

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

C.A. Appeal Case NO. 12/2000 (F)

D.C. Avissawella Case No. 95/P

Ranneththige Robert,
Kanampalla,
Kosgama.

Plaintiff-Appellant

Rannettige Thilakasiri,
Kanampalla, Kosgama.

The Substituted-Appellant

-Vs-

Weerappulige Wilson,
Kampalla,
Kosgama.

And 31 others

Defendant-Respondents

Before : **Upaly Abeyrathne, J**

Counsel : M.Y.M. Niyaz for the Plaintiff-Respondent.
Rohan Sahabandu PC for the Defendant-Respondent.

Argued &

Decided on : **13.11.2013**

Heard Counsel. Both Counsel conceded that the learned Additional District Judge has not answered the issues raised by the parties.

I have perused the proceedings of the case and the judgment. The Appellant and the Respondent have raised 45 issues. The learned Additional District Judge has not answered the said issues. Hence the judgment of the learned Additional District Judge is not in conformity with the requisites of Section 187 of the Civil Procedure Code.

This Court has abundantly stressed that the trial judges should deliver their judgments in compliance with the provisions contained in Section 187 of the Civil Procedure Code. When writing a judgment he should safely consider the points for determination and should record his decision thereon. It must be born in mind of the trial judge that the issues have been accepted by him should not be left unanswered. He is bound by a legal duty under section 187 of the Civil Procedure Code to deliver a proper and complete judgment.

In the present case also the learned Additional District Judge has delivered his judgment blatantly violating the provisions contained in Section 187 of the Civil Procedure Code (Cap 86). Section 187 of the Code stipulates that: -
“The judgment shall contain a concise statement of the case, the points for

determination, the decision thereon, and the reasons for such decision." It is sad to note that in his judgment the learned District judge has not stated the points for determination and the decision thereon.

In the case of *Dona Lucihamy Vs Ciciliyanahamy* 59 NLR 214 it was held that "Bare answers, without reasons, to issues or points of contest raised in a trial are not a compliance with the requirements of section 187 of the Civil Procedure Code." In the case of *Warnakula Vs. Ramani Jayawardane* [1990] 1 SLR 206 it was held that "Bare answers to issues without reasons are not in compliance with the requirements of Section 187 of the Civil Procedure Code. The evidence germane to each issue must be reviewed or examined. The judge must evaluate and consider the totality of the evidence. Giving a short summary of the evidence of the parties and witnesses and stating that he prefers to accept the evidence of one party without giving reasons are insufficient."

Hence I am of the view that the failure of the trial judge to state the points for determination and to answer the issues has caused prejudice to the substantial rights of the parties.

Therefore I set aside the judgment and decree of the learned Additional District Judge dated 29.12.1999 and allow the prayer (a) and (c) of the petition of appeal of the Appellant without cost. I accordingly order a re-trial. The learned District Judge is directed to hear and conclude the case expeditiously.

Re-trial ordered.

Judge of the Court of Appeal

Na/-