

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

**Court Appeal No. 105/98 (F)**

District Court Colombo No. 42833/MHP

Ceylinco Securities and Financial Services  
Limited,  
03rd Floor, No. 69,  
Ceylinco House,  
Janadipathi Mawatha,  
Colombo 01.

Presently at

No. 55 1/1,  
01st Floor,  
Iceland Building,  
Galle Road,  
Colombo 03.

**Plaintiff-Appellant**

**-Vs-**

Yohan Laksiri Punchihewa,  
No. 227/10, Nirmala Mawatha,  
Off Nawala Road,  
Nugegoda.

**Defendant-Respondent**

**C.A. 105/98(F)**

**D.C. Colombo-42833/MHP**

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

Counsel : Parties are absent and unrepresented

Decided on : 28.04.2014

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

The Registrar of this court has sent notices under registered cover to the parties as well as to their Registered Attorneys informing them to be present in this court today. Neither the parties nor their attorneys are present in Court. Accordingly, the merits of this appeal are now being considered in their absence.

This is an appeal filed to have the judgment dated 06.01.1998, set aside. By that decision learned District Judge of Colombo, dismissed the action due to the absence of the plaintiff; not even a representative of the plaintiff was present in court on the trial date.

In the petition of appeal, it is sated that on that trial date, namely on 16.01.1998, the counsel for the plaintiff appellant was present in court and he had moved for another date for the trial. However, the learned trial judge

having considered the application for a postponement, has finally dismissed the action. The reason to have made an application for a postponement by the appellant is mentioned in paragraphs 3 and 4, in the petition of appeal. In those two paragraphs found in the petition of appeal, it is stated that the plaintiff appellant was unable to get ready for the trial due to the shifting of the office of the Registered Attorney. The said application for a postponement had been refused by the learned District Judge. However, the appellant is not present in court today to support this matter referred to in the petition of appeal. In the circumstances, I do not see any reason to interfere with the decision of the learned District Judge.

At this stage, it is also necessary to note that the plaintiff appellant has failed to comply with Section 754 (4) of the Civil Procedure Code where the law requires to file the notice of appeal within 14 days from the date of the impugned order. In this instance, the impugned order had been made on 06.01.1998. Notice of appeal had been filed on 22.01.1998. Accordingly, it is clear that the notice of appeal had been filed after lapse of 14 days referred to in Section 754(4) of the Civil Procedure Code.

For the aforesaid reasons, this appeal is dismissed without costs.

*Appeal dismissed.*

**JUDGE OF THE COURT OF APPEAL**