

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

CA (PHC) 123/2009

PHC Embilipitiya Case No.HCE/RA 21/2008

M.C. Embilipitiya Case No.9861

Kothalawalage Dayawathie Perera,
S.C.11, Old Camp,
Embilipitiya.

Respondent-Petitioner-Appellant

Vs.

K.W. Ivan de Silva,
Director General,
Mahaweli Authority of Sri Lanka,
No.500, T.B. Jayah Mawatha,
Colombo 10.

Applicant-Respondent-Respondent

C.A. (PHC) 123/2009 - PHC Embilipitiya Case No.HCE/RA 21/2008
M.C. Embilipitiya Case No.9861

BEFORE : K.T. CHITRASIRI, J. &
MALINIE GUNARATNE, J.

COUNSEL : Indunil Bandara for the Respondent-Petitioner-
Appellant.
Nayomi Kahawita SC for the Applicant-
Respondent-Respondent.

ARGUED &
DECIDED ON : 02.10.2014.

K.T. CHITRASIRI, J.

Learned State Counsel raising a preliminary objection submits that this appeal had been filed outside the period allowed in terms of Rule 2 of the Court of Appeal (Procedure for Appeals from High Courts) Rules 1988. Learned Counsel for the appellant concedes this position and submits that the petition of appeal in this case had been filed on 22.10.2009. The impugned decision has been delivered on 09.09.2009. Therefore, it is clear that the petition of appeal had been filed after lapse of fourteen days from the date of the impugned decision.

Rule 2 (1) (a) of the aforesaid Court of Appeal rules stipulates that a petition of appeal to canvass a decision of a High Court Judge where he has exercised revisionary jurisdiction under Article 154 P (3) (b) has to be lodged within 14 days from the time of the judgment or order made by a Provincial High Court Judge. Rule 3 (1) stipulates the manner in which the 14 days should be computed.

The appeal in this case had been filed after a lapse of a period of more than one month. Therefore, It is clear that the appellant has failed to follow the procedure stipulated in Rule 2 of the Court of Appeal (Procedure for Appeals from High Courts) Rules 1988. Accordingly, this appeal cannot be entertained as the procedure laid down in the aforesaid Rules 1988 has not been adhered to. For the aforesaid reasons, this appeal is dismissed.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

MALINIE GUNARATNE, J.

I agree.

JUDGE OF THE COURT OF APPEAL

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