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

In the matter of an application for Mandates in the nature of Writ of Certiorari under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka

1. Lankeshara Lal Nishantha
11/1, Harishchandrapura,
Thimibirigaskatuwa,
Negombo.

2. Lankeshara Harsha Rashmika
11/1, Harishchandrapura,
Thimibirigaskatuwa,
Negombo.

Court of Appeal Writ Application No:

CA/WRT/582/2025

And Another

PETITIONERS

1. A. M. A. C. Ruwankantha
Assistant Director (Investigations)
Assistant Superintendent of Police
Illegal Assets Investigation Division,
Criminal Investigations Department.
Colombo 01.

And 04 Others.

RESPONDENTS

Before: Hon. Justice N. R. Abeysuriya PC (P/CA)

Hon. Justice K. P. Fernando

Counsel: Chathuranga Bandara with G. N. Dewinda Perera for the Petitioner

Suharshi Herath D. S. G. for the Respondents.

Supported On: 02.10.2025

Decided On: 13.02.2026

N. R. Abeysuriya, PC, J. (P/CA),

ORDER

The Petitioners have filed the instant writ application impugning certain freezing orders issued under the Prevention of Money Laundering Act No. 05 of 2006 (hereinafter referred to as "PMLA") and the legality of several other matters which are pending before the Magistrate's Court of Negombo.

The Petitioners have sought relief in the nature of writs which would have the effect of impeding or nullifying steps taken in the course of ongoing criminal investigations and proceedings.

The reliefs prayed for,*inter alia,*are as follows,

I. Grant and issue a mandate in the nature of Writ of Certiorari to quash the freezing orders issued by the 1st Respondent and quashing the subsequent confirmations and extensions by the 2nd Respondent in Negombo High Court Case No. HC-SPL 02/2024;
II. Grant and issue a mandate in the nature of Writ of Certiorari to quash the freezing orders issued by the 1st Respondent and quashing the subsequent

confirmation and extensions by the 2nd Respondent in Negombo High Court Case No.HC-SPL 03/2024

III. Grant and issue a mandate in the nature of a Writ of Certiorari, quashing the entire proceedings instituted in Negombo Magistrate's Court Case No. MC-B/2289/24

The legality, propriety and validity of the aforesaid freezing orders have been challenged by the Petitioners. It is also alleged that in respect of the same matter there is multiplicity of cases filed by the Respondents against the Petitioners. It is alleged that these actions are tainted by *mala fides*, misrepresentation, suppression of material facts, and lack of jurisdiction. The Petitioners have alluded to in addition to 2 High Court matters in which freezing orders were obtained (HC SPL 02/2024 and HC SPL 03/2024) the following cases in the Magistrate's Court of Negombo,

I. B 2289/24
II. B 1349/24
III. B 5797/23
IV. B 5798/23

In case numbers B 5797/23 and B 5798/23 facts have been reported under the Poisons, Opium and Dangerous Drugs Act (hereinafter referred to as "PODDA") in respect of certain narcotics related offences while in B 1349/24 and B 2289/24 facts have been reported under the PMLA. It seems that the investigations under the aforestated enactments have been conducted in parallel by the local police as well as the Criminal Investigations Department.

I wish to furthermore allude to the following matters highlighted by the Petitioners,

I. The entire case for the prosecution is based on presumptions rather than any admissible evidence. Currently the investigations are based on Sec 4 of PMLA which contains a presumption. The bank account details were exaggerated and

manipulated for the purpose of applying the said presumption contained in Sec 4 of the aforesaid Act.

Sec 4 of PMLA reads thus,

4. For the purposes of any proceedings under this Act, it shall be deemed until the contrary is proved, that any movable or immovable property acquired by a person has been derived or realized directly or indirectly from any unlawful activity, or are the proceeds of any unlawful activity, if such property

(a) being money, cannot be or could not have been

(i) part of the known income or receipts of such person; or

(ii) money to which his known income or receipts has or had been converted; or

(b) being property other than money, cannot be or could not have been

(i) property acquired with any part of his known income or receipts; and
(ii) property which is or was part of his known income or receipts; and
(iii) property to which is any part of his known income or receipts has or had been converted

II. The investigative process is reeking with malice and political retaliation consequential to a complaint the Petitioners had previously lodged against the chairman of the Katana Pradeshiya Sabha.

