

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

CA CPA 81/2025

HC WA 72/2025

In the matter of an application for revision under Article 138 of the Constitution against the Order dated 31/07/2025 in the provincial High Court of the southern Province (holden in Balapitiya) Writ Application No. HC WA 72/25.

1. Don Rohana Ranjith Mahavithana,
Batakatiyawaththa, Piyadda Road,
Haburugala, Bentota.
2. Hene Kapuralalage Chandika Krishantha,
Kahawegammadda, Maha iduruwa.
3. Warahena Mudalige Yohan Kalinga De Alwis,
Arachchi Mulla, Bentota.
4. Bomiriyage Don Nihal Damayantha,
Meditation Centre Road, Palagaspalatha,
Kosgoda.
5. Uhanowitage Chamika Priyadarshana,
Gal pare waththa, Kuda Uragaha,
Uragaha.
6. Paranamannage Hemachandra,
Yalagama, Iduruwa.
7. Pitigala Kankanamge Sunil Shantha,
Hewagodawaththa, Ranthotuwila.

Petitioners

Vs.

1. C. Wickramasinghe,
Co-operative Development Commissioner/
Registrar (acting),
Co-operative Development Department-
Southern Province,
147/3, Pettigalawatta, Galle.

2. Co-operative Development Assistant
Commissioner (Southern Province) (acting),
Co-operative Development Assistant
Commissioner's office,
147/3A, Pettigalawatta, Galle.
3. Bentota Multi-Purpose Co-operative Society
Ltd, Galle Road, Bentota.
4. Mrs. Malawana Gamlakshage Prarthana
Madulani,
Secretary, Bentota Multi-purpose Co-
operative Society Ltd,
Galle Road, Bentota.
5. Mr. H.W.R. Asiri Abeywickrama,
Co-operative Development Officer,
Co-operative Development Assistant,
Commissioner's office, Galle.
6. Mr. Mahakumarage Gamini,
Palangaha waththa, Rankotuwila.
7. Mr. H.W. Wasantha,
No. 435E, Watawalawaththa North, Iduruwa.
8. Mr. Wijesinghe Gunathilaka Tissa,
No.328/H, Wiyanduwa watta,
Kamburugala, Galle.
9. Mr. Prabath Galagamage,
Co-operative Development Officer,
Co-operative Development Assistant
Commissioner's office, Galle.
10. Mrs. W.O. Warusawithana,
Co-operative Development Officer,
Co-operative Development Assistant
Commissioner's office, Galle.

11. Mrs. Neranji Thilakaraththa,
Co-operative Development Officer,
Co-operative Development Assistant
Commissioner's office, Galle.
12. Mrs. G.H. Kamani Mangalika,
General Manager,
Bentota Multi- purpose Co-operative Society
Ltd, Galle Road, Bentota.
13. Mr. M.K. Bandula Harischandra,
Governor,
Governor's Office,
Lowe Dixon Road, Galle.

Respondents

NOW IN THE COURT OF APPEAL

1. Don Rohana Ranjith Mahavithana,
Batakatiyawaththa, Piyadda Road,
Haburugala, Bentota.
4. Bomiriyage Don Nihal Damayantha,
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5. Uhanowitage Chamika Priyadarshana,
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General Manager,
Bentota Multi- purpose Co-operative Society
Ltd, Galle Road, Bentota.
13. Mr. M.K. Bandula Harischandra,
Governor,
Governor's Office,
Lower Dixon Road, Galle.

Respondent- Respondents

2. Hene Kapuralalage Chandika Krishantha,
Kahawegammadda, Maha iduruwa.
3. Warahena Mudalige Yohan Kalinga De Alwis,
Arachchi Mulla, Bentota.

8th and 9th Petitioner Respondents

Before: **Damith Thotawatte, J.**

K.M.S. Dissanayake, J.

Counsels: Chandana Wijesooriya instructed by Wathsala Dulanjane for
the Petitioners.

A. de Silva, SSC for the 1st, 2nd, 5th, 9th, 11th, and 13th for the
Respondent- Respondents.

Supported: 27.10.2025

Order Delivered: 13.02.2026

Thotawatte, J.

Introduction

This revision application has been filed invoking the revisionary jurisdiction of this Court by the Petitioner-Petitioners (hereinafter sometimes referred to as 'Petitioners'), challenging the interlocutory order dated 31.07.2025 made by the Provincial High Court of the Southern Province, holden at Balapitiya, in Writ Application No. HC WA 72/25. By the said order, the learned High Court Judge refused the interim relief sought in prayers (e) and (f) of the writ application, namely, a stay of the operation of the decisions communicated by letter dated 11 June 2025 annexed to the petition marked P24 (hereinafter sometimes referred to as 'letter P24'), while issuing formal notice on the Respondents and thereby permitting the writ application to proceed to final determination.

The Petitioners seek revisionary intervention on the footing that the refusal of interim relief discloses jurisdictional error, patent illegality, and exceptional circumstances warranting interference at the initial stage.

