

1960

*Present* : Basnayake, C.J., and Sansoni, J.SIDORIS and others, Appellants, *and* GUNERIS, Respondent*S. C. 95 (with S. C. 108, 236 and 5)—D. C. Avissawella, 7800**Appeal—Application for typewritten copies—Provisions relating thereto—Compliance imperative—Civil Appellate Rules, 1938, Rules 2 (1), 4 (a).*

Where, in an appeal, the application for typewritten copies of the proceedings is not made in conformity with the requirements of Rule 2 (1) of the Civil Appellate Rules, 1938, the appeal is liable to be rejected in accordance with the provisions of Rule 4 (a).

**A**PPEALS from a judgment of the District Court, Avissawella.

*N. E. Weerasooria, Q.C.*, with *M. C. Abeyewardene* and *A. A. de Silva*, for 1st, 2nd and 3rd Defendants-Appellants in S. C. 95, for 1st, 2nd and 3rd Defendants-Respondents in S. C. 108, for 1st Defendant-Appellant in S. C. 236, for 1st, 2nd and 3rd Defendants-Respondents and for Plaintiff-Petitioner in S. C. 5.

*M. T. M. Sivardeen*, for Plaintiff-Respondent in S. C. 95, for Plaintiff-Appellant in S. C. 108, for Plaintiff-Respondent in S. C. 236 and for Plaintiff-Appellant in S. C. 5.

<sup>1</sup> (1937) 9 C. L. W. 82 at 83.

<sup>2</sup> (1939) 14 C. L. W. 112.

<sup>3</sup> See 61 N. L. R. 433—Ed.

May 12, 1960. BASNAYAKE, C.J.—

The respondent in appeal No. 95 takes the preliminary objection that the application for typewritten copies has not been made in conformity with Rule 2 (1) of the Civil Appellate Rules, 1938, and the respondents in appeals Nos. 108 and 5 take the same objection. It is a fact that the appellants in these appeals have not complied with the requirements of Rule 2 (1) of the Civil Appellate Rules, 1938. Rule 4 (a) declares that where the appellant fails to make application for typewritten copies in accordance with the requirements of Rule 2 (1) the appeal shall be deemed to have abated. We therefore reject appeals Nos. 95, 108 and 5.

Mr. Weerasooria who appears for the appellant in appeal No. 236 states that, if appeal No. 95 fails, the appeal No. 236 must necessarily fail as it is an appeal from an order refusing the stay of execution of a writ of possession. That appeal is therefore dismissed.

SANSONI, J.—I agree.

*Appeals rejected.*

