

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

*In the matter of an application for an  
injunction in terms of Article 143 of the  
Constitution of the Democratic Socialist  
Republic of Sri Lanka*

CA (INJ) Application No. 01/ 2018

1. Warnakula            Patabendige  
Vernon Raajman Perera,  
Shanthi Staana,  
Nainamadama West,  
Nainamadama.

**PETITIONER**

-Vs-

1. Medagoda Arachchige

Samantha Fernando,

Sherine,

Kiragara Road,

Boralessa,

Lunuwila.

2. Wickamakodi Weerasinghe

Appuhamylage Sudath

Chaminda Kumara,

No. 04,

Soysawatta,

Kochchikade.

**RESPONDENTS**

**Before: P. Padman Surasena J (P/CA)**

**A.L Shiran Gooneratne J**

Counsel: Dr. Sunil Cooray for the Petitioner.

Supported on : 2018 - 02- 28

Decided on : 2018 - 05 - 17

ORDER

**P Padman Surasena J (P/CA)**

The Petitioner has filed this application seeking an injunction in terms of Article 143 of the Constitution.

Article 143 of the Constitution states as follows;

“The Court of Appeal shall have the power to grant and issue injunctions to prevent any irremediable mischief which might ensue before a party

making an application for such injunction could prevent the same by bringing an action in any Court of First Instance:

Provided that it shall not be lawful for the Court of Appeal to grant an injunction to prevent a party to any action in any Court from appealing to or prosecuting an appeal to the Court of Appeal or to prevent any party to any action in any Court from instituting upon any ground of action, defence or appeal or to prevent any person from suing or prosecuting in any Court, except where such person has instituted two separate actions in two different Courts for and in respect of the same cause of action, in which case the Court of Appeal shall have the power to intervene by restraining him from prosecuting one or other such actions as to it may seem fit.”

It is to be noted that the Petitioner has admitted<sup>1</sup> that there is a specific statutory bar in terms of section 56 of the Debt Conciliation Boards Ordinance as amended, which prevents the Petitioner from bringing in an action in the civil Court (District Court) against the 1<sup>st</sup> and 2<sup>nd</sup> Respondents in the instant case.

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<sup>1</sup> Paragraph 27 of the petition.

It is the view of this Court that this Court can invoke the power vested in it by virtue of Article 143 of the Constitution only to prevent any irremediable mischief before a party making an application for such injunction could prevent the same by bringing an action in any Court of First Instance.

Section 2 of the Judicature Act states that the Courts of First Instance for the administration of justice in the Republic of Sri Lanka shall be -

- (a) the High Court of the Republic of Sri Lanka;
- (b) the District Courts;
- (c) the Family Courts;
- (d) the Magistrates' Courts;
- (e) the Primary Courts.

Therefore, this Court is of the view that the Debt Conciliation Board established in terms of provisions of the Debt Conciliation Boards Ordinance as amended, does not fall under the category of Courts of First Instance within the meaning or for purposes of Article 143 of the Constitution.

In these circumstances, the prayer for an injunction 'until the application No. 44034 the Debt Conciliation Board is disposed of' in the instant application is a prayer, which this Court cannot grant in terms of Article 143 of the Constitution.

In these circumstances, this Court decides to refuse and dismiss this Application without costs.

**PRESIDENT OF THE COURT OF APPEAL**

**A.L Shiran Gooneratne J**

I agree,

**JUDGE OF THE COURT OF APPEAL**