III. Facts pertaining to the detection of narcotic substances from the Petitioners were reported to the Magistrate's Court of Negombo under B report numbers 5797/23 and 5798/23. The Petitioners vehemently deny any involvement with the commission of the aforesaid offences. They even dispute even the place of arrest, alleging that the CCTV footage available confirms the version of the Petitioners with regard to this aspect rather than the version of the Respondents. In fact the

position of the Petitioners is that they were arrested at their residence and not elsewhere as per the version of police. It has been alleged that the police "planted" a certain quantity of heroin (i.e. heroin was brought by police and introduced) in order to falsely implicate the Petitioners.

IV. Two vehicles belonging to the Petitioners were also taken into custody by the police in connection with the allegation of trafficking in narcotics.

V. The manner in which funds were raised to purchase the Toyota Vehicle which was taken to custody by the police has been explained and therefore no offence disclosed under the PMLA. The sources of funds available in the bank accounts of the Petitioners have also been explained and therefore these too cannot form the basis of any criminal investigation under the PMLA.

VI. The High Court has misconstrued and misapplied Sec 7 of the PMLA to the freezing orders issued by the High Court in HC SPL 02/24 and HC SPL 03/24 under Sec 8(1) of the PMLA.

VII. The conduct of the Respondents amount to violation of fundamental rights enshrined in articles 12(1) and 13(1) of the constitution.

The Petitioners have strenuously argued that taking into custody by the police 2 vehicles belonging to the Petitioners purportedly by virtue of freezing order under the PMLA is contrary to the provisions of Sec 7 of the aforesaid enactment which reads as follows,

7. (1) A Police Officer not below the rank of Superintendent of Police or in the absence of such an officer an Assistant Superintendent of Police may, where there are reasonable grounds to believe that any person is involved in any activity relating to the offence of money laundering and it is necessary for preventing further acts being committed in relation to such offence, issue an order (hereinafter referred to as a "Freezing Order") prohibiting any transaction in relation to any account, property or investment which may have been used or which may be intended to be used in connection with such offence

It is the contention of the Petitioner that assets such as vehicles cannot be taken in to custody by the police and only what is possible is to prohibit any transactions pertaining to the said property such as transfer of ownership.

The submissions of the Respondents as reflected in their written submissions dated 11.10.2025 are as follows,

I. The second petitioner was arrested by the Katana Police on 21/12/2023 for having in possession 5.08 grams of heroin whilst trafficking the same in vehicle no WP KN 7853. He was produced to MC Negombo under the B No 5797/23 on the same date and was remanded. The first petitioner was also arrested on the same day and produced under B 5798 /23

II. SI Ekanayake of Katana Police station has informed the DCIB of Negombo to conduct an investigation into the assets of the said suspects as well as their families to ascertain whether there are grounds to believe that they have committed offences under the Prevention of Money Laundering Act.

III. The OIC of the DCIB Negombo has filed a B report under B- 1349/24 on 18/01/2024 stating that the DCIB has commenced an investigation under the Money Laundering Act, upon the referral made by SI Ekanayake of Katana Police station. Furthermore the respondents state that the first B- report filed by the DCIB of Negombo has not identified any suspects under the Prevention of Money Laundering Act. Instead has specifically stated that the B report is filed in order to inform Court that an investigation has commenced under the PMLA for the two suspects of 5797/23 and 5798/23. Moreover by this B report the DCIB has sought orders to obtain reports from banks - regarding the accounts and telephone detail reports.

IV. By the said B report the DCIB has produced the car which transported heroin, and has also referred to three other vehicles under different PR numbers and had sought to act under the criminal Procedure code in respect of the said four vehicles.

V. The DCIB had never taken the four vehicles under a freezing order in terms of the PMLA.

VI. The DCIB made an application on 22/05/2024 under section 3 (4) of the PMLA to the learned Magistrate in respect of the four vehicles, however the learned Magistrate diligently acting under the provisions of the PMLA had stated that there is no proper application before a High Court and thereby the learned Magistrate had released the vehicles on a bond.

VII. The 1st Respondent commenced an inquiry under the PMLA based on an anonymous complaint received on dated 17/06/2023 under the B number 2289/24. The said B report states that it is to report that they had commenced an investigation under the PMLA and to seek certain orders from the learned magistrate in order to conduct the said investigation. This B report has not named any suspects under the PMLA, instead has referred to the names as subjects of the investigation.

VIII. Consequent to a detailed investigation the 1st Respondent being satisfied of the fact of having reasonable grounds to believe that the three petitioners have committed acts relating to the offence of money laundering, sought an order under section 7 (1) of PMLA naming the three petitioners as suspects on 27/06/2024.

IX. It is thereafter that the 1st Respondent made application to the High Court of Negombo seeking an order under section 8 of the PMLA in case no High Court SPL 03/ 24 on 16/07/2024.

