

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

**C.A. Application No : 1064 (F)/96**

D.C. Marawila No : 148 P

D.C. Chilaw No : 20534

1. A.M. Nandawathie

2. A.M. Kanararathne  
Both of Pahala Mahawewa,  
Mahawewa.

**Defendants-Appellants**

**Vs.**

1A. R.K. Nandawathie Herath  
of Swarnamali Theater,  
Mahawewa.

And 30 others

**Defendants- Respondents**

C.A. NO. 1064/1996(F)

D.C. Marawila No. 148/P

BEFORE : K.T. CHITRASIRI, J.

COUNSEL : Malaka Herath with Hemamala Kumari for the  
30<sup>th</sup> defendant-appellant  
C. Ladduwahetti with L.L.de Silva for the  
plaintiff-respondent.

ARGUED AND

DECIDED ON : 31<sup>st</sup> January, 2014.

**K.T. CHITRASIRI, J.**

Counsel for the 30<sup>th</sup> defendant- appellant moves to support the motion dated 29<sup>th</sup> January 2014. In that motion, a request being made to have an order directing the Grama Niladharis of the respective areas to issue a certificate indicating the surviving heirs of the deceased 11<sup>th</sup>,12<sup>th</sup> and 13<sup>th</sup> defendant-respondents. It is not correct to make an order to a Grama Niladhari to issue such certificates since he is not the person who is capable of ascertaining the heirs of deceased persons. Therefore, the said application is rejected.

Learned Counsel also submits that the appellant is not in a position to find out the heirs of the deceased 11<sup>th</sup>, 12<sup>th</sup> and 13<sup>th</sup> defendant-respondents. Being the appellant, it is his duty to prosecute

this appeal having substituted the heirs of the deceased parties. He, himself states that he is unable to take steps to have the substitution effected in place of the deceased 11<sup>th</sup>, 12<sup>th</sup> and 13<sup>th</sup> defendant-respondents.

Accordingly, Court makes order abating the appeal.

*Appeal is abated.*

JUDGE OF THE COURT OF APPEAL

Kwk/=