

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

C.A. Appeal No. 861/97 (F)

D.C. Kurunegala No. 4010/L

Terrance Clinton Persiwel Karunanayaka

No: 07/1,

Menerigama Place,

Mt.Lavinia.

Appellant

Vs.

P. Wimalawathi

No: 222/4,

Puttalam Road,

Kurunegala.

Respondent

C.A. Appeal No. 861/97 (F) - D.C. Kurunegala No. 4010/L

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

Counsel : Ranjan Suwandarathne with Anil
Rajakaruna for the Plaintiff- Appellant.

Mahanama de Silva for the
Substituted-Defendant-Respondent

Decided on : 04.04.2013.

K.T. Chitrasiri, J.

When this matter was mentioned on the last occasion namely on the 11.02.2013, it was brought to the notice of Court that the substituted defendant-respondent had died on 10.4.2007. Thereafter the appellant had moved Court to file substitution papers despite the fact that he was given several dates to file substitution papers even before. On the last occasion it was recorded that the substitution papers should be filed two weeks before today. So far no substitution papers have been filed to effect the substitution in place of the deceased substituted defendant-respondent. For the last 6 years, no steps have been taken to substitute the heirs of the deceased substituted-

defendant-respondent. Those circumstances show that the appellant is not prosecuting this appeal with due diligence. Accordingly this appeal is abated.

In view of the above order , proceedings in this Court are terminated.

Proceedings terminated.

JUDGE OF THE COURT OF APPEAL

/mds