In the instant matter the 1st Respondent had commenced an investigation under the Prevention of Money Laundering Act and reported facts to the Magistrate's court of Negombo under B report number 2289/24 in which the Petitioners are named as suspects.

Subsequently the 1st Respondent has also obtained 2 freezing orders bearing number HCSPL 02/2024 and HC SPL 03/2024. The Petitioners have alleged that there were

certain irregularities with regard to the issuance of the freezing orders. Furthermore Petitioners have contended that in respect of the same matters 2 cases namely MC Negombo B 2289/24 and B 1349/24 were being maintained which according to the Petitioners amounts to duplicity (Double Jeopardy).

Petitioners state that in the affidavits filed by the 1st Respondent in the High Court, inaccurate amounts have been mentioned in order to justify the existence of "unexplained wealth accumulated by the Petitioners warranting the issuance of freezing orders". The Petitioners submitted that there is no direct nexus between their assets and any predicate offence as described in the Prevention of Money Laundering Act.

The principal contention of the Respondents is that in the instant matter the major facts are in dispute and that on this ground alone this writ application should be dismissed *in limine*.

I am in agreement with the submissions of the learned Counsel for the Respondents with regard to this aspect since the Petitioners are disputing every aspect of the version of the Respondents including the place of arrest. In this context court is required to consider the legal consequences of such circumstances *vis-a-vis* the exercise of writ jurisdiction by this Court.

Nature of the jurisdiction invoked

The jurisdiction exercised under Article 140 of the Constitution is extraordinary, supervisory and discretionary. It is not intended to convert this Court into a forum for conducting trials or resolving contested matters of evidence. Nor is it meant to displace the statutory functions of courts of first instance entrusted with criminal adjudication.

Article 140 of the Constitution is reproduced below.

140. Subject to the provisions of the Constitution, the Court of Appeal shall have full power and authority to inspect and examine the records of any Court of First Instance or tribunal or other institution and grant and issue, according to law, orders in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto against the judge of any Court of First Instance or tribunal or other institution or any other person:

[130][Provided that Parliament may by law provide that in any such category of cases as may be specified in such law, the jurisdiction conferred on the Court of Appeal by the preceding provisions of this Article shall be exercised by the Supreme Court and not by the Court of Appeal.]

The power is undoubtedly wide, yet its exercise is governed by self-imposed judicial limitations developed through a long line of judicial authorities.

The Petitioners present their case as one of manifest illegality warranting the urgent intervention of this Court. Their complaint, stripped of embellishment, is that the investigative and coercive measures adopted by the authorities are said to be unsupported by lawful basis, disproportionate to the circumstances, and founded upon conjecture rather than fact.

They maintain that the steps taken against them proceed upon a fundamentally erroneous appreciation of their financial affairs. According to the Petitioners, the assets now brought under scrutiny are neither unexplained nor suspicious. They aver that such assets are traceable to legitimate streams of income, business dealings, and family resources, which, if properly understood, would dispel the doubts entertained by the investigators. It is their position that what has been perceived as incriminating is, in truth, the product of misunderstanding, incomplete inquiry, or misinterpretation of financial data.

The Petitioners further contend that the authorities have drawn adverse inferences precipitously and without affording adequate weight to exculpatory explanations. They

suggest that had the investigators approached the material with fairness and objectivity, the conclusions now impugned would not have been reached. In this sense, the Petitioners characterize the investigation as one driven by assumption rather than proof.

A recurring theme in the submissions of learned Counsel for the Petitioner is that the continuation of the present investigative process causes them grave and irreparable prejudice. Reputational harm, disruption to livelihood, and the burdens incidental thereto are cited as consequences that, they say, justify the extraordinary intervention of this Court at this stage. They urge that unless relief is granted now, the injury suffered would be incapable of adequate remedy at a later point.

Thus, the Petitioners invite this Court to treat their explanations as sufficiently cogent to undermine the foundation upon which the authorities have proceeded. They seek, in effect, a judicial pronouncement that the suspicions entertained by the investigators lack proper basis and that the continuation of the impugned measures is therefore unwarranted in law.

Viewed in its entirety, the Petitioners' case necessarily requires this Court to accept the accuracy, completeness, and credibility of their account of events and financial dealings, and to hold that the competing interpretation advanced by the Respondents is flawed. The relief prayed for would therefore depend upon a preference for the Petitioners' narrative over that of the investigative authorities.

At the very outset, the Respondents took up the position that the application is misconceived and is liable to be rejected *in limine*. They categorically dispute the factual substratum upon which the Petitioners seek to invoke the writ jurisdiction of this Court.

