

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

CA 279/98 (F)

D.C. Ratnapura Case No.7528/P

Padukkage Dona Cicilina Hamine
Dammoruwa,
Colombugama,
Nivitigala.

Plaintiff

Vs.

1. I.A. Wimalasene
2. M.A. Podiappuhamy
3. M.A. Jayawardena
4. M.A.Sumanawathie
5. A. Siripala
6. A. Rosalin Nona
7. Yasawathie
8. A. Somapala
9. K.D. Saranelis Singho
10. I.A. Lokuappuhamy
11. H.M. Heenmenike.

Defendants

BETWEEN

11. Hewa Magalgodage Heenmenike
Owilana,
Colombugama,
Nivitigala.

11th Defendant-Appellant

Vs.

Padukkage Dona Cicilina Hamine
Dammoruwa,
Colombugama,
Nivitigala.

Plaintiff-Respondent

And

6. A. Rosalin Nona
Owilana,
Colombugama,
Nivitigala.

6th Defendant-Respondent

C.A 279/98 (F)

D.C.Ratnapura Case No: 7528/P

Before : K.T.Chitrasiri, J.

Counsel : 11th Defendant –Appellant is absent and
unrepresented.

Saman Liyanage for the Plaintiff –Respondent.

Argued &

Decided on : 04.03.2013.

K.T.Chitrasiri, J.

When this matter was mentioned on the last occasion namely, 18.12.2012 Counsel for the Appellant informed Court that the 6th Defendant –Respondent is dead. He was then directed to file substitution papers, two weeks before today. When this fact of death of the 6th Defendant was mentioned even on the 18.06.2012, Counsel for the Appellant was directed to file substitution papers. So far no substitution papers have been filed to substitute the heirs of the deceased 6th Defendant.

In the circumstances, it is clear that the Appellant is not taking steps to substitute the heirs of the deceased 6th Defendant-

Respondent. Without having the substitution effected, this appeal cannot be taken up for argument. It is the duty of the appellant. Therefore, Court makes an order abating the appeal. Appeal is abated and therefore, proceedings in this court are terminated.

Registrar is directed to keep the original record in this Court for a period of two months from today and then to send the record back to the District Court of Ratnapura for necessary action.

Proceedings are terminated.

JUDGE OF THE COURT OF APPEAL

Vkg/-