

IN THE SUPREM COURT OF THE DEMOCRATIC SOCIALISTS
REPUBLIC OF SRI LANKA

CA Transfer Application No. 257/2013
DC Bandarawela Case No. L/1877/2007

Omega Investments (Private) Limited
118B, Robert Gunawardena Mawatha,
Battaramulla
presently at 12/1, Pedris Lane,
Colombo 00300.

PLAINTIFF - PETITIONER

Vs.

1. Senarath Liyanage,
64, Lily Avenue,
Haputale.
2. Sheran Ratwatte,
Glennore Estate,
Haputale.

DEFENDANT - RESPONDENTS

3. Honourable M. W. J. K. Weeraman
District Court Judge,
District Court,
Bandarawela.
4. Honourable Attorney General
Attorney General's Department,
Colombo 01200

RESPONDENTS

C.A WRIT APPLICATION 257/2013.

BEFORE: S.SRISKANDARAJAH, J (P/CA) &
MALANIE GUNARATNE, J.

COUNSEL: M.A. Sumanthiran with Sarita de Fonseka for the Plaintiff –
Petitioner.

Uditha Egalahewa P.C with Hemantha Gardihewa for the 1st
Defendant-Respondent.

Nayomi Kahavita S.C for the Respondents.

ARGUED &

DECIDED ON : 09.09.2013.

S.Sriskandarajah, J. (P/CA).

Heard counsel in support of this application. The submissions of the counsel for the Petitioner is that the Judge made certain observation in the course of the proceedings and that shows that the Judge has made up his mind in relation to the said case. And in view of that in the interest of justice this case should be transferred to another court under the provisions of Judicature Act. The learned Counsel for the 1st Respondent submitted that the observation of the learned Judge is justified due to the fact that the Petitioner has not taken due diligence in the appointment of an Attorney -at-Law when the Attorney-at-Law in

record has indicated that he is going to revoke his proxy and the learned Judge has made procedural orders when there are occasions to postpone the case. When considering these orders a fair number of orders are in favour of the plaintiff and in one occasion he has made an order for costs by the Plaintiff and that order was challenged by the Plaintiff by way of revision in the Provincial High Court. When considering the totality of the orders made by the learned District Judge, as there is no bias established. This court is of the view that the transferring of this case to another court is not expedient and therefore this court is not inclined to issue notice.

PRESIDENT OF THE COURT OF APPEAL

Malanie Gunaratne, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

Vkg/-