PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

CIVIL PROCEDURE CODE (AMENDMENT) ACT, No. 8 OF 2017

[Certified on 07th of June, 2017]

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Civil Procedure Code (Amendment)
Act, No. 8 of 2017

[Certified on 07th of June, 2017]

L.D.—O. 48/2015.

AN ACT TO AMEND THE CIVIL PROCEDURE CODE (CHAPTER 101)

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

Short title.

1. This Act may be cited as the Civil Procedure Code (Amendment) Act, No. 8 of 2017.

Amendment of section 5 of Chapter 101.

2. Section 5 of the Civil Procedure Code (Chapter 101) (hereinafter referred to as the "principal enactment") is hereby amended as follows:—

(1) by the insertion, immediately after the definition of the expression "court", of the following definition:–

" "court expert" shall mean a person specially skilled or knowledgeable in any subject, field or disciplines";

(2) by the insertion, immediately after the definition of the expression "legal document", of the following new definition:–

" "local authority" means any Municipal Council, Urban Council or Pradeshiya Sabha and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by any such Council or Sabha;";

2—PL 005082—2,961 (03/2017)

(3) by the insertion, immediately after the definition of the expression "original court", of the following new definitions:–

" "Provincial Council" shall mean a Provincial Council established under Article 154A of the Constitution of the Democratic Socialist Republic of Sri Lanka 1978;

"Public Corporation" means any corporation, board or other body which was or is established by or under any written law other than the Companies Act, No. 7 of 2007, with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

"Public Office" shall have the same meaning as defined in the National Archives Law No. 48 of 1973;".

Replacement of section 27 of the principal enactment.

3. Section 27 of the principal enactment is hereby repealed and the following section, substituted therefor:-

"Appointment of registered Attorney.

27. (1) The appointment of a registered attorney to make any appearance or application, or to do any act as aforesaid, shall:-

(*a*) be substantially in such form specified in Form No. 7 of the First Schedule to this Code and shall be filed in court;

(*b*) contain an address at which service of any process under the provisions of this Chapter may be served on such registered attorney, instead of the party whom he represents; and

(*c*) include an electronic mail address if any, to which service of any process,

notice or any other relevant information may also be served on a registered attorney.

(2)(*a*)Where a party who appoints a registered Attorney is a natural person, a memorandum nominating a legal representative for the purpose of the legal proceedings in the event of the death of such party before the final determination of the proceedings, shall also submitted.

(*b*) The memorandum referred to above shall, substantially be in the form specified in Form No.7A of the First Schedule hereto.

(*c*) The provisions of section 393 shall apply in regard to the nomination of such legal representatives and filing of such memorandum.

(3) When an appointment under subsection (1) is filed, an appointment of a registered attorney shall be in force until –

(*a*) revoked by the client in writing with the leave of the court and after notice to the registered attorney in writing signed by the client and filed in court;

(*b*) revoked by the registered attorney-

(i) in writing signed by the client and filed in Court;

(ii) with leave of the court having given thirty days' notice to the client;

(*c*) the client dies;

(*d*) the death or incapacity of registered attorney; or

(*e*) all proceedings in the action are ended and judgment satisfied so far as regards the client.

(4) No Counsel shall be required to present any document empowering him to make any appearance or application or to do any act. The Attorney-General may appoint a registered attorney to act specially in any particular case or to act generally on behalf of the State.".

Amendment of section 29 of the principal enactment.

4. Section 29 of the principal enactment is hereby amended as follows:-

(1) by the renumbering of that section as subsection (1) thereof;

(2) by the addition immediately after the renumbered subsection (1) thereof, of the following subsections which shall be numbered as subsections (2) and (3) of that section:-

"(2) Service of any process, notice or any other document at the address given under paragraph (*b*) of subsection (1) of section 27 and sent to the electronic mail address given under paragraph (*c*) of subsection (1) of section 27 shall be deemed to be sufficient delivery to the party who has appointed the registered attorney, unless the court otherwise directs.

(3) Service of process, notice or any other document at the address given in the memorandum submitted under section 27(2) shall be deemed to be sufficient delivery to the nominee or nominees appointed under section 393.".