The Respondents maintain that the investigative steps impugned by the Petitioners were not arbitrary, speculative, or impulsive. On the contrary, they submit that the relevant authorities acted upon information, intelligence, and material which, viewed

objectively, furnished reasonable grounds recognized by law to warrant the commencement and continuation of inquiries. It is emphasized that the investigative process is, by its very nature, one of gradual ascertainment, in which suspicions are tested, explanations are evaluated, and conclusions are reached only after methodical examination.

The Respondents strongly resist the attempt by the Petitioners to portray their own explanations as conclusive. They point out that those explanations are neither admitted nor accepted by the investigators. Indeed, it is precisely because such assertions are contestable that further inquiry has become necessary. According to the Respondents, what the Petitioners describe as innocent transactions may, upon closer scrutiny, yield a different complexion; but that determination can only be made through legally recognized methods of proof.

It is further submitted that the matters raised by the Petitioners lie at the heart of evidentiary evaluation. Questions relating to the origin of funds, the authenticity of documents, the credibility of explanations, and the inferences to be drawn from financial patterns are, the Respondents argue, matters that must be established or refuted through witnesses, documentary production, expert analysis, and, where necessary, forensic examination. Such processes belong properly to courts of original jurisdiction and cannot be replicated within the confines of affidavit-based writ proceedings.

The Respondents therefore contend that the Petitioners are seeking to invert the proper judicial sequence. Instead of allowing the investigation to run its lawful course and the trial court to assess the material placed before it, the Petitioners ask this Court to intervene prematurely and pronounce upon the merits of competing factual claims. This, the Respondents submit, would amount to converting the writ jurisdiction into a surrogate trial forum, a function it has never been designed to perform.

In essence, the Respondents complaint is that the Petitioners attempt, by the invocation of constitutional and supervisory jurisdiction, to obtain immunity from scrutiny before the ordinary processes of criminal justice have had the opportunity to operate. The application is thus characterized as an effort to arrest the investigative trajectory and secure, through extraordinary means, a determination that should properly emerge only after evidence is led and tested.

The real character of the dispute

When the rhetoric of alleged illegality is set aside and the Court examines the matter in its true substance, the nature of the controversy becomes apparent with considerable clarity. What is presented before us is not a narrow question of jurisdiction, nor a pure issue of statutory interpretation capable of resolution upon admitted facts. It is, rather, a contest between rival factual narratives.

The Petitioners assert that their financial affairs admit of legitimate and innocent explanation. The Respondents maintain that those explanations are doubtful and require verification. The Petitioners invite acceptance of their account; the Respondents insist upon the necessity of investigation and proof. The Court is thus confronted not with a legal vacuum but with competing versions of reality.

Among the matters that divide the parties are questions relating to the origin, availability, and sufficiency of income; the character and purpose of transactions reflected in financial records; the authenticity, reliability, and implications of documentation; and the conclusions that may properly be drawn from patterns perceived by investigators. Each of these issues is profoundly fact-sensitive. None can be resolved by abstract reasoning detached from evidentiary context.

The dispute further extends to matters of credibility. Whether a particular explanation is truthful, whether a transaction is genuine or colorable, whether an inference is justified or exaggerated, these are determinations traditionally entrusted to courts of

trial after the discipline of examination, cross-examination, and re-examination. They are conclusions that emerge from the tested reliability of evidence, not from mere assertion.

To undertake that exercise would be to exceed the proper function of writ jurisdiction and to assume a role alien to its supervisory character. The constitutional remedy was never intended to transform this Court into a tribunal of primary fact.

Seen in this light, the application asks this Court something it is institutionally unsuited to provide: a premature adjudication of contested matters whose legitimacy depends upon evidentiary testing. The true character of the dispute therefore places it beyond the boundaries within which prerogative relief may appropriately operate.

The governing principle: writs and disputed facts

The difficulty I have identified is not novel. It lies at the heart of a long and consistent line of authority which has shaped the manner in which the supervisory jurisdiction of this Court is to be exercised.

Our courts have repeatedly cautioned that the writ remedy, though wide in formulation, is circumscribed by practical and institutional limits. It is not designed to function as a surrogate for a trial, or to furnish a parallel forum in which contested matters of fact may be determined upon affidavit.

In **Thajudeen v Sri Lanka Tea Board**[1], the Court made plain that where the resolution of the dispute depends upon the proof of facts that are denied or controverted, the prerogative jurisdiction is inappropriate. The truth, it was observed, must be allowed to emerge through the ordinary processes of examination and cross-examination, safeguards that are indispensable to reliable adjudication.

