

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

Pahala Gedara Sarthchandra Kulasuriya,  
No. 6/1, Thalgahagoda, Dullewa,  
Matale.

Plaintiff

**Vs.**

C.A. No. 206 / 2000 F

D.C. Matale No. 2433 / D

Pahala Gedara Tikirihamy alias Pahala  
Gedara Chandrika,  
'Laksman Niwasa' Temple Road,  
Nirangamuwa, Aluthgama  
Mananwatta.

Defendant

**And Now Between**

Pahala Gedara Tikirihamy alias Pahala  
Gedara Chandrika,  
'Laksman Niwasa' Temple Road,  
Nirangamuwa, Aluthgama  
Mananwatta.

Defendant-Appellant

**Vs**

Pahala Gedara Sarthchandra Kulasuriya,  
No. 6/1, Thalgahagoda, Dullewa,  
Matale.

Plaintiff -Respondent

BEFORE : UPALY ABEYRATHNE, J.

COUNSEL : Defendant Appellant is absent and  
unrepresented  
Upendra Walgampaya for the Plaintiff  
Respondent

ARGUED ON : 06.11.2013

DECIDED ON : 30.01.2014

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) seeking for a declaration of nullity of marriage on the grounds mentioned in the plaint. The Respondent filed answer denying the averments contained in the plaint and praying for divorce *a vinculo matrimonii* on the ground of malicious desertion. The case proceeded to trial on 09 issues. After trial the learned District Judge delivered a judgment in favour of the Respondent. Being aggrieved by the said judgment dated 14.02.2000 the Appellant has preferred the present appeal to this court.

The Respondent has taken up the position that the Appellant has contracted a second marriage with him and her first marriage has not been dissolved in law. It seems that at the trial the Appellant has admitted that she was previously married to one Siberatne and had 03 children by the said marriage. She

has further stated that said Siberatne had died. But the Appellant has not produced the death certificate of said Siberatne to prove the death of her legal husband.

The learned District Judge considering the said evidence has rightly concluded that the Appellant was not entitled to a judgment as prayed for in her answer. In the said circumstances I see no reason to interfere with the said judgment dated 14.02.2000. Therefore I dismiss the appeal of the Appellant without costs.

*Appeal dismissed.*

Judge of the Court of Appeal