Insertion of new Chapter XA in the principal enactment.

5. The following new chapter is hereby inserted immediately after Chapter X of the principal enactment and shall have effect as Chapter XA of that enactment:-

"CHAPTER XA
OF FIXING DAY OF PRE-TRIAL

Date for pre-trial proceedings.

79A. (1) The court shall –

(*a*) forthwith on the expiration of the time allowed for the filing of the answer; or

(*b*) where a replication is permitted, on the last day of the time allowed for the filing of that replication,

and whether the same is filed or not, appoint a date not earlier than three weeks and not exceeding two months from such date for pre-trial hearing to be commenced, either in the presence of all parties to the action or such parties as are present.

(2) The court shall, prior to appointing a date, satisfy itself that the absent parties have been duly notified of the proceedings.".

Replacement of section 80 of the principal enactment.

6. Section 80 of the principal enactment is hereby repealed and the following section is substituted therefor:-

"Fixing date of trial.

80. On the date fixed for the case to be called to fix the date of trial of the action in the trial court, the court shall appoint a date for the trial of the action and shall give notice thereof in writing by registered post to all parties who have furnished a registered address and tendered the cost of service of such notice as provided by subsection (2) of section 55.".

Insertion of new section 80A.

7. The following new section is hereby inserted immediately after section 80 of the principal enactment and shall have effect as section 80A of that enactment :-

"No applications for pre-trial steps after fixing the date of trial.

80A. (1) (*a*) On or after the date fixed for the trial of the action, no application for pre-trial steps shall be allowed, unless the court is satisfied for reasons to be recorded, that a grave and irremediable injustice would be caused if such steps are not permitted.

(*b*) In such event, the court may impose such terms as to costs or otherwise as it thinks fit against the party who makes such application.

(2) Where the issues upon which the trial of the action is to proceed have been settled by the Judge conducting the Pre-Trial hearing, no amendment thereto shall be made at the trial, save in special circumstances and unless the court is satisfied that a refusal to permit such amendment would result in manifest injustice to the party applying for the amendment.

(3) Where issues both of law and facts arise in the same action, and the court is of the opinion that the case may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.".

Amendment of section 93 of the principal enactment.

8. Section 93 of the principal enactment is hereby amended, as follows:-

(1) by the substitution, in subsection (1) thereof, for the words "first fixed for trial" of the words "first fixed for Pre-Trial"; and

(2) by the substitution, in subsection (2) thereof, for the words "first fixed for the trial" of the words "first fixed for the Pre-Trial".

Insertion of new Chapter XVIIA in the principal enactment.

9. The following new chapter is hereby inserted immediately after Chapter XVII of the principal enactment and shall have effect as Chapter XVIIA of that enactment:-

"CHAPTER XVIIA

OF THE PRE TRIAL

Admissions and Issues.

142A.The parties shall tender their proposed admissions and issues in writing to the court registry, fourteen days prior to the date fixed for the pre-trial hearing with the proof of service by the submission of a copy of such admissions and issues to all other parties.

Advancement or postponement of pre-trial hearing.

142B. Subject to the provisions of section 142A the Judge conducting the Pre-Trial hearing may either on his own motion or on the application of any party and for sufficient cause shown, advance or postpone the date fixed for the pre-trial hearing:

Provided that, the Judge conducting the Pre-Trial hearing shall conclude the hearing within three months from the commencement of such hearing, unless the Judge conducting the Pre-Trial hearing is prevented from acting accordingly for reasons to be recorded by him and no adjournment in excess of four weeks may be granted, unless in exceptional circumstances.

When parties fail to appear.

142C. (1) If any party–

(*a*) fails to diligently prosecute his or her case; or

(*b*) fails to appear on the day fixed for the pre-trial hearing or on any other day to which it is adjourned,

the Judge conducting the Pre-Trial hearing may, taking into consideration all appropriate circumstances -

(i) proceed to dispose of the action in one of the methods specified in Chapter XII of this Code; or

(ii) make such other order as he may think fit.

(2) In the event, the Judge conducting the Pre-Trial hearing proceeds to dispose of the action adopting any one of the methods specified in Chapter XII, the provisions of that Chapter, shall *mutatis mutandis* apply to and in relation to such proceedings.

