

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

CA DC 1182/98

C. Rita Fernando
No: 106,
Pattiyagama,
Madampe.

Substituted Plaintiff Appellant

Vs.

T. Patrick Fernando

And others

Respondents

C.A.1182/98 : D.C.Chilaw Case No. 23176.

Before : K.T. Chitrasiri,J. &
Malinie Gunaratne,J.

Counsel : Substituted Plaintiff-Appellant is absent and unrepresented
N.R. Sivendran with Dushyanthi Jayasuriya, Anushiya Raman
& T. Sivanandaraja for the 1st, 3rd and 4th Defendants-
Respondents.

Argued &

Decided on : 21.07.2014

K.T. Chitrasiri,J.

When this matter was mentioned on the last date i.e. 11.07.2014 Ms. Sudharshani Cooray who appeared for the Substituted Appellant moved for a date to consider withdrawal of this appeal. However, neither the counsel nor the Appellant is present in Court today. When it came up on 11.07.2014, it was brought to the notice of Court that the Appellant has not made the 1st and 2nd Defendant-Respondents as parties to this appeal. Therefore, counsel for the respondent, submitting that the Appellant has not complied with Section 755 of the Civil Procedure Code, moved that this appeal be dismissed. Counsel who appeared for the Appellant on the last occasion conceded that

the 1st and 2nd Defendants have not been made parties to this appeal. The Appellant has failed to send notices to those two parties of this appeal. It was borne by the registered post article receipt founded ~~at~~ at page 5 in the appeal brief as well. It was also brought to the notice of Court on that date that the relief prayed for in the prayer to the plaint was against the 1st and the 2nd Defendant-Respondents, on whom the Appellant has failed to send notices of this appeal. It is mandatory to make all the parties as Respondents in the notice of appeal in terms of Section 755 of the Civil procedure Code. Since the Appellant has failed to do so, this appeal is dismissed with costs.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

Malinie Gunaratne,J.

I agree

JUDGE OF THE COURT OF APPEAL

Cr/-