[1](1981) 2 SLR 471

"That the remedy by way of an application for a Writ is not a proper substitute for a remedy by way of a suit, specially where facts are in dispute and in order to get at the truth, it is necessary that the questions should be canvassed in a suit where the parties would have ample opportunity of examining their witnesses and the Court would be better able to judge which version is correct, has been laid down in the Indian cases of: Ghosh v. Damodar Valley Corporation[2],Parrajuv. General Manager B. N. Rly[3]"

In **Thajudeen case**, Ranasinghe J has cited with approval a passage from CHOUDRI. Although the said paragraph pertains to the issuance of writ of mandamus,I am of the view that it is equally applicable to the instant matter in which the Petitioners have prayed for writ of certiorari.

CHOUDRI in his book titled **The Law of Writs and Fundamental Rights (2nd Ed.), Vol.2**, states at page 381: "*The rule has been stated that mandamus will not lie to compel a public officer to perform a duty dependent upon disputed and doubtful facts, or where the legal result of the facts is subject to controversy. If the right is in serious doubt the discretionary power rests with the officer to decide whether or not he will enforce it, till the right shall have been established in some proper action, and discretion fairly exercised in such circumstances cannot be controlled by mandamus;*" and, at page 449: "*Where facts are in dispute and in order to get at the truth it is necessary that the questions should be canvassed in a suit where parties would have ample opportunity of examining their witnesses and the Court would be better able to judge which version is correct, a writ will not issue.*"

In dismissing the writ application in **Thajudeen case** with costs, Ranasinghe J has held thus,

In this view of the matter, it appears to me that, as the major grounds of fact, upon which the Petitioner's claim for the payment of the sum of money in question are founded, are being disputed by the Respondents, and, as the most appropriate procedure for the settlement of such a

[2]Ghosh v. Damodar Valley Corporation A. I. ft. 1953 Cal. 581.
[3]Parraju v. General Manager B.N. Rly. A. 1.8. 1952 Cal. 610.

dispute is an action by way of regular procedure before the appropriate Court of First Instance, and such an action by way of regular procedure also constitutes an "equally convenient, beneficial and effective" remedy, this Court should, in the exercise of its discretion, refuse the Petitioner's application. It is, therefore, not necessary to consider the Respondent's other grounds of objections.

The same reasoning adumbrated the decision in **Hettiarachchige Jayasooriya vs. N.M. Gunawathie**[4], in which the Petitioner has prayed for a writ of certiorari.Court stressed that if the legal outcome turns upon which of two competing factual accounts is to be believed, the matter must be left to a forum structurally equipped to conduct such an inquiry.

In the aforesaid case His Lordship Janak De Silva J. has expressed the following views,

"Our courts have consistently held that it will not exercise writ jurisdiction where the facts are in dispute [Thajudeen v. Sri Lanka Tea Board and another (1981) 2 Sri.L.R. 471]. ***The Supreme Court has in Dr. Puvanendran and another v. Premasiri and two others [(2009) 2 Sri.L.R. 107, 2009 BLR 65]*** *held that the Court will issue a writ only if the major facts are not in dispute and the legal result of the facts are not subject to controversy."*(Emphasis added)

"The rationale is that where the major facts are in dispute and the legal result of the facts is subject to controversy it is necessary that the questions should be canvassed in a suit where parties would have ample opportunity of examining the witnesses so that the Court would be better able to judge which version is correct."

The writ court, proceeding primarily on affidavit material, lacks the machinery necessary for that task.

More recently, in **Udabage Vidanalage Ranjith vs. Urban Development Authority**[5], the principle was reaffirmed in unmistakable terms. The Court declined intervention

[4]CA/WRT/ 63/2015, decided on 26.09.2019
[5]CA/WRIT/ 477/23 decided on 07.08.2024

precisely because the applicant sought, under the guise of supervisory review; a determination that could only properly be reached after evidence had been led and tested.

In the aforementioned case Sasi Mahendran J held thus:

"Time and time again, it has often been held in our Courts that the writ jurisdiction is not the appropriate forum when matters of fact are in dispute. This is buttressed by the following authorities"

The Supreme Court in the case of **Dr. Puvanendran and Another v. Premasiri and Two Others**[6] held that, *"The Court will issue a writ only if (1) the major facts are not in dispute and the legal result of the facts are not subject to controversy and (2) the function that is to be compelled is a public duty with the power to perform such duty."*

Above observations guided Hon. Justice Mayadunne Corea in **Godakumbure Gedara Dharmasena vs Pradeshiya Sabha Kanthale**[7]**.** In the said order, Corea J held thus;

"It is trite law that when the facts are in dispute a Writ Court will be reluctant to exercise its discretionary power in the exercise of Writ jurisdiction"

These pronouncements are not mere technical hurdles erected to obstruct litigants. They reflect a deeper constitutional logic. Judicial power is distributed among courts in accordance with their functions and competencies. Trial courts are entrusted with the reception of evidence, the assessment of credibility, and the drawing of primary factual inferences. Appellate and supervisory courts, by contrast, are designed to correct errors of law and jurisdiction, not to originate factual findings.