Pre-Trial.

142D. At the Pre-Trial hearing, the Judge conducting the Pre-Trial hearing shall have power to question the parties or call upon them to state their respective cases with a view to –

(*a*) ascertaining jurisdictional issues;

(*b*) elucidating the matters in dispute;

(*c*) obtaining admissions of facts and of documents;

(*d*) consolidating two or more pending cases;

(*e*) identifying the number of witnesses based on admissibility and relevancy inclusive of expert witnesses;

(*f*) appointing a court Expert;

(*g*) assisting the parties to arrive at an adjustment, settlement, compromise or other agreement, with regard to the matter in issue in such action and may, for that purpose, suggest terms of settlement which in his view is reasonable, having regard to all the circumstances of the case;

(*h*) ascertaining and recording any other matters which would be helpful in the speedy disposal of the action; and

(*i*) to take all steps and make all such orders as may appear to him to be necessary or desirable, for the expeditious and inexpensive disposal of the action.

Judge conducting the Pre-Trial hearing may make orders.

142E. At the Pre-Trial, the Judge conducting the Pre-Trial hearing may exercise the powers conferred on him by section 142D and shall make an order –

(*a*) regarding any question of fact determined by a written report from a person having special and independent knowledge of that fact;

(*b*) for the issue of a commission under Chapter XXIX of the Code inclusive of an order for the appointment of an independent expert to inquire and report on any question of fact or opinion; and

(*c*) an order to issue certified copies of any documents in the custody of any

Public Office, Public Corporation, Provincial Council or any Local Authority.

Matters which Judge conducting the Pre-Trial hearing shall record.

142F. (1) At the Pre-Trial, the Judge conducting the Pre-Trial hearing shall record:-

(*a*) the admissions by the parties of facts or documents or contents of documents;

(*b*) the agreement of the parties with regard to any matter;

(*c*) the agreement of parties to accept and to abide by:-

(i) any decision of the Judge conducting the Pre-Trial hearing arrived at in such manner as may be agreed upon between the parties and entering of judgment in accordance with such decision;

(ii) any decision of the Judge conducting the Pre-Trial hearing on any or all issues of fact or law and entering of the judgment in accordance with such decision;

(*d*) any agreement of the parties:-

(i) with regard to the mode of proof of any fact or document;

(ii) as to the number of witnesses to be called;

(iii) to consolidate two or more pending actions;

(*e*) withdrawal of actions; and

(*f*) adjustment, settlement or compromise of actions.

(2) When the Judge conducting the Pre-Trial hearing records an agreement of the parties under paragraph (*c*) of subsection (1) such Judge shall also read out and explain the effect of such agreement to the parties concerned and record the fact that the parties do understand the contents of such agreement and the effect thereof. The parties shall be required to sign the agreement.

Judge conducting the Pre-Trial hearing to determine issues.

142G. At the Pre-Trial hearing, issues may be determined taking into consideration proposed admissions and issues submitted in writing under section 142A, pleadings, interrogatories and any agreement.

Judge conducting the Pre-Trial hearing may adjourn framing of issues.

142H. Where the Judge conducting the Pre-Trial hearing is of the opinion that the issues cannot be correctly framed without the examination of some persons not present at the pre-trial proceedings, or without the inspection of some documents not produced in the action, such Judge may adjourn framing of issues to a future day to be fixed by the court and may compel the attendance of such person or the production of such document by summons or other process.

When Pre-Trial steps have been taken, date to be appointed.

142I. (1) After the issues are settled, and –

(*a*) on the parties informing the Judge conducting the Pre-Trial hearing that all the Pre-Trial steps had been taken; and

(*b*) where the Judge conducting the Pre-Trial hearing is satisfied that all such Pre-Trial steps have been taken by the parties,

the Judge conducting the Pre-Trial hearing shall forthwith appoint a date within fourteen days of such date for the case to be called in order to fix the date of trial of the action in the trial court.".

Repeal of sections 146, 147 and 148 of the principal enactment.

10. Sections 146, 147 and 148 of the principal enactment are hereby repealed.

Insertion of new section 149A in the principal enactment.

