

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

**C.A. 408/98(F)**

D.C. Kuliypitiya No. 9802/P

P.P.D. Nimal Gunarathna  
Kottapitiya,  
Narammala.

**Complainant Appellant**

**Vs.**

Sethuwa Durayalage Chandralatha  
Kottapitiya,  
Narammala.

**Defendant Respondant**

**C.A. Appeal No. 408/98(F) - D.C. Kuliyapitiya No. 9802/P**

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

**Counsel:** Appellant is absent and unrepresented.

M.C.Jayaratne with M.D.J.Bandara for the 1<sup>st</sup> Defendant-Respondent

**Decided on:** 27.03.2013

**K.T. Chitrasiri, J**

When this matter was mentioned on the last occasion Mr. Nilantha Kumaraage who appeared for the appellant moved for a date to file substitution papers in order to substitute the heirs of the deceased 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> defendant-respondents. Even when this was mentioned on 01.08.2011, it was brought to the notice of Court that the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> defendant-respondents have expired. Since then no steps have been taken to substitute the heirs of the deceased 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> defendant-respondents.

The appellant is absent and unrepresented even today. The above circumstances show that the appellant is not prosecuting this appeal diligently. In the light of the above, Court makes order abating the appeal. Appeal is abated. Accordingly proceedings in this Court are terminated.

*Proceedings terminated.*

**Judge of the Court of Appeal**

Kpm/-