

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

**C.A. (PHC) 198/2004**  
PHC-CHILAW-17/2002

Loku Balasooriyage Ubayachandra,  
Thulawala,  
Kohilagodella,  
Lunuwila.

**First Party-Respondent-Petitioner**

**-Vs-**

M.Anura Jayamaha,  
Kirimetiyan East,  
Lunuwila.

**Second Party -Petitioner-Respondent**

**C.A.(PHC) 198/2004**

**PHC-CHILAW-17/2002**

Before : **K.T.Chitrasiri, J &  
L.T.B.Dehideniya, J**

Counsel: 1<sup>st</sup> Party Petitioner-Appellant is absent and  
unrepresented.

Dr. Sunil Cooray with Narmada Nayanakanthi for the 2<sup>nd</sup>  
Party-Petitioner-Respondent.

Decided on: 06.11.2015.

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

When this matter was taken up on the last date namely on the 22.10.2015, Counsel who appeared for the appellant has informed this Court that a final decision had been made by the District Court of Marawila in the case bearing No. 1162/L in respect of the land subjected to in this appeal and it was against the appellant. He has also stated that the appellant in this case has filed an appeal against the said judgment in the District Court. Accordingly, learned Counsel for the appellant on that date has moved time to consider as to the next step that he is to take in this appeal. Today, neither the appellant nor any Counsel is present in this Court on his behalf. However, a person by the name of Loku Balasooriyage Padmasiri is present and he informs Court that he is the son of the appellant and the appellant has given a Power of Attorney for him to act on

behalf of the appellant for the purpose of this appeal. However, we find no Power of Attorney in the docket or in the brief.

The person alleged to have been the son of the appellant informs Court today that the appellant does not wish to proceed with this appeal in view of the judgment in the aforesaid case which bears the No. 1162/L. We also note that the provisions contained in part VII of the Primary Courts' Procedure Act No.44 of 1979 provide that the orders made under those provisions would be in force until a decision is made in a civil suit (Section 74 of the Primary Courts' Procedure Act). Admittedly, in this case the District Court has already made an order in respect of the land subjected to in this case which is the proper forum as far as the dispute in this case is concerned.

Accordingly, having considered the matters submitted by the person who supposed to be the son of the appellant and also the law referred to above, we dismiss this appeal.

*Appeal dismissed.*

**JUDGE OF THE COURT OF APPEAL**

**L.T.B.Dehideniya, J.**

I agree.

**JUDGE OF THE COURT OF APPEAL**

Mm/-.