

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

In the matter of an Appeal under section 754(1) of the Civil Procedure Code read with section 55A of the Muslim Mosques and Charitable Trusts of Wakfs Act, No. 51 of 1956.

(Now deceased)

Al-Haj Mohammed Hussain Abdul Gaffar,
No. 34, Leyn Baan Street, Fort, Galle.

Petitioner - Appellant

1. Abdul Gaffar Kamal Hussain,
No. 34, Leyn Baan Street, Fort, Galle.
2. Abdul Gaffar Nazar Hussein,
No. 69, Leyn Baan Street, Fort, Galle.
3. Abdul Gaffar Ameen Hussein,
No. 1, New Lane, Fort, Galle.

Case No. CA/WAKFS/01/2014
Wakfs Tribunal Case No: WT-210/2013

Substituted Petitioner-Appellants

-VS-

S.M.Kudsi Omer,

And 05 others

Trustees of the Kataragama Mosque, Shrine
& Pilgrims Rest, Sacred City, Kataragama.

Substituted Respondent - Respondents

Before : **M.T. Mohammed Laffar, J.**
K.K.A.V. Swarnadhipathi, J.

Counsel : A.H. Ilham Shammass with Fathima Nadiya Sahir for the 2nd and 3rd
Substituted Petitioner – Appellants.
G.B.M. Chandrika with N.M. Reyaz for the Substituted Respondent
– Respondent.
Pathum Balasinghe for 1st Substituted Respondent.

Decided on : 18/03/2021

Mohammed Laffar, J.

This is an appeal filed by the Original Petitioner-Appellant to set aside the order of the Wakf Tribunal dated 23.11.2013, where the Wakf Tribunal ordered a payment of Costs a sum of Rs. 52,500/- payable to all the Respondents.

When this matter is taken up today, the learned Counsel for the Substituted Petitioner-Appellant states as follows:

“The original Petitioner - Appellant in this matter has died on 03.05.2019, leaving a Last Will and a Testamentary Case bearing No. T/598 has instituted in the District Court of Galle by the executor named in the Last Will No. 4185 dated 29.11.2018.

The said executor has been substituted in the instant matter as the 2nd Substituted Petitioner – Appellant and he is prepared to pay the costs awarded by the Wakfs Tribunal, a sum of Rs. 52,500/- as a liability of the deceased’s estate and agrees to enter that as a liability in the said Testamentary case No. T/598 in the District Court of Galle.”

The Counsel for the Substituted Respondent – Respondents states that they have no objection to the above settlement proposed by the Appellant.

Therefore, subject to the foregoing terms of settlement, the appeal is dismissed without costs.

Proceedings are terminated.

JUDGE OF THE COURT OF APPEAL

K.K.A.V. Swarnadhipathi, J.

I agree.

JUDGE OF THE COURT OF APPEAL

NS/-