11. The following new section is hereby inserted immediately after section 149 of the principal enactment and shall have effect as section 149A of that enactment:-

"Consolidation of actions.

149A. (1) The court may order, two or more actions in which the questions of law or fact in issue are substantially the same, to be consolidated upon such terms as the court may deem fit and on the agreement of Parties.

(2) The Court may order –

(*a*) several actions to be tried at the same time and on the same evidence; or

(*b*) the evidence in one action to be used as evidence in another; or

(*c*) one of several actions to be tried and other actions to be stayed to abide by the result,

with the consent of the parties:

Provided that on the application of any party the court shall have power to try another of the actions so stayed where the selected action fails to be a real trial of the issues involved.".

Insertion of new section 151A in the principal enactment.

12. The following new section is hereby inserted immediately after section 151 of the principal enactment and shall have effect as section 151A of that enactment:-

"Affidavit may be substituted.

151A. (1) Notwithstanding the provisions of section 151, the court may, on its own motion or at the request of one of the parties to the action, order that an affidavit be substituted for an oral examination in chief of a witness and direct the party calling such witness to tender such affidavit on a date fixed by the court which date shall be at least one month prior to the date of trial, to enable the opposite party to prepare for the trial.

(2) Where an order is made by the court under subsection (1), the party who is responsible for tendering the affidavit shall tender it together with the documents referred to therein, to the Registrar of the court with the proof of service of a copy of the affidavit with copies of all documents of the opposite party.

(3) On the date of the trial, the party tendering the affidavit shall produce the affidavit through the witness who has affirmed to or sworn to it, including all documents referred therein. The opposite party is entitled to object to its being received, either on the inadmissibility of such evidence or a part of the evidence or on the inadmissibility or

authenticity of any documents annexed to such affidavit. In such event, the court may make a ruling on such objection, prior to the witness being cross examined by the opposite party:

Provided that, the court may, in appropriate circumstances, permit the leading of oral evidences, in addition to the evidence contained in the affidavit.

(4) If an affidavit contains evidence of matters of hearsay or any matter which is scandalous, the court may order deletion of such matters and may proceed with the rest of the matters in the affidavit or may order the party who filed such affidavit to tender a fresh admissible affidavit and the party filing such inadmissible affidavit shall be liable to the payment of costs.".

Replacement of sections 393 to 398 of the principal enactment.

13. Sections 393 to 398 (both inclusive) of the principal enactment are hereby repealed and the following new sections substituted therefor:-

"Memorandum.

393. (1) A party who appoints a registered Attorney under section 27(2) (hereinafter referred to as the "nominator party"), shall nominate at least one person and not more than three persons, in order of preference, to be his legal representative for the purpose of proceeding with the action, in the event of his death pending the final determination of the action:

Provided that the court may, in the event the memorandum is not filed at any time before the final determination of an action, on its own motion or on the application made by any

party, require a party to the action or any person eligible to file a memorandum under the provisions of this Code, to file such memorandum on or before a date appointed for such purpose by the court. In the event of failure to file such memorandum the court may impose an appropriate cost on the defaulting party.

(2) (*a*) In the event of the death of the nominator party, pending the final determination of the action, the person nominated under subsection (1) shall, in the order of preference in which his name is set out in the memorandum, be deemed to be the legal representative of the party for the purposes of the action.

(*b*) In the event of the death or incapacity of the legal representative whose name is set out in the memorandum, the person nominated next in order of preference shall be deemed to be the legal representative for the purposes of the action.

(*c*) The person nominated as legal representative shall subscribe his or her signature to the memorandum, signifying consent to be so appointed. The signature of the nominator party and those of the nominee or nominees consenting to be appointed, shall be witnessed by an Attorney-at-law, a Justice of the Peace or a Commissioner of Oaths.

(3) A nominee may at any time with notice to the nominator party, apply to court by way of a motion to withdraw his consent to be such nominee and in such event the court shall make

an order that he ceases to be the nominee of the nominator and shall cause the name of such nominee to be removed.

(4) Subject to the provisions of subsection (1) of this section, a nominator party may at any time before the final determination of the action, make an application with notice to the nominees, to tender a fresh memorandum nominating one or more nominees. On the filing of such new memorandum, the previous memorandum of such nominator party shall be deemed revoked and the nomination contained in such fresh memorandum shall forthwith take effect.

