtained.

At this stage a representative of LECO namely A.D.H. Patric Gunasekera (Human Resources Assistant) is present and he informs Court that the plaintiff-appellant has left the particular place to which the electricity was supplied. This fact is also confirmed by the endorsement made on the cover of the notice sent to the appellant which had been returned. The endorsement found in the said cover shows that the appellant has left the address given therein.

In view of the above circumstances, it is seen that the plaintiff-appellant is not interested in proceeding with this appeal. Having considered the above circumstances it is my view that it is not necessary to consider the merits of this appeal. In the circumstances

acting under rule 34 of the Supreme Court rules, Court dismiss the appeal. Appeal is dismissed without costs.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

AKN