

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

C.A. No. 626/98(F) & 627/98(F)

D.C. Kalutara No. 5022/P

Walimuni Tecla Princy
Maradana Road,
Moragalla, Beruwala.

Substituted Plaintiff

Vs.

1. Walimuni Misilin Silva
Pohaddaramulla,
Wadduwa.
2. Walimuni Yasilin Silva
Fourway junction,
Kosgoda.

And others

Defendants Respondents

C.A. No. 626/98(F)

D.C. Kalutara No. 5022/P

& 627/98(F)

Before : K. T. Chitrasiri, J.

Counsel : Priyantha Amarasinghe for the 26A and 29th Defendant-Appellants.

Jayantha Dolawatte for the 3A, 9th, 25th and 33rd for the Respondents.

Rohan Sahabandu, P.C., with Ms. Hasitha Amarasinghe for the Substituted-Plaintiff-Appellant.

Argued &

Decided on : 10.09.2013.

K.T. Chitrasiri, J.

Counsel for the 26A and 29th Defendant-Appellants submits that 16th, 18th and 23rd Defendant-Respondents have died. However he is not aware of the date of the death of those Respondents. Mr. Dolawatte who is appearing for 3A, 9th, 25th and 33rd Defendant-Respondents submits that even 1st, 2nd, 4th, 5th, 23rd, 24A, 26A, 27th, 30th, 31st, 32nd, 36th, 37th, 42nd, 43rd Defendant-Respondents have passed away.

Even though there are two sets of Appellants, no substitution had been effected in respect of those respondents who have died. When this matter was mentioned on 11.11.2011, it is recorded that the 3rd Plaintiff-Respondent had died. The docket does not indicate as to any substitution effected on his behalf since the year 2011 though several dates have been given to effect the substitution. As mentioned before, number of parties have died but necessary substitution have been effected only in respect of few of those deceased respondents.

When this matter was mentioned in the month of May, a long date, amounting it to become nearly 4 months, had been given to file substitution papers. Not a single document has been filed since then to effect the substitution. Those circumstances show that the two appellants do not prosecute this appeal diligently. It has resulted preventing the decree being executed and thereby the persons who have adjudgment in their favour were unable enjoying its results for the last 15 years. Considering the above this Court makes an order abating the appeal.

Appeal is abated.

JUDGE OF THE COURT OF APPEAL

AKN