

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

Case No: C.A.376/2000

1. Dharmapriya Rupasinghe, Buthkanda,
Boraluwge -Aina.
2. Kodithuwakku Arachchige Wijedasa,
Buthkanda, Boraluwge- Aina.
3. Alupotha Gamage Podihamy,(Deceased),
Buthkanda, Boraluwge -Aina.

Defendant-Appellants

Vs.

Sisira Kumara
Buthkanda,
Boraluwge -Aina.

Kodithuwakku Arachchige Chandrarathna,
Buthkanda,
Boraluwge -Aina.

Plaintiff-Respondent

CA 376/2000 (F)

DC-Embilipitiya-4949/L

Before : **Upaly Abeyrathne, J.**

Counsel : Anuruddha Dharmarathne with Indika
Jayaweera for the 1st, 2nd & Substituted
3A Defendant Appellants

A.M.E.B. Atapattu for the Respondent

Argued &

Decided on : 21.02.2014

Upaly Abeyrathne, J.

Learned counsel for the appellant submitted that the issues framed by the Defendant-Appellant have been left unanswered by the learned District Judge. He further submitted that the Defendant-Appellant has raised the issues Nos. 15-25 and the learned District Judge has accepted the said issues.

I have perused the proceedings of the case and the judgment. The Appellant and the Respondent have raised 25 issues. The learned District Judge has not answered the issues framed by the Appellant. 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 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 answer the issues framed by the Appellant has caused a miscarriage of justice.

Therefore I set aside the judgment and decree of the learned District Judge dated 12.07.2000 and allow the prayer (1) of the petition of appeal of the Appellant without cost. I accordingly order a re-trial. The learned District Judge of Embilipitiya is directed to hear and conclude the case expeditiously.

Re-trial ordered.

JUDGE OF THE COURT OF APPEAL

LA/-