The limitation therefore preserves both fairness and institutional integrity. It ensures that litigants receive the benefit of procedures capable of revealing the truth, while

[6](2009) 2 SLR 107
[7]CA/WRT/574/2024 decided on 03.10.2024

preventing superior courts from straying into terrain for which writ proceedings were never intended.

Once it is appreciated that the present application calls upon this Court to determine precisely such disputed matters, the path indicated by authority becomes difficult to avoid.

Criminal proceedings and supervisory intervention

An additional and weighty consideration arises from the context in which the present complaint is made. The impugned measures form part of an ongoing process of criminal investigation and potential prosecution. In such a setting, the threshold for supervisory intervention is necessarily higher.

The administration of criminal justice in a constitutional democracy proceeds upon a carefully structured allocation of responsibility. Investigative authorities are charged with the duty of inquiring into suspected wrongdoing; prosecuting authorities evaluate the material thereby gathered; and trial courts are entrusted with the solemn function of determining guilt or innocence upon evidence that has been properly received and tested. Each institution performs a role designed by law, and the efficacy of the system depends upon permitting those roles to be discharged without premature interruption.

For a superior court, exercising writ jurisdiction, to intrude at an interlocutory stage is therefore a matter demanding great caution. Ill-timed intervention risks fragmenting proceedings, generating satellite litigation, and diverting attention from the orderly progression of the case in the forum established by statute. It may also create the appearance that factual controversies are being resolved without the safeguards that normally attend a criminal trial.

The jurisprudence has consequently evolved a principle of restraint. Save in exceptional circumstances such as where there is a demonstrable want of jurisdiction, a violation apparent on the face of the record, or a patent illegality established on undisputed facts,

the superior courts have declined to halt or pre-empt the investigative and adjudicative functions of the ordinary criminal courts.

This is not because individuals are left without protection. Rather, it is because the law presumes that the mechanisms inherent within the criminal process itself, applications, objections, evidentiary challenges, and appeals, provide the appropriate avenues through which grievances may be ventilated. To bypass those mechanisms by recourse to prerogative relief would be to invert the statutory order.

Where, as here, the complaint cannot be separated from disputed matters awaiting evidentiary examination, intervention would amount to an anticipation of findings that properly belong to another forum. That is a step the writ court has consistently declined to take.

Against that legal background, the critical question is whether the Petitioners have demonstrated circumstances so exceptional as to justify a departure from the settled rule of restraint.

Upon careful consideration, I am unable to conclude so.

In the present matter, the alleged unlawfulness of the investigative measures cannot be disentangled from premises that remain actively contested between the parties. The assertion that the authorities acted without basis depends entirely upon the prior acceptance of the Petitioners' explanations regarding their financial affairs. Yet those explanations are precisely what the investigators dispute and seek to examine.

The difficulty is therefore immediate and unavoidable. Before the Court could pronounce the impugned steps to be unwarranted, it would first be required to determine whether the Petitioners' account is accurate, whether the transactions relied upon are genuine, whether the documentation is reliable, and whether the inferences drawn by the authorities are unreasonable. Each of these inquiries is evidentiary in character.

If we were to acceptthe Petitioners' stance, we would, in substance, be compelled to hold that their narrative is correct; that the suspicions entertained by the investigators lack foundation; and that the material presently under examination is incapable of bearing the interpretations suggested by the Respondents. Such conclusions would amount to definitive findings of fact.

Yet they would be findings reached in the absence of witnesses, without cross-examination, without expert scrutiny, and without the procedural safeguards by which courts ordinarily test the reliability of contested assertions. To make them would be to substitute assumptions for adjudication.

The law has consistently reserved such determinations for courts of trial. It is there that evidence is received, credibility assessed, and factual disputes resolved through structured inquiry. The writ court is not constituted for that purpose.That is not a function this jurisdiction is permitted to undertake.

Availability of alternative forums

It is also necessary to emphasize that the refusal of writ relief in the present circumstances does not leave the Petitioners without recourse. The structure of the criminal justice system itself provides multiple and carefully calibrated avenues through which grievances of the nature now asserted may be ventilated.

