

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

**C.A. NO. 1012/1998 &
C.A. NO. 1013/1998**

D.C. Horana No. 2276/P

1. Abdul Rahman Muhammad Mimthaz
No. 198, Mahawaththa,
Atalugama, Bandaragama.

2. Mohamed Mimthaz Fathima Mishrina.
No. 2/21, High Level Road,
Kirilapone, Colombo 6.

3. Mohamed Mimthaz Fathima Mirshina,
No. 198A, Mahawaththa,
Atalugama, Bandaragama.

4 Fathima Rushdiya Mimthaz,
15/11, Madakissa Road,
Horaithuduwa, Moratuwa.

5. Mohamed Mimthaz Mohamed Rushdi,
No. 198, Mahawaththa,
Atalugama, Bandaragama.

Petitioners

6. Seiadeen Lebbe Mohamed Husen,
330/A, Bamunumulla,
Atalugama, Bandaragama.

6th Defendant -Appellant

Vs.

1. Shahabdeen Lebbe Amina Umma

2. Shahabdeen Lebbe Fathima Beebi,

- 3 Habeeb Mohamed Shahuwan Beebi,
4. Abdul Rahhuman Lebbe Mohamed Sally,
5. Ahamad Lebbe Mohamed Rasheed ,
7. Mohamed Sharif Mohamed Zawahir ,
8. Ahamed Lebbe Mohamed Rasheed
9. Muhammad Mussammil Luharul Minaya alias
Muzammil Luharel Minaya ,
10. A. Abdul Hameed Noorjahan
11. Mohamed Sharif Mohamed Nazeer,
12. Abdul Saru Mohamed Sharif,
13. Chairman Pradeshiya Shaba ,
14. Mohohmed Kalid Mohamed Naleem ,

All Are
Mahawaththa,
Atulugama, Bandaragama

**Defendant-Respondents-
Respondent**

C.A. NO. 1012/1998 &

D.C. Horana No. 2276/P

C.A. NO. 1013/1998

BEFORE : K.T. CHITRASIRI, J.

COUNSEL : N. A. Gunawardhana for the 6th defendant-
Appellant in C.A. No.1012/98(F).

Shantha Karunadhara watching interests of the
heirs of the deceased plaintiff-appellant in
C.A.No. 1013/98(F).

Asthika Devendra for the petitioner seeking to
be intervened by filing the petition dated
28.5.2012

M.C.M.Muneer with Susantha Senadheera for
the 4th, 5th and 9th defendant-respondents.

ARGUED AND

DECIDED ON : 27th January, 2014.

K.T. CHITRASIRI, J.

When this matter was mentioned on the 31st July 2013 Counsel for the 6th defendant-appellant was given time to file substitution papers in order to substitute heirs of the deceased plaintiff as well as the heirs of the deceased 4th, 5th, 9th, and 11th defendant-respondents. So far no steps have been taken to have the heirs substituted, in the room of those deceased respondents though five months have passed since then. Therefore, it is seen that the 6th defendant-appellant is not

prosecuting this appeal diligently. In the circumstances, Court makes an order abating the appeal bearing No.C.A. 1012/98(F).

Mr. Shantha Karunadhara, Counsel who is watching the interests of the heirs of the deceased plaintiff-appellant who passed away in May 2009 in C.A. 1013/98(F) was also given time to file substitution papers in order to substitute the heirs of the plaintiff-appellant. So far no papers have been filed to effect the substitution in the room of the deceased plaintiff-appellant in the appeal bearing No. C.A. 1013/98(F) as yet though the appellant had died 4 years before. Therefore, Court makes order abating the appeal C.A. 1013/98(F) as well.

Both appeals bearing Nos. 1012/98(F) and 1013/98(F) are abated.

Appeals abated.

JUDGE OF THE COURT OF APPEAL

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