(5) The legal representative of a deceased nominator shall be entitled to take all such steps as may be necessary, as the deceased nominator party would have been entitled to take, had he been alive, if the cause of action survives the death of the deceased nominator party.

(6) (*a*) A nominee shall not refuse to act as the legal representative of a deceased nominator party. He may, with the leave of the court first had and obtained, by way of petition and after giving notice to the other nominees if any, apply for permission from court to be released from the office of legal representative of such nominator party.Such application may be made not later than two months from the date of the death of the nominator party.

(*b*) Where the court grants permission to release from the office of legal representative, the nominee who is next in order of preference in the memorandum filed by the nominator party, shall be deemed to be the legal representative of such deceased nominator party, for the purposes of the action.

(*c*) Where an application under paragraph (*a*) of this subsection is made by a nominee who is the sole nominee or the sole remaining nominee of deceased nominator party, such nominee shall notify the heirs of such deceased nominator party regarding his application and in the event of the court granting permission as aforesaid, the court shall appoint an heir of such deceased nominator party to act as the legal representative of such deceased nominator party for the purposes of the action.

Failure to file a Memorandum.

394. (1) On the death of a party to the action who had failed to file a memorandum, any party to the action may apply to the court by an *ex parte* application by way of a petition supported by an affidavit, requesting that an executor or administrator or in the case of an estate which is below the administrable value, the next of kin who have adiated the inheritance of the deceased party be substituted in the place of such deceased party.

(2) The court may, on being satisfied that such appointment is necessary and the cause of action survives on the death of such party, shall appoint such person.

(3) The person so appointed shall be bound by proceedings prior to his appointment:

Provided that, the person appointed and made a substituted party in the action, may object that he is not the executor or administrator or in the case of an estate which is below the administrable value, the next of kin who have adiated the inheritance of the deceased party or make any defence appropriate to his character as such representative.

Application for legal representative's removal.

395. (1) (*a*) An executor or administrator or in the case of an estate which is below the administrable value the next of kin who have adiated the inheritance of the deceased party may apply to court for the removal of the legal representative of such deceased nominator and for the appointment of a person named in such application or the next person named in order of preference in the memorandum filed by the deceased nominator, as such legal representative. The person who is the legal representative of the deceased nominator for the time being, shall be the respondent to such application.

(*b*) The court may, upon being satisfied that it is in the interests of an executor or administrator or in the case of an estate which is below the administrable value the next of kin who have adiated the inheritance of the deceased party may remove such legal representative and appoint the person named next in order of preference in the memorandum filed by the deceased nominator party or if there are sufficient grounds for doing so, appoint the person named in the application, as the legal representative of the deceased nominator party.

(*c*) An application under this sub-section shall be by way of petition and affidavit and the court may issue notice of the application to the other heirs, if any, of the deceased nominator party.

(2) No proceedings shall be postponed or adjourned or any step in the action postponed by reason of the death of a nominator party.

For the purposes of this Chapter-

"estate" means the gross value of the estate of the deceased; and

"legal representative" means a person who represents the estate of a deceased party or person, for the purposes of the action, by virtue of a nomination made in a memorandum filed under subsection (1).

Court to make order that action to proceed.

396. If there be more than one plaintiff or defendant and any of them dies, and if the right to sue on the cause of action survives to the surviving plaintiff alone, or against the surviving defendant alone, the court shall on the *ex-parte* application by petition supported by affidavit, make an order to the effect that the action be proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, as the case may be.

Legal representative to be made a substituted plaintiff.

397. If there are more plaintiffs than one and any one of them dies, and if the right to sue does not survive on the surviving plaintiff or plaintiffs alone, but survives on the legal heirs of the deceased plaintiff jointly, the court may cause the legal representative of the deceased plaintiff to be made a substituted plaintiff in the place of the deceased plaintiff, and shall thereupon cause an entry to that effect to be made on the record and proceed with the action.

Legal representative may apply to have name entered.

398. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of the deceased may, where the right to sue survives, apply to the court

to have his name substituted on the record in place of the deceased plaintiff and the court shall thereupon cause an entry to that effect to be made on the record and proceed with the action.

Where no application is made by the legal representative of a deceased plaintiff.

398A. If no application is made to the Court by any legal representative of a deceased plaintiff within six months from the death of such plaintiff, the court may make an order that the action shall abate, and award to the defendant the costs which he may have incurred in defending the action, to be recovered from the estate of the deceased plaintiff. However, the court may, if it may deem appropriate, on the application of the defendant, made any time after the death of the plaintiff, and upon such terms as to costs or otherwise as it thinks fit, make an order appointing the legal representative of the deceased plaintiff, in the place of the deceased plaintiff for the purpose of proceeding with the action in order to arrive at a final determination of the matter in dispute.

Legal representative of deceased sole plaintiff to apply to be made the plaintiff.

398B. (1) If there be more defendants than one, and any one of them die before entering a decree and the right to sue on the cause of action does not survive against the surviving defendant or defendants alone, without substitution of the legal representative of the deceased defendant and also in case of the death of a sole defendant, or sole surviving defendant, where the right to sue survives to the plaintiff, the plaintiff may apply to the court to substitute the legal representative of the deceased defendant in place of such deceased defendant for the purpose of the continuance

of the action. The court shall thereupon, enter the name of such legal representative on the record in the place of the deceased defendant, and shall issue notice on such legal representative to appear on a day to be therein mentioned, to defend the action.

(2) The legal representative of a deceased defendant nominated in the memorandum, may apply to be a defendant in place of the deceased defendant, and the provisions of this section, in so far as they are applicable, shall apply in respect of such application and to the proceedings and consequences ensuing thereon.".

Repeal of section 405 of the principal enactment.

14. Section 405 of the principal enactment is hereby repealed.

Insertion of new sections 440B and 440C in the principal enactment.

15. The following new sections are hereby inserted immediately after section 440A of the principal enactment and shall have effect as sections 440B and 440C of this enactment:-

"Obtaining copies of the documents maintained by any Public Office, Corporation etc.

440B. (1) Where a party to any proceedings in a civil court requires for the purposes of such proceedings a certified copy of any document, or of any register either deposited or maintained or kept in the custody, (or a certified copy of any register or book) maintained in the ordinary course of business, at any Public Office, Public Corporation, Provincial Council or Local Authority in the ordinary course of business, the Judge conducting the Pre-Trial hearing or the court, as the case may be may upon application made in that behalf by a party

by motion supported by an affidavit affirming the relevancy of such certified copy in the proceedings direct the officer in charge of such office, Public Corporation, Provincial Council or Local Authority, as the case may be to issue such certified copy. Upon production of the order of court or Judge conducting the Pre-Trial hearing and upon payment of the relevant charges, such party shall be entitled to obtain a certified copy of the document concerned.

(2) A certified copy obtained by a party under subsection (1) from any Public Office, Public Corporation, Provincial Council or Local Authority, relevant to any proceeding by such party may, without an officer from the Public Office, Public Corporation, Provincial Council or Local Authority concerned being called as a witness, be produced in such proceeding in proof of the fact that such document was made or such document is in the custody of such Public Office, Public Corporation, Provincial Council or Local Government Authority concerned and be *prima facie* proof of the contents therein:

Provided, however that the court may of its own motion or upon application made by any party to such proceedings require the production of the original document and permit any such party to examine it or require that the officer who is in charge of keeping or maintaining such document be summoned as a witness.

Proof of document unnecessary unless it is impeached.

440C. (1) Notwithstanding anything to the contrary in this Code or any other law, it shall not be necessary to adduce proof of any document which is, *ex facie*, an original document or a certified copy issued by a Public Office, Public Corporation, Provincial Council or any Local Authority, unless the authority of such document is impeached by the opposing party for reasons to be recorded and for such reasons, the court may require proof thereof.

(2) Where the genuineness of any document is impeached by a party, such party shall state the reason for impeaching its genuineness and the court shall record the same.

(3) In the event that the court, after evidence is lead as to the proof of the document, accepts the document, the party who impeached the document shall be liable to pay incurred cost of proving the document, in addition to taxed costs, unless the court for good reason directs otherwise.".

