

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

C.A. Case No.1224/1998 (F)

D.C. Kandy Case No.16197/L

1. Nethanial Soloman

No.66/2, Aniewatta,

Kandy.

And 04 others

PLAINTIFFS

-Vs-

Ranjith Rmyasiri Uduwela

No.38, George E. De Silva Mawatha,

Kandy.

DEFENDANT

AND NOW BETWEEN

Nethanial Soloman

No.66/2, Aniewatta,

Kandy.

1st PLAINTIFF-APPELLANT

-Vs-

Ranjith Rmyasiri Uduwela

No.38, George E. De Silva Mawatha,

Kandy.

DEFENDANT-RESPONDENT

Before : A.H.M.D. Nawaz, J.

Counsel : W.D. Weeraratna for the Plaintiff-Appellant
R. Chula Bandara with Sidath Bandara for the Defendant-Respondent

Argued and

Decided on : 12.02.2019

A.H.M.D. Nawaz, J.

This is a matter in which His Lordship Chitrasiri, J. had delivered judgment as far back as 03.12.2013. A Special Leave to Appeal Application before the Supreme Court was refused on 04.07.2018 and in the circumstances the case record has to be transmitted to the District Court of Kandy.

However, in the caption of the judgment delivered by this Court on 03.12.2013, the District Court case number has been erroneously described as District Court Kandy Case No.3227/L whereas the correct number has to be District Court Kandy 16197/L. Mr. Chula Bandara Counsel for the Defendant-Respondent in this case supports a motion today before this Court seeking a correction of the erroneous case number that appears in the judgment of this Court dated 03.12.2013. This erroneous description, the Learned Counsel for the Respondent submits, has caused the difficulty in having the judgment and the original case record transmitted back to the District Court of Kandy. This Court has perused the original record pertaining to this appeal and is satisfied that the actual number of the District Court case has to be 16197/L rather than District Court of Kandy 3227/L as it erroneously appears in the judgment delivered by this Court on 03.12.2013.

Mr. David Weeraratna Counsel for the Plaintiff-Appellant is present in Court and agrees that it is this incorrect number 3227/L that has caused the delay in the expeditions dispatch of the record back to the District Court of Kandy.

This Court possesses inherent powers in the correction of accidental slips and unintentional defects that appear in the judgments of this Court and it is an accepted principle laid down in a catena of cases that the Court possesses ample powers to correct mistakes of this nature in terms of Section 189 read with Section 839 of the Civil Procedure Code.

Where a judgment is entered in a case against a person under a wrong name, the court has inherent power to substitute the right name in the caption of the plaint even after the decree-see *Parsons v. Abdul Cader* 42 N.L.R 383; 20 C.L.W 123. In this case, whilst allowing the substitution of the correct name of the defendant, Keunemen J. stated, “to use the language of P.C. Mogha in ‘*The Law of Pleadings in British India*’ (6th Ed. P.182), “Names are used only to designate persons, and the suit is not against names but against persons designated thereby”.

A Court has ample power under Section 189 read with Section 839 of the Civil Procedure Code to correct the error in question as it was an accidental slip or omission-*Sumanadewa v. Sedaris*(1990) 1 Sri L.R 27.

Section 189 of the Civil Procedure Code is exhaustive of the causes for which a decree may be amended. This section cannot be invoked by a Court for correcting mistakes of its own in law or otherwise.

It is axiomatic that it is not the substance of the judgment that is sought to be corrected but an unintentional slip in inserting the case number of the Court *a quo*. I allow the application made by way of the motion.

The Registrar is directed to insert the necessary amendment in the body of the judgment dated December 3, 2013 and dispatch the judgment and record back to the District Court of Kandy.

JUDGE OF THE COURT OF APPEAL