

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

C.A. 50/2013

D.C. Bandarawela Case No. D/2599

Athukoralalage Suranji Lakmali,
No.278, Kalutara South,
Sewanalgal.

Defendant-Petitioner

Vs.

Erimuni Devayalage Rathnasiri,
No.04, Sewanagama,
Ella.

Plaintiff-Respondent

C.A. 50/2013 : D.C. Bandarawela Case No. D/2599

Before : Vijith K. Malalgoda,P.C.J. (P/CA) &
A.H.M.D. Navaz,J.

Counsel : J. Fernando with D.D.P. Dassanayake for the Defendant-
Petitioner

Argued &

Decided on : 13.10.2014

Vijith K. Malalgoda,P.C.J. (P/CA)

This is a transfer application filed under Section 46 of the Judicature Act by the Defendant-Petitioner, Athukoralalage Surangi Lakmali who is a resident from Sewanagala. According to the counsel for the Defendant-Petitioner, she has filed maintenance action against the Plaintiff-Respondent in the Magistrate's Court of Embilipitiya. Thereafter, the Plaintiff-Respondent had filed a divorce action in the District Court of Bandarawela, Case No. D 2599 which is the subject matter to this case. Whilst the divorce action is pending, the Plaintiff-Respondent had come to Embilipitiya for the

maintenance application and threaten the Defendant-Petitioner that he will hurt her when she come to Bandarawela. The Defendant-Petitioner has made a complaint to the Embilipitiya Police Station on 11.10.2012 to that effect and the said complaint is marked as P5. When the Defendant-petitioner has filed this application to get the divorce action transferred due to threats faced by her, this Court had issued notices on the Plaintiff-Respondent on several occasions and also informed the District Court of Bandarawela of this transfer application. However, the Plaintiff-Respondent continued to be absent from this Court and Court is of the view that he is purposely avoiding this Court. Court heard counsel for the Defendant-Petitioner in support of this application and Court is of the view that this is a fit case to be transferred from District Court of Bandarawela to District Court of Embilipitiya. Plaintiff-Respondent has already appeared in the Magistrate's Court of Embilipitiya in the maintenance application filed against him. Under these circumstances, Court makes order transferring the District Court of Bandarawela, Case No. D 2599 to District Court of Embilipitiya.

Registrar is directed to dispatch a copy of this order to the District Judge of Bandarawela.

PRESIDENT OF THE COURT OF APPEAL

A.H.M.D. Nawaz,J.

I agree

JUDGE OF THE COURT OF APPEAL

Cr/-