Amendment of section 774 of the principal enactment.

16. Section 774 of the principal enactment is hereby amended by the insertion immediately after subsection (2) of that section of the following new subsection:-

"(3) A judgment, order or directive pronounced under this section by an Appellate Court shall be deemed to be a judgment, order or directive pronounced by the original court from which the appeal was preferred.".

Pending actions to be subject to this Act.

17. All actions and matters which have been filed in the District Court but in respect of which no date has been fixed for trial shall also be subject to the provisions of as on the date of coming into operation of this Act.

Amendment to First Schedule to the principal enactment.

18. The First Schedule to the principal enactment is hereby amended as follows:-

(1) by the insertion, immediately after Form No. 7 thereof, of the following Form which shall have effect as Form No. 7A of that enactment:-

"FORM 7A (sections 27 and 393)

FORM OF MEMORANDUM NOMINATING LEGAL REPRESENTATIVE

In the District Court of……
Action No. ……

I,…… (the Plaintiff/ Defendant/ Petitioner/ Respondent/ Party seeking to be added/ substituted) hereby nominate:

Preference No.1……..(name) of…… (address)

(address) 2…….(name) of ……...

(address) 3…….(name) of ……...

as my legal representative for the purpose of the action in the event of my death before the final determination of this action and I hereby further request that they be appointed in the order of the preference given above as my legal representative for the purposes of the action in the event of my death as aforesaid.

1. I, ……of ……consent to the above appointment.

……
Signature

I, …… of…… being an Attorney-at-law/ Justice of the Peace/ Commissioner of Oaths certify that the above named person having read over and understood the contents of this memorandum/ to whom the contents of this memorandum were read and explained by me/ placed his signature in my presence at …… on this day of ……20……

……
Signature

Attorney-at-law/ Justice of the Peace/ Commissioner of Oaths

2. I, ……..of ……consent to the above appointment.

……
Signature

I, …….. of …… being an Attorney-at-law/ Justice of the Peace/ Commissioner of Oaths certify that the above named person having read over and understood the contents of this memorandum/ to whom the contents of this memorandum were read and explained by me/ placed his signature in my presence at …… on this day of ……20……

……
Signature

Attorney-at-law/ Justice of the Peace/ Commissioner of Oaths

3. I, ……..of ……consent to the above appointment.

……
Signature

I, …….. of …… being an Attorney-at-law/ Justice of the Peace/ Commissioner of Oaths certify that the above named person having read over and understood the contents of this memorandum/ to whom the contents of this memorandum were read and explained by me/ placed his signature in my presence at …… on this day of ……20……

……
Signature
Attorney-at-law/ Justice of the Peace/ Commissioner of Oaths

……
Signature

(Plaintiff/ Defendant/ Party/ Claimant/ Necessary Party/ Added/ Substituted Party)

I, …….. of …… being an Attorney-at-law/ Justice of the Peace/ Commissioner of Oaths certify that the above named person having read over and understood the contents of this memorandum/ to whom the contents of this memorandum were read and explained by me/ placed his signature in my presence at …… on this day of ……20 ……

…… .".
Signature

(2) by the repeal of the form of Decree (No. 41) appearing therein and the substitution of the following form therefor:-

"FORM OF DECREE (Section 188)

COURT
NUMBER OF ACTION
PLAINTIFF (S)
DEFENDANT (S)
DATE OF JUDGMENT
AMOUNT OF DEBT COMPENSATION, INTEREST OR OTHER RELIEF GRANTED BY THIS DECREE (SPECIFY THE PARTY IN WHOSE FAVOUR AND THE PARTY AGAINST WHOM THE RELIEF IS GRANTED)
AMOUNT OF COSTS PAYABLE: Rs: ……./ COSTS TO BE TAXED
DESCRIPTION OF THE PROPERTY. (IF ANY) (THE DESCRIPTION CAN BE WITH REFRENCE TO THE DESCRIPTION IN ANY PLEADING OR DOCUMENT FILED OF RECORD)
SIGNATURE OF THE JUDGE
SEAL

".

Sinhala text to prevail in case of inconsistency.

19. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

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