

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

**C.A. (PHC) 298/2006**

H.C. Polonnaruwa Case No: Rev. 14/2006

M.C.Polonnaruwa Case No.4257

P.G. Indrani  
12 Ela,  
Kothalawala Junction,  
Higurakgoda.

**Petitioner**

**Vs.**

W.N.R. Janaranjana Premanath  
H.C. 16 Ela,  
Higurakgoda.

**Respondent**

C.A. (PHC) 298/2006

H.C. Polonnaruwa Case No: Rev.14/2006

M.C.Polonnaruwa Case No.4257

Before : K.T. Chitrasiri,J. &

W.M.M. Malinie Gunaratne,J.

Sumithra for the Petitioner-Respondent-Appellant

Kaminda de Alwis for the Petitioner- Respondent-  
Respondent.

Argued &

Decided on : 23.10.2014

K.T. Chitrasiri,J.

Learned Counsel for the respondent moves that this appeal be dismissed since the Petition of Appeal had been tendered in violation of Rule 2(1)(a) of the Court of Appeal (Procedure for Appeals from High Courts) Rules 1988. Accordingly, he submitted that the Petition of Appeal in this case had been filed beyond the 14 day period referred to in the aforesaid Rule 2(1)(a). Relying upon the aforesaid Rules learned Counsel for the respondent moves that this appeal be dismissed for the reason that the petition of appeal had not been filed within 14 days from the impugned decision.

The impugned decision in this case had been made on 14.11.2006 by the learned High Court Judge in Polonnaruwa. Then the Petition of Appeal should have been filed within 14 days from 14.11.2006 as required by Rule 2(1)(a) of the Court of Appeal Rules 1988. In this instance, the Petition of Appeal had been tendered on 05.12.1006 even though the date of the Petition is typed as 01<sup>st</sup> December 2006 in the petition. The date on which the petition of Appeal was tendered is evident by looking at the seal found on the first page of the petition of Appeal. The aforesaid Petition of Appeal had been filed with a motion which is found at page 213 in the Original Record. In that motion, the date-stamp of the Polonnaruwa High Court is also found and the date thereon is clearly seen as 05.12.2006. Furthermore, the Registrar of the High Court of Polonnaruwa by his handwriting has written that the Petition was tendered at 9.50 a.m. on the 5<sup>th</sup> December 2006. Learned Counsel for the appellant submits that he cannot dispute those facts. Therefore, it is clear that the Petition of Appeal had been tendered only on 05.12.2006.

If the Petition of Appeal had been tendered on 05.12.2006, then the Petition of Appeal had been filed beyond 14 days, referred to in Rule 2(1)(a) of the Court of Appeal Rules 1988.

Having considered the above circumstances, we decide that the Petition of Appeal lodged in this case has been filed in contravention of the Rule 2(1)(a) of the Court of Appeal (Procedure for Appeals from High Courts) Rules 1988.

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

Jmr/-