


IN THE COURT OF APPEAL OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRILANKA

1. Vitharanage Somawathie,
2. Vitharanage Premadasa,
Iththegala Hena,
Ullinduwawa.

Plaintiffs 

C A 934 / 2000 (F)
D.C. Embilipitiya 4485 / L


Vs.

Vitharanage Jinadasa,
Iththegala Hena,
Ullinduwawa.

Defendant

NOW BETWEEN

1. Vitharanage Somawathie,
2. Vitharanage Premadasa,
Iththegala Hena,
Ullinduwawa.

Plaintiff Appellant 

Vs.

Vitharanage Jinadasa,
Iththegala Hena,
Ullinduwawa.

Defendant Respondent

BEFORE : UPALY ABEYRATHNE, J.

COUNSEL : 1st and 2nd Plaintiff Appellants – Absent and
unrepresented

Anuruddha Dharmaratne for the
Defendant Respondent

ARGUED ON : 17.02.2012

DECIDED ON : 15.02.2013

UPALY ABEYRATHNE, J.

The Plaintiff Appellants (hereinafter referred to as the Appellants) instituted the said action in the District Court of Embilipitiya praying for a declaration of title and to eject the Defendant Respondent (hereinafter referred to as the Respondent) from the premises described in the schedule to the plaint. The Respondent prayed for a dismissal of the Appellants' action and for a judgment as prayed for in prayer ii and iii of the answer. The case proceeded to trial upon 14 issues. After trial the learned District Judge dismissed the Appellants' action with costs. Being aggrieved by the said judgment dated 03.08.2000 the Appellant has preferred the instant appeal to this court.

Although the Appellants were absent and unrepresented at the hearing of this appeal I cannot overlook the matter that the learned District Judge has erred in law by not answering to the issues raised by the parties. I now deal with the said matter of law. I have perused the proceedings of the case and the judgment. The

Appellants have raised issues No. 1 to 9 and the Respondent has raised issues No. 10 to 14. The learned District Judge in his judgment has left the said issues unanswered stating that "accordingly it is not necessary to answer the issues".

This Court at numerous occasions has stressed that the trial judges should deliver their judgments in compliance with the provisions contained in Section 187 of the Civil Procedure Code. In the present case also the learned District Judge has delivered his judgment blatantly violating the provisions contained in Section 187 of the Civil Procedure Code (Cap 86). Section 187 of the Code stipulates that: - "The judgment shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision." It is sad to note that in his judgment the learned District judge has not stated the points for determination and the decision thereon.

In the case of *Dona Lucihamy Vs Ciciliyanahamy* 59 NLR 214 it was held that "Bare answers, without reasons, to issues or points of contest raised in a trial are not a compliance with the requirements of section 187 of the Civil Procedure Code." In the case of *Warnakula Vs. Ramani Jayawardane* [1990] 1 SLR 206 it was held that "Bare answers to issues without reasons are not in compliance with the requirements of Section 187 of the Civil Procedure Code. The evidence germane to each issue must be reviewed or examined. The judge must evaluate and consider the totality of the evidence. Giving a short summary of the evidence of the parties and witnesses and stating that he prefers to accept the evidence of one party without giving reasons are insufficient."

Accordingly the judgment of the trial court does not conform to the requisites of Section 187 of the Civil Procedure Code. Hence I am of the opinion

that the failure of the trial judge to state the points for determination and to answer to the same has prejudiced the substantial rights of the parties.

Therefore I set aside the judgment and decree of the learned District Judge dated 03.08.2000 and allow the appeal of the Appellant without cost. I accordingly order a re-trial. The learned District Judge is directed to hear and conclude the case expeditiously.

Re-trial ordered.

Judge of the Court of Appeal