The Petitioners will have the opportunity, at the appropriate stages of the proceedings, to challenge the admissibility, weight, and reliability of the material relied upon by the prosecution. They may advance their explanations, produce their documentation, summon witnesses, and subject the evidence led against them to cross-examination. They may invite the trial court to reject inferences they consider unwarranted and to accept their own account of events. Should legal error occur, appellate or revisionary remedies are available thereafter.

These procedures are not incidental; they are the very mechanisms designed by law for the ascertainment of truth in contested criminal matters. They ensure fairness to the accused while preserving the orderly administration of justice.

To permit recourse to writ jurisdiction at a stage prior to the utilization of those remedies would be to encourage litigants to circumvent the ordinary hierarchy of the Court Structure. It would risk converting extraordinary review into a routine preliminary tactic, thereby undermining the coherence of the statutory process.

The existence of an adequate and effective forum within which the Petitioners can advance all matters of defense is therefore a compelling reason for this Court to decline intervention. The supervisory jurisdiction is not intended to displace remedies that the law has already provided; it is invoked only where those remedies are absent or manifestly insufficient.No such deficiency has been demonstrated in the instant matter.

With regard to the legalityof the freezing orders obtained by the 1st Respondent and the periodical extension of the same by the High Court, the Petitioners have placed heavy reliance on the Judgment of Sampath B Abayakoon, J. in **Nalaka Wickramasinghe Senanayake vs. Marasinghe Pedige Thushara Kumarasiri** (CA/CPA/0042/24decided on 13.09.2024) wherein the provisions contained in Sec 7 of the PMLA has been considered. In the said case also as in the instant matter certain freezing orders were impugned. I wish to highlight the fact that the said case was not a writ application but a revision application. With regard to the instant matter too I am of the view that the Petitioners ought to have invoked the revisionary jurisdiction rather than seeking redress from the writ Court in the first instance. In fact in the said case Sampath B Abayakoon, J has specifically alluded to this aspect at Page 19 of the judgment.Citing the case of **Attorney General vs. Gunawardene (1996) 2 SLR 149**Court held that revision is an effective and efficacious remedy available in situations such as in the instant matter. Sampath B Abayakoon, J has cited the following paragraph from Gunawardena case,

"Revision like an appeal is directed towards the correction of errors, but it is supervisory in nature, and its object is the due administration of justice and not primarily or solely the relieving of grievances of a party.

In exercising powers of revision, the appellate Court is not trimmed by technical rules of pleadings and procedure. In doing so, this Court has power to act whether it is set in motion by a party or not, and even ***ex mero motu****"*

In this regard I am guided by the following judicial authorities which are relevant to the instant matter,

The Supreme Court in **Kulasooriya vs. Officer-in-Charge, Kirindiwela Police Station**[8] unequivocally held that an application for revision is an equally effective remedy. The Court emphasized that a litigant cannot bypass established procedural avenues and seeks discretionary relief under writ jurisdiction as a matter of convenience. The failure to pursue such alternative remedies is a material consideration when assessing the maintainability of writ applications.

This position is consistent with several other judicialauthorities. In **Ishak vs. Lakshman Perera**[9], the Court observed that requiring parties to exhaust alternative remedies prior to resorting to judicial review is in accord with the principle that judicial review is properly regarded as a remedy of last resort. This requirement reflects judicial discipline and respect for the statutory framework established by law.

In the **Kulasooriya case**[10]**,** Malalgoda J held thus,

"With regard to the powers vested with the Court of Appeal under Article 140 in issuing orders in the nature of writs, it is well settled that when an alternative and equally efficacious remedy is available to a party, the party should be required to pursue that remedy before invoking the writ jurisdiction."

[8]SC Appeal No. 52/21, SCM dated 14.07.2023
[9]2003 3 SLR 18
[10](supra)

Shirani Thikawardane J in **Ishak vs Lakshman Perera**[11] made the following pronouncement,

"Where there is an alternative procedure which will provide the applicant with a satisfactory remedy the Courts will usually insist on an applicant exhausting that remedy before seeking judicial review. In doing so the Court is coming to a discretionary decision." Where there is a choice of another separate process outside the Courts, a true question for the exercise of discretion exists. For the Court to require the alternative procedure to be exhausted prior to resorting to judicial review is in accord with the judicial review being properly regarded as being a remedy of last resort. It is important that the process should not be clogged with unnecessary cases, which are perfectly capable of being dealt with in another tribunal. It can also be the situation that Parliament, by establishing an alternative procedure, indicated either expressly or by implication that it intends that procedure to be used, in exercising its discretion the Court will attach importance to the indication of Parliament intention."

