

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

C. A. (PHC) No. 156/2002

P.H.C. Badulla No. (writ)100/2000

N.P. Piyasiri Nishshanka
Weherayaya,
Athiliwewa

Petitioner -Appellant

Vs

P.A. Jinadasa
Weherayaya,
Athiliwewa

Respondent

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

COUNSEL : Petitioner –appellant absent and unrepresented.
Nayomi Kahavita SC for the 1st and 2nd
respondent-respondents.
David Weeraratne for the 3rd applicant-respondent.

ARGUED AND

DECIDED ON : 28th October, 2014.

K.T.CHITRASIRI, J.

Mr. Suraj Rajapakse Attorney-at-Law informs Court that even though he has appeared for the appellant in this case before, he has not received instructions from the appellant to appear for him today. Hence, the appeal is taken up for hearing in the absence of the appellant.

It is brought to the notice of Court that the appellant, in his appeal dated 19th July 2002, has not prayed for any particular relief. In the prayer to the petition, it is stated that the appellant be granted the reliefs prayed for in the petition. However, in the prayer to this petition of appeal no reliefs are being mentioned. Therefore, it is clear that the appellant has not prayed for any relief in the petition of appeal.

Moreover, the petition of appeal has not been properly addressed to the Court of Appeal, as required by Rule 2(1)(a) of the Court of Appeal (Procedure for Appeals from the High Courts) Rules 1988. Adherence to the aforesaid rules is also important like the importance attached to the substantive law. In this instance, the appellant has not followed the procedure referred to in the aforesaid Rule 2(1)(a). The petition of appeal also does not indicate the provision of law upon which this appeal is filed which is usually being mentioned as the recital to the petitions, as a practice of Court.

The matters referred to above shows that the petition of appeal filed in this case is defective and not in conformity with the law applicable in filing and proceeding with an appeal. Therefore this Court is not in a position to proceed with this appeal due to the aforesaid defects found in the petition of appeal.

For the aforesaid reasons this appeal is dismissed without costs.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

W.M.M. MALINIE GUNARATNE, J.

I agree.

JUDGE OF THE COURT OF APPEAL

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