

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

**C.A. Appeal No.1251/98 (F)**  
D.C. Galle No. 2707/Spl

Dolamulla Korala Kankanamge Leela Yasawathie  
Mulana Watta,  
Vidyakanthi Pirivena Mawatha,  
Hinartigala,  
Talpe

**Petitioner**

**Vs.**

1. Kimbiya Thalahitiyage Nicholas Ranasinghe,  
Mahawatte,  
Kapugama,  
Devundara .

*And 10 others*

**Defendant-Respondent-Respondents**

Kimbiya Thalahitiyage Chamila Niroshani  
Mulana Watta,  
Vidyakanthi Pirivena Mawatha,  
Hinartigala,  
Talpe

**Respondent**

**C.A. Appeal No.1251/98 (F) - D.C. Galle No. 2707/Spl**

Before : **K.T. CHITRASIRI, J.**

Counsel : A. Rajappaksa for the Plaintiff-Appellant

Argued &  
Decided on : 27.03.2014.

**K.T. Chitrasiri, J.**

Counsel for the appellant submits that the appellant is unable to take steps to substitute the heirs of the deceased 1<sup>st</sup> defendant-respondent as the whereabouts of his only son are not known. He further submits that the appellants have made every endeavor to ascertain the whereabouts of the heirs of the deceased 1<sup>st</sup> defendant but they have failed to find out the place they live. Accordingly, it is seen that the appellants are unable to prosecute this appeal without the necessary substitution being made. If no proper substitution is made in place of the deceased party, it may lead to prejudice the rights of the deceased party. Therefore this appeal cannot be proceeded with until the substitution is effected.

In the circumstances, court makes an order abating the appeal.

*Appeal abated.*

**JUDGE OF THE COURT OF APPEAL**

/mds