

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

Court of Appeal Case No.1112/00(F)

DC Panadura Case No.1251/M

Bulathsinhala Appuhamilage Don Sunil Gunarathne,
No.90B, Irrigation House,
Rathmalana.

PLAINTIFF

Vs.

Hapuhannadige Lan Chandradasa Fernando,
Polkotuwa, Pitawala,
Panadura.

DEFENDANT

AND

Hapuhannadige Lan Chandradasa Fernando,
Polkotuwa, Pitawala,
Panadura.

DEFENDANT -APPELLANT

Vs.

Bulathsinhala Appuhamilage Don Sunil Gunarathne,
No.90B, Irrigation House,
Rathmalana.

PLAINTIFF -RESPONDENT

AND

Hapuhannadige Thilaka Wijesiri Fernando
No.21,Horana Road,Eluwila,
Panadura.

PETITIONER

Vs.

Bulathsinhala Appuhamilage Don Sunil Gunarathne,
No.90B, Irrigation House,
Rathmalana.

PLAINTIFF- RESPONDENT -RESPONDENT

C.A. 1112/2000(F)

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DC. Panadura No. 1251/M

Before: Upaly Abeyrathne, J

Counsel: Biyanka de Alwis for the Petitioner.

W.M. Karunadasa for Plaintiff-Respondent.

Argued &
Decided on: 04.04.2013

Upaly Abeyrathne, J

Heard counsel in support of the application for substitution dated 12.09.2012. Hapuhannadige Lan Chandradasa Fernando the defendant-appellant has died on 02.02.2007. His death certificate has ^{been} produced marked P1. The said Hapuhannadige Lan Chandradasa Fernando has died unmarried. The Petitioner states that he is the brother of the said Hapuhannadige Lan Chandradasa

and he has died leaving 03 brothers and 02 sisters. The petitioner has produced the birth certificates of the said heirs marked P3 – P7. They are Hapuhannadige Nimal Dharmasiri Fernando, Hapuhannadige Santha Sumanasiri Fernando, Hapuhannadige Indrawathie Fernando and Hapuhannadige Swarna Priyanthi Fernando. They have given their consent by way of an affidavit to substitute the present petitioner in place of the deceased defendant-appellant. I have perused the said documents. I am of the view that the Petitioner Hapuhannadige Thilaka Wijesiri Fernando is a fit and proper person to be substituted in place of the deceased defendant-appellant . Hence I order to substitute said Hapuhannadige Thilaka Wijesiri Fernando as substituted defendant-appellant in place of the deceased Hapuhannadige Lan Chandradasa Fernando. The Registrar is directed to amend the caption accordingly.

Learned counsel for the Substituted Defendant-Appellant makes an application to withdraw this appeal. Learned counsel for the

respondent has no objection to this application. Accordingly the application for withdrawal of this appeal is allowed and the appeal is dismissed without costs.

The Registrar is directed to send the main record to the relevant District Court.

Judge of the Court of Appeal

Kpm/-