Malalgoda J having cited with approval the aforesaid paragraph from the judgment in **Ishak vs. Lakshman Perera**[12]held thus,

"Her ladyship had considered invoking the writ jurisdiction as the "last resort." In the above circumstances, it is necessary for the Petitioners in a writ application either to aver that the party had exhausted the alternative remedy or explain why the party decided to invoke writ jurisdiction without resorting to the alternative remedy available to them."

I also wish to cite the following paragraph from the said **Kulasooriya case**[13]**,**

"A party who invokes the revisionary jurisdiction is required to satisfy Court that there are exceptional circumstances for the party to invoke such jurisdiction and the Court will use its discretion when deciding to grant such relief. Similarly, a party invoking the writ jurisdiction of the Court of Appeal is necessary to satisfy Court that the said party had exhausted all equally

[11](supra)
[12](supra)
[13](supra)

efficacious remedies available to them before invoking the writ jurisdiction. In other words, failure by a party to make use of equally efficacious remedies available to them will become a ground for the Court to use its discretion and refuse to grant such relief."

The Court of Appeal, in **Dialog Axiata PLC vs Director General of Customs**[14], examined this issue in detail and reaffirmed that where an adequate and effective alternative remedy exists, a writ application will not lie. The Court made it clear that the existence of such remedy is not a mere technical bar, but a substantive limitation on the exercise of writ jurisdiction, grounded in the discretionary nature of such relief.

The discretionary element

There is a further dimension which cannot be overlooked. The jurisdiction invoked under Article 140, though extensive in formulation, is inherently discretionary. A litigant who establishes that the Court possesses the power to intervene does not thereby secure an entitlement to relief. The Court must still determine whether, in the circumstances of the particular case, it is proper to exercise that power.

This discretion is neither arbitrary nor unguided. It is guided by principle, by precedent, and by a due appreciation of the respective functions entrusted to different courts within the judicial system. The supervisory jurisdiction is exercised sparingly, with caution, and in a manner that preserves the institutional balance between appellate review and primary adjudication.

Where the grant of relief would require the Court to transgress those settled boundaries for example, by embarking upon the resolution of disputed facts, by anticipating determinations reserved for trial courts, or by interrupting ongoing criminal processes without compelling justification, the discretion of the Court ordinarily inclines against intervention.

[14]CA/WRT/464/2008 decided on 06.05.2016

The reason is plain. The legitimacy of judicial action depends not only upon the correctness of outcomes but also upon adherence to appropriate procedures. If a court assumes a function for which the process before it is unsuited, the result, however well intentioned, risks undermining both fairness and confidence in the administration of justice.

In the present matter, the Petitioners seek relief which, if granted, would necessarily require this Court to step beyond its supervisory role and to undertake a species of fact-finding for which writ proceedings provide no adequate framework. Even if jurisdiction in the abstract were available, the exercise of discretion would strongly militate against assuming such a task.

Accordingly, discretionary considerations reinforce the conclusion already indicated by principle and authority: that this is not a case in which the extraordinary jurisdiction of this Court should be invoked.

Drawing together the several strands of analysis set out above, the position of this Court admits of little ambiguity.

The foundation of the Petitioners' complaint rests upon assertions which are vigorously contested by the Respondents. The acceptance of the relief sought would therefore require this Court to resolve disputes that lie at the very heart of evidentiary inquiry. Those disputes concern matters of credibility, authenticity, and inference, subjects that can properly be determined only after the reception and testing of evidence in the manner contemplated by law.

The jurisprudence governing the exercise of writ jurisdiction has consistently rejected the notion that such functions may be assumed by a court proceeding primarily upon affidavit. Equally, the long-standing principle of judicial restraint in relation to ongoing criminal investigations cautions against intervention save in circumstances of clear

jurisdictional defect or patent illegality established on undisputed material. No such circumstances are present here.

We are further satisfied that the Petitioners possess adequate opportunity within the framework of the criminal process to present their explanations, challenge the material relied upon by the authorities, and seek appropriate rulings from the courts vested with primary responsibility for adjudication. The availability of those remedies renders recourse to extraordinary jurisdiction unnecessary and inappropriate.

In these circumstances, intervention by this Court would not merely anticipate findings reserved for another forum; it would constitute an unwarranted intrusion into proceedings that the law has committed to the ordinary courts.

For the aforesaid reasons I hold that the Petitioners have failed to establish a *prima facie* case warranting the issuance of formal noticeson the Respondents

The application is dismissed in limine.

No costs.

PRESIDENT OF THE COURT OF APPEAL

K. P. Fernando, J.
I agree.

JUDGE OF THE COURT OF APPEAL