

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

**C.A. Appeal No. 847/98(F)**

D.C. Gampaha No.35825/L

1. Subasinghage lionel Gunaratne  
No.220/1, Gonahena,  
Kadawatha.
2. Subasinghege Nimal Justin  
No.32,Bulugahagoda,  
Ganemulla.
3. Handuwala Dewage Joslin Fernando  
(Deceased)
- 3a. Subasinghege Nimal Justin  
No.32, Bulugahagoda,  
Ganemulla.

**Defendant-Appellant-Petitioners**

1. Ranpati Dewage Seelawathie (deceased)
2. Handuwala Dewage Yasawathie Iranganie
3. Handuwala Dewage Susila Rohini
4. Handuwala Dewage Swarnakanthi
5. Handuwala Dewage Rajapaksa Siriwardane
6. Handuwala Dewage Dissanayake Gunawardane

**All of**  
220/1, Gonahena,  
Kadawatha

**Plaintiff-Respondent-Respondents**

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

Counsel : Lasitha Kanuswanaarachchi for the 1<sup>st</sup>, 2<sup>nd</sup> and 3a Defendant-Appellants.

1<sup>st</sup> 2<sup>nd</sup> and 3a Defendant-Appellants are Present in Court.

4<sup>th</sup> Defendant-Appellant is absent and unrepresented.

Neville Abeyratne with Kaushalya Abeyratne Dias for all the Plaintiff-Respondents.

2<sup>nd</sup>, 3<sup>rd</sup> and 6<sup>th</sup> Plaintiff-Respondents are present in Court.

Argued &

Decided on : 08.11.2013.

**K.T. Chitrasiri, J.**

Registrar of this Court has sent notices to all the Defendant-Appellants informing them that this appeal be taken up for hearing in this Court. Hence, this appeal is taken up for argument in the absence of the 4<sup>th</sup> Defendant-Appellant as he has not responded to those notices. Learned Counsel for the other Defendant-Appellants submits that the four appellants including the 4<sup>th</sup> appellant who is absent and unrepresented today, have filed

only one answer in the District Court having taken up same position by all four of them. Even the Petition of Appeal is filed jointly by all the four Defendant-Appellants.

At this stage, learned Counsel for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>a</sup> Defendant-Appellants moves to withdraw this appeal. Learned Counsel for the Plaintiff-Respondent has no objection to this application for withdrawal. Having made the application to withdraw the appeal, learned Counsel for the Defendant-Appellants also submits that the 4<sup>th</sup> Defendant-Appellant who is not before Court will not be affected even if his appeal is dismissed since he is to have the same rights in the land subjected to this case even if this appeal is dismissed. Therefore it is clear that the 4<sup>th</sup> Defendant-Appellant is not affected by dismissing the appeal filed by him.

Having considered the above circumstances referred to above, this appeal is dismissed allowing the application to withdraw the appeal of the 1<sup>st</sup>- 3<sup>rd</sup> Defendant-Appellants. Appeal is dismissed without costs.

*Appeal dismissed*

**JUDGE OF THE COURT OF APPEAL.**

/mds