

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

In the matter of an Appeal

Piyasena Nuwarapaksha,  
No.434, Pita Kotte,  
Kotte

**Plaintiff**

SC Appeal 149/2015  
Provincial High Court Case No  
WP/HCCA/COL/382/2007(F)  
DC Colombo Case No.11564/MR

Vs

Singer (Sri Lanka) Ltd,  
No.320, Union Place,  
Colombo 2

**Defendant**

**AND BETWEEN**

Piyasena Nuwarapaksha,  
No.434, Pita Kotte,  
Kotte

**Plaintiff-Appellant**

Vs

Singer (Sri Lanka) Ltd,  
No.320, Union Place,  
Colombo 2

**Defendant-Respondent**

**AND NOW BEWEEN**

Piyasena Nuwarapaksha,  
No.434, Pita Kotte,  
Kotte

**Plaintiff-Appellant-Petitioner-Appellant**

Vs

Singer (Sri Lanka) Ltd,  
No.320, Union Place,  
Colombo 2

**Defendant-Respondent-Respondent-Respondent**

Before : Sisira J de Abrew J  
Priyantha Jayawaedena PC J  
Vijith Malalgoda PC J

Counsel : Faiz Musthapa with Keerthi Tilakaratne for the  
Plaintiff-Appellant-Petitioner-Appellant  
Gomin Dayasiri with Minoli Jinadasa and Lasantha  
Thiranagama for the Defendant-Respondent-Respondent-Respondent

Argued on : 15.3.2018

Written Submission

Tendered on : 2.9.2015 by the Plaintiff-Appellant-Petitioner-Appellant  
6.10.2015 by the Defendant-Respondent-Respondent-Respondent

Decided on : 18.7.2018

**Sisira J de Abrew J**

This is an appeal against the judgment of the Civil Appellate High Court dated 20.10.2011 wherein the said High Court affirmed the judgment of the District Court. The learned District Judge by judgment dated 18.9.2007 dismissed the Plaintiff's case and granted relief claimed by the Defendant in paragraphs (a),(b),(c) and (d) of the prayer of the answer. The Civil Appellate High Court affirmed the judgment of the learned District Judge.

Being aggrieved by the judgment of the Civil Appellate High Court, the Plaintiff-Appellant-Petitioner-Appellant (hereinafter referred to as the Plaintiff-Appellant) has filed this appeal. This court by its order dated 22.7.2015 granted leave to appeal on the question of law set out in paragraph 20(a) the Petition of Appeal dated 29.11.2011 which is set out below

“Did the Honourable Judge of the Civil Appellate High Court err in law by not judicially analyzing the evidence and the documents produce at the trial?”

The Plaintiff-Appellant was appointed the dealer of the Defendant-Respondent-Respondent-Respondent (hereinafter referred to as the Defendant-Respondent) by agreement dated 20.10.1975 marked 'A' to the plaintiff. The Defendant-Respondent terminated the agreement. The Plaintiff-Appellant takes up the position that the termination of the agreement was wrong and claimed damages. The Defendant-Respondent takes up the position that the termination of the agreement was done under clause 12 of the agreement. Under Clause 12 of the agreement the Defendant-Respondent has the power to cancel the agreements on one of the following grounds.

1. On the approved dealer committing a breach of his duties or being guilty of misconduct

The most important question that must be decided in this case is whether the Plaintiff-Appellant is guilty of misconduct or dishonesty. The Plaintiff-Appellant on 10.9.1991 handed over a letter marked V1 which is supposed to have been signed by the Chairman of the Co-operative Society Pagoda to the Defendant-Respondent and sought discount for several items which are sold through the Plaintiff-Appellant. The letter V1 states that the items mentioned therein were to be sold to the Janasavi Recipients. The Plaintiff-Appellant in his evidence admits that he handed over the letter marked V1 to Kasthuriarachchi who is an officer of the Defendant-Respondent. The said letter V1, according to it, has been signed by Wimalasiri Perera, the Chairman of the aforementioned Co-operative Society. But the question is whether Wimalasiri Perera has in fact signed it. Wimalasiri Perera in his evidence states that he never issued the letter marked V1 and the signature found in V1 is not his signature. The date of the letter marked V1 is 10.9.1991. Wimalasiri Perera in his evidence further states that he was the Chairman of the said Co-operative Society on 10.9.1991. From the above evidence it is very clear that the letter marked V1 is a false document. The Plaintiff-Appellant in his evidence states that he does not know how he got the said document. If that is so he should have contacted the Chairman of the said Co-operative Society and ascertained whether such a letter had been issued. He has not done so. He (the Plaintiff-Appellant) has submitted this letter to the Defendant-Respondent. Thus the Plaintiff-Appellant has used a false document as a genuine document. The above evidence clearly establishes the fact that the Plaintiff-Appellant was dishonest.

When I consider the above evidence it is very clear that Plaintiff-Appellant was guilty of misconduct and dishonest acts being committed. The Plaintiff-Appellant is the dealer of the Defendant-Respondent. When the Defendant-Respondent finds that

his dealer is dishonest, he cannot continue to have contractual relationship with his dealer.

For the above reasons, I hold that the Defendant-Respondent was entitled to terminate the agreement marked 'A' and the Defendant-Respondent is correct when it (the Defendant-Respondent) terminated the contract.

For the above reasons, I hold that the learned District Judge was correct when he dismissed the action of the Plaintiff-Appellant and that the Civil Appellate High Court was correct when it affirmed the judgment of the learned District Judge. In view of the conclusion reached by me, I answer the above questions of law in the negative.

For the above reasons, I dismiss this appeal with costs.

*Appeal dismissed.*

Judge of the Supreme Court.

Priyantha Jayawardena PC J

I agree.

Judge of the Supreme Court.

Vijith Malalgoda PC J

I agree.

Judge of the Supreme Court.

