

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

C.A. No: 150/99

D.C. Kuliyaipitiya Case No.7446/L

D. David Welekala

Aruna Rohana Welikala

Defendant Appellant

Vs.

W.N. Appunaide
Hettipola

Respondent

C.A. No:150/99(F) - D.C. Kuliyapitiya Case No.7446/L

BEFORE : VIHITH K. MALALGODA, PC J. (P/CA)
COUNSEL : Sudarshani Cooray for the Defendant-Appellants.
ARGUED &
DECIDED ON : 09.09.2015

VIJITH K. MALALGODA, PC J. (P/CA)

In this matter one of the heirs of the deceased plaintiff-respondent W.N. Sumanawathi had sent a letter to the Bar Association with a copy to this Court asking for the return of the brief. Learned Counsel appearing for the plaintiff-respondent Mr. Lakshman Perera, PC submits that he could not take any steps in this matter for the reason that the Counsel for defendant-appellants could not take steps to substitute the deceased plaintiff-respondent. He further submits that he could not hand over the brief to the said Sumanawathi since she has not been properly substituted. Therefore he submits that he has already handed over the brief to the instructing attorney to be returned to the said Sumanawathi or any other heirs of the deceased plaintiff-respondent and he has obtained a letter from the instructing attorney to that effect. At this stage Counsel for the defendant-appellant submits that she has written

instructions from the 2nd defendant-appellant namely, Aruna Rohana Welikala to withdraw this appeal. She further submits the said 2nd defendant-appellant is the son of the 1st defendant-appellant who is deceased. She moves that she be permitted to submit the said letter and she is instructed to file it along with a motion at the registry. Mr. Lakshman Perera, PC too wants to file the said letter he received from the instructing attorney with the acknowledgement from the said W.N. Sumanawathi at the registry along with a motion. Application by the Counsel for the 2nd defendant-appellant is allowed. Appeal is accordingly dismissed.

PRESIDENT OF THE COURT OF APPEAL

TW