

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

Case No.C.A. 547/ 96(F)

D.C. Embilipitiya Case No. 2559/L

1. leelawathie Senarath Jayatunga
- 2A. Palitha Senarath Jayatunga
3. Karunawathie Senarath Jayatunga
4. Dharma Chandrani Senarath Jayatunga
5. Palitha Senarath Jayatunga
6. Saddha Shanthi Senarath Jayatunga
7. Pujitha Senarath Jayatunga
8. Suddarma Dharshanie Senarath Jayatunga
9. Geetha Thaksalani Senarath Jayatunga
10. Baratha Senarath Jayatunga
11. Upeksha Senarath Jayatunga
12. Chula Udayanga Senarath Jayatunga

All of Kadapola Kolonna

Plaintiff- Appellants-Petitioners

Vs.

- 1 Appu Vitharanage Romiyel
Madana, Kolonna,
- 2 K.A.Malani
Madana, Kolonna,
- 3 Cyral Wilmet Dissanayake
Madana, KaJonna,
- 4 Rajapaksage Gunawathie aliasGunawatie Rajapaksa
Hospital Road,Kolonna

Defendant Respondents

C.A. No. 547/96(F)

D.C. Embilipitiya Case No. 2559/L

Before : Anil Goonerathne, J &
Deepali Wijesundera, J.

Counsel : Rohan Sahabandu, P.C. with W.R.T. Herath for
the Plaintiff-Appellants.

Krishantha Nissanka for 1st to 4th
Defendant-Respondents.

Argued &
Decided on : 26.08.2013.

Anil Goonerathne, J.

Mr. Rohan Sahabandu, President's Counsel today brings to the notice of Court that prior to delivery of judgment the party who is sought to be substituted (4th defendant-respondent) had expired. According to his instructions judgment was delivered on or about 26.06.1996. The 4th Defendant-Respondent has expired on 08.09.1988.

Learned Counsel for the Defendant-Respondent does not dispute the above facts. In the above circumstances this Court is of the view that the judgment delivered by the learned District Judge is a

nullity. As such this Court has no alternative but to send the case back to the original court to enable parties to take suitable steps.

Registrar of this Court is directed to forward the original record to the Registrar of the District Court of Embilipitiya. As such proceedings in this Court is terminated.

JUDGE OF THE COURT OF APPEAL

Deepali Wijesundera, J.

I agree.

JUDGE OF THE COURT OF APPEAL

AKN