

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

C.A. Writ 233/2012

1. Abdul Hameed Badurdeen,
No: 172-K2, Mathrisa Road,
Kalmunai Kudy 10.
2. Abdul Wahab Mohamed Mahudoom
No;480, Mansoor Maulana Road,
Marudumune 03.
3. Ibrah Lebbe Thowfeek,
Mosque Road,
Kalmunei Kudi 09.
4. Vaseer Muhammadu Kiyaz,
493, Mosque Road,
Kalmunaikudi 09.
5. Adambawa Jamaldeen
249-C, Mosque Road,
Kalmunaikudi 09.

Petitioners.

Vs.

1. The Registrar,
Registrar of Co-operative Societies,
Ministry of Co-operative Societies,
Colombo 2
2. M.C.M.Sheriff,
Commissioner of Co-operative Development &
Registrar of Co-operative Societies,
Eastern Province,
Court Road, Trincomalee.

3. Y.L.M.Badurdeen ,
Assistant Commissioner of Co-operative Societies,
Batticaloa Road,
Kalmunai.
4. H.A.J.S.M.Abeynayake,
Assistant Commissioner (Legal Audit)
Commissioner of Co-operative Development
Department of Co-operative Development,
No 330, Union Place, Colombo 02.
5. U.L.Liyakathali,
Mathirisa Road, Kalmunai 05.
6. N.M.Ismail,
Maruthamuna.
7. M.A.Jamal Mohamed,
Land Registry, Kalmunai.
8. C.M.Najeem,
Natpattimunai.
9. S.M.Fazli,
Mosque Road,Kalmunaikudi 09.
10. Mohiyadeen Bawa Muhammed Hussain,
265, Cassim Road, Kalmunaikudy-11.
11. Hameedu Lebbe Abdul Gaffoor,
137-A. Main Street
Natpaddimunai 02,Kalmunai.
12. Hon. Attorney-General,
Attorney General's Department
Colombo 12,

Respondents.

C.A. Writ 233/2012

Before : S. Sriskandarajah J. (P/CA)
P.W.D.C. Jayathilake

Counsel : Farook Thahir for the Petitioner.

Decided on : 30.01.2013.

S. Sriskandarajah J. (P/CA).

The Petitioner in this application is seeking a writ of certiorari to quash the order contained in the letter dated 01.06.2012 marked P3 and a writ of mandamus directing and/or compelling the 01st Respondent to hold an inquiry and to make a final order on the appeal submitted by the Petitioners contained in P4.

The appeal that was filed which is marked as P4 dated 28.06.2012 was submitted by an Attorney-at-Law and not by the parties concerned. The Section 60(2) of the Co-operative Society Ordinance states that the parties affected could prefer an appeal to the Registrar of Co-operative Society . The Registrar of the Co-operative Society by his letter dated 19.07.2012 marked P5 has replied to the Attorney-at-Law who has submitted the said appeal and informed that the persons mentioned in paragraph 1 of the appeal preferred by the Attorney-at-Law could prefer an appeal as they have the right to make an appeal to the Registrar of Co-operative Society and in that event he has said that he could consider the appeal and respond.

This Court is of the view that the Attorney-at-Law who prepared the appeal would have got the relevant parties to sign the appeal instead of he himself sending it in his name, as there is no procedure laid down in this regard.

In the above circumstances, as no proper appeal submitted by the aggrieved party to the Registrar of Co-operative Society according to the Registrar of Co-operative Society he has not considered the said appeal. In these circumstances, as the Petitioner has not placed a prima facie case before this court for issuance of notice, Court refuses issue notice.

PRESIDENT OF THE COURT OF APPEAL.

P.W.D.C. Jayathilake

I agree.

JUDGE OF THE COURT OF APPEAL.

Mm/-.