Although he has placed reliance on P7, he did not state that he was personally present in India when the executant placed his signature on it, or seek to identify the signature as that of the executant Abdul Cader. He also did not explain how P7 came into his hands, or why only a photocopy thereof was tendered in evidence. No doubt, as Widham, J., observed in *King v. Peter Nonis* (1947) 49 NLR 16 at page 17, the so called 'best evidence' rule "has been subjected to a whittling down process for over a Century" and it is not always necessary today to produce in court the original of a document on which he relies. However, the non-production of the original document without any explanation as to why the original is not being produced, is certainly a matter for comment and may affect the weight to be attached to the evidence which is produced in its stead. *See,* the observations of L.H. de Alwis, J., in *Vanderbona v. Justin Perera* [1985] 2 Sri LR 62 at page 68, and A.R.B. Amarasinghe, J., in *Stella Perera & Others v. Margret Silva* [2002] 1 Sri LR 169 at page 173.

It is therefore clear that applying the test of proof of a document that was not required by law to be attested, there was no *prima facie* evidence to prove its authenticity, and the question of its admissibility did not even arise. I am therefore of the opinion that the contention of the learned President's Counsel for the Appellants that the Power of Attorney marked P7 has not been proved as required by law has to be upheld.

There remains, however, one more matter on which learned Counsel for the contending parties have made submissions, which was raised in the context that the usual practice of reading in evidence the documents that were marked and produced at the trial in the course of witness testimony was not followed when the case for the Respondents was closed on 27th April 1993. This is substantive question 5, which specifically focuses on this issue, namely: is it mandatory to read the documents in evidence at the conclusion of the trial? There is no provision in the Civil Procedure Code that mandates the reading in of the marked documents at the close of the case of a particular party. However, learned and experienced Counsel who have appeared in the original courts in civil cases from time immemorial developed such a practice, which has received the recognition of our courts. For instance, in *Sri Lanka Ports Authority and Another v. Jugolinija – Boat East* [1981] 1 Sri LR 18 Samarakoon, C.J., commented on this practice, and ventured to observe at pages 23 to 24 of his judgement that if no objection to any particular marked document is taken when at the close of a case documents are read in evidence, "they are evidence for all purposes of the law." It has been held that this is the *cursus curiae* of the original courts. *See, Silva v. Kindersle* [1915-1916] 18 NLR 85*; Adaicappa Chettiar v. Thomas Cook and Son* [1930] 31 NLR 385 *Perera v. Seyed Mohomed* [1957] 58 NLR 246*; Balapitiya Gunananda Thero v. Talalle Methananda Thero* [1997] 2 Sri LR 101; *Cinemas Limited v. Sounderarajan* [1998] 2 Sri LR 16; *Stassen Exports Ltd., v. Brooke Bond Group Ltd., and Two Others* [2010] BLR 249.

It would therefore follow that even though the Power of Attorney marked P7 had in fact not been proved as required by law, if the learned Counsel for the Respondents had read in P7 in evidence with the other marked documents at the close of the case for the Respondents without any objection being taken on behalf of the Appellants, P7 would have been deemed to be good evidence for all purposes of the law. However, that is not what actually happened in this case. A photocopy of the power of attorney allegedly granted by Abdul Cader to Noor Lebbai was marked P7 subject to proof, no proof whatsoever was adduced to prove the aforesaid photocopy, and