

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

Sureimaan      Lebbe      Riyal  
Mohammed Haniffa  
New Elpitiya  
Gelioya.  
**ACCUSED - APPELLANT**

**CA Case No. 99/2016**

**HC (Monaragala) Case No 145/14**      **Vs**

The Attorney General  
Attorney General's Department  
Colombo 12.

**RESPONDENT**

**BEFORE**

: Deepali Wijesundera J.

L.U. Jayasuriya J.

**COUNSEL**

: Chula Bandara with Gayathree  
Kodagoda for the Accused –  
Appellant

Jude Nanayakkara S.S.C. for the  
Attorney - General

**ARGUED ON**

: 27<sup>th</sup> September, 2017

**DECIDED ON**

: 20<sup>th</sup> October, 2017

**Deepali Wijesundera J.**

The accused were indicted in the High Court of Monaragala for possession and trafficking of canabes amounting to 7 kilos and 620 grams under section 54 a (b) and 54 a (c) of Act no. 13 of 1984. They were convicted after trial. The instant appeal is filed against the order made on 09/06/2016 to confiscate the vehicle bearing no. 57-5886.

When this appeal was taken up in this court the learned Solicitor Counsel raised a preliminary issue regarding the maintainability of the appeal. He referred to section 79 (1) of the said Act and said that the statute does not provide for a right of appeal. He further submitted that the person who filed the appeal is not the registered owner of the said vehicle at the time of the commission of the offence, therefore he has no '*locus Standai*'.

In **Martin vs Wijewardena 1989 2 SLR page 409** it was held that a right of appeal is a statutory right it cannot be implied.

In view of the afore mentioned judgment and the fact that the appellant is not the registered owner of the said vehicle as stated in section 79 (1) of the said Act this appeal can not be maintained by the appellant.

The learned counsel for the appellant moved to convert this appeal to a Revision application and cited the judgment in **Nissanka vs AG.**

which is not relevant to this application as the appellant in the instant case is not the registered owner of the said vehicle.

For the afore stated reasons I decide to dismiss this appeal.

Appeal dismissed.

**JUDGE OF THE COURT OF APPEAL**

**Lalith Jayasuriya J.**

I agree.

**JUDGE OF THE COURT OF APPEAL**