

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

Wekadapola Wasala Mudiyanse
Ralahamilage Kuda Menike Wekadapola
Jayawickrema,
No 46, Dalada Street,
Kandy.

Plaintiff

C.A. No. 607 / 2000 F

Vs.

D.C. Kandy No. 23889 / MR

Usgode Arachchilage Premalatha,
No. 59 / 30, Bangalawatta,
Lewella,
Kandy.

Defendant

AND NOW BETWEEN

Usgoda Arachchilage Premalatha,
No. 59 / 30, Bangalawatta,
Lewella,
Kandy.

Defendant Appellant

Vs

Wekadapola Wasala Mudiyanse
Ralahamilage Kuda Menike Wekadapola
Jayawickrema,
No 46, Dalada Street,
Kandy.

Plaintiff Respondent

BEFORE : UPALY ABEYRATHNE, J.

COUNSEL : D. Lokupothagama with S. Waidyaratne for
the Defendant Appellants
Plaintiff Respondent is absent and
unrepresented

WRITTEN SUBMISSION ON : 30.09.2013

ARGUED ON : 24.10.2013

DECIDED ON : 06.12.2013

UPALY ABEYRATHNE, J.

The Plaintiff Respondent (hereinafter referred to as the Respondent) instituted the said action against the Defendant Appellant (hereinafter referred to as the Appellant) in the District Court of Kandy seeking to recover a sum of Rs. 197,757.82 which was the aggregate of telephone bills for the months of April, May and June, 1994. The Appellant has filed an answer denying the averments contained in the plaint and praying for a dismissal of the Respondent's action. The case proceeded to trial on 09 issues. After trial the learned Additional District Judge has delivered a judgment in favour of the Respondent. Being aggrieved by the said judgment dated 04.08.2000 the Appellant has appealed to this court.

It seems that the Appellant had been sued upon an agreement which was produced at the trial marked P 14. According to the terms of the said agreement the Appellant had agreed to settle the telephone bills for the months of

April may and June, 1994. When the said document was produced at the trial the Appellant has not challenged it. Hence the said agreement has been admitted as evidence without any objection. Also, at the trial, the Appellant has not given evidence and has closed his case without leading any evidence on his behalf.

When I consider the evidence of the Respondent I am of the view that the learned Additional District Judge has rightly concluded that the Respondent was entitled to a judgment as prayed for in the plaint.

In the said circumstances I see no reason to interfere with the said judgement of the learned Additional District Judge dated 04.08.2000. Therefore I dismiss the appeal of the Appellant with costs.

Appeal dismissed.

Judge of the Court of Appeal