

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

C.A. No: 438/98 (F)
D.C. Marawila 227/RE

W.E. Raveendra Prasanjith Fernando
No. 160, Wijaya Mawatha,
Peelawatta, Andiambalama

01A SUBSTITUTED PLAINTIFF
RESPONDENT-PETITIONER

Vs.

S.A. Susila Subasinghe
Dummaladeniya West,
Wennappuwa

01A SUBSTITUTED DEFENDANT
APPELLANT-RESPONDENT

C.A. No: 438/98 (F)

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D.C. Marawila 227/RE

BEFORE : K.T. Chitrasiri, J.

COUNSEL : Pathum Navarathne Bandara for the
Substituted Defendant-Appellant.

Amaranath Fernando for the Substituted
Plaintiff-Respondent.

DECIDED ON : 06.02.2015.

K.T. Chitrasiri, J.

When this matter was mentioned on the last date, namely 28.01.2015, both counsel have agreed to have this matter sent back to the District Court of Marawila to have a fresh trial due to the unavailability of the documents marked on behalf of the plaintiff.

Admittedly, the documents marked P1 and P2 are not found in the appeal brief. A letter was sent to the Registrar of the District Court of Marawila to trace those two documents. He, by his letter dated 28.01.2015 has informed this court that those two documents namely P1 and P2 are not traceable in that Court.

In view of the above circumstances parties agree to have a fresh trial for the purpose of marking those two documents. They also agree not to re-call the witnesses who gave evidence in the trial court. Accordingly, they agree to adopt the proceedings as recorded before the District Judge acting under the purview of Section 33 of the Evidence Ordinance and then to allow the plaintiff to mark the documents P1 and P2 once again.

Considering the above, learned District Judge of Marawila is directed to have a fresh trial adopting the evidence that had been already recorded and to allow the plaintiff to produce the documents marked P1 and P2 in evidence. Thereafter learned District Judge to deliver the Judgment. For the reasons set out herein before, the judgment dated 18.06.1998 of the learned District Judge of Marawila is set aside.

In view of the above, proceedings in this Court are terminated.

Registrar of this court is directed to send the original record with a copy of this order to the District Court for re-trial.

Proceedings are terminated.

JUDGE OF THE COURT OF APPEAL

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