Background and Procedural History

The Petitioners are registered members of the 3rd Respondent, Bentota Multi-Purpose Co-operative Society Ltd (hereinafter sometimes referred to as 'Co-operative Society'). At the material time, prior to the impugned administrative intervention, the Petitioners were serving members of the Executive Committee (Board of Directors), the primary governing body of the Bentota Co-operative Society. The 1st Respondent, the Co-operative Development Commissioner, formed the view that the Board of Directors of the Co-operative Society had acted in contravention of Section 68(1)(a) of the Southern Provincial Co-operative Societies Statute No. 06 of 2019 (hereinafter sometimes referred to as the "Co-operative Societies Statute") and the applicable Rules, in that it had failed to cause the election of a new Executive Committee within three months of the expiry of its term of office.

On the above basis, and claiming authority under the Co-operative Societies Statute No. 06 of 2019 and the applicable Rules, the 1st Respondent, by letter P24, appointed the 9th and 10th Respondents to the Board of Directors of the Co-operative Society, instructing them to hold an election under the applicable laws and regulations in order to constitute a new Board of Directors. The Petitioners claim that this has resulted in the displacement,

dilution, or supersession of the Petitioners' roles as directors and, as such, has caused direct and personal prejudice.

The Petitioners have further contended that the said appointments were *ultra vires*, made without jurisdiction, and in breach of Section 68(5) of the Co-operative Societies Statute, which mandates ministerial consent. On that basis, the Petitioners instituted the writ application HC WA 72/25 seeking relief by way of *certiorari*, prohibition, and *mandamus*.

At the stage of support, the Petitioners moved for interim relief suspending the operation of P24. However, by order dated 31.07.2025, the learned Provincial High Court Judge, whilst issuing notice on the Respondents and fixing the matter for further proceedings declined to issue such interim relief. It is this refusal of interim relief that is impugned before this Court.

Nature of the Impugned Order

The order under challenge is purely interlocutory in character. It neither determines the legality of P24 nor finally disposes of the writ application. The substantive questions concerning applicability of the statutes, jurisdiction, and the validity of the impugned appointments remain live issues pending adjudication before the Provincial High Court.

Contention of the Petitioners

The Petitioners contend that interim relief ought to have been granted as the impugned decision disclosed a serious *prima facie* issue, in that it was taken without the ministerial concurrence expressly required by Section 68(5) of the Co-operative Societies Statute, and on the erroneous footing that the Governor's approval under the Provincial Councils (Consequential Provisions) Act No. 12 of 1989 could substitute for such concurrence, notwithstanding the post-1987 statutory scheme. It is further contended that the decision proceeded on an incorrect factual premise regarding the alleged failure to elect a committee within the prescribed period, and that the refusal of interim relief was inconsistent with an earlier interim order made in HC WA 70/25 in respect of substantially similar appointments, thereby warranting the preservation of the *status quo* pending final determination.

It is further submitted that these matters disclose exceptional circumstances justifying revisionary intervention at the initial stage.

Analysis

Notwithstanding the contentions advanced by the Petitioners, the matters relied upon, including questions of statutory construction, the issue raised as to whether approval by the Governor may substitute for ministerial concurrence, the applicability of the Provincial Councils (Consequential Provisions) Act No. 12 of 1989, and the disputed factual premise relating to the election of a committee- are all issues that can be considered at the final hearing of the writ application. In the context of a refusal of interim relief, these contentions do not, either individually or cumulatively, disclose exceptional circumstances of such a nature as to justify revisionary intervention by this Court in respect of a discretionary interim order.

The essence of the Petitioners' complaint relates to the legality of P24 and the statutory competence of the 1st Respondent to make the impugned appointments. These issues are central to the writ application pending before the Provincial High Court and remain wholly open for determination on the merits. The refusal of interim relief does not constitute a final determination of the matters in issue.

In *Duwearatchi and Another v. Vincent Perera and Others*¹ the court of Appeal whilst stressing that the interim orders are made in the exercise of inherent or implied power of court, laid down the following guide line when issuing interim relief:

- I. Will the final order be rendered nugatory if the Petitioner is successful?
- II. Where does the balance of convenience lie?
- III. Will irreparable and irremediable mischief or injury be caused to either party?

The above criterion has been consistently followed by subsequent cases and a had stood the test of time.

By his order dated 31.07.2025, the learned Judge of the High Court took note of the fact that the 9th and 10th Respondents appointed to the Board of Directors by P24 had already initiated the process of conducting the election and had, by then, fixed a date for the same. The learned High Court Judge was of the view that the electoral process had reached an advanced stage and that the grant of interim relief at that juncture would disrupt those arrangements and result in prejudice exceeding any inconvenience alleged by the

¹ [1984] 2 Sri L.R 94

Petitioners. Upon that basis, the learned Judge had held that the balance of convenience did not lie in favour of granting interim relief. Having considered the material placed before Court, we see no reason to fault that conclusion.

Conclusion

For the foregoing reasons, I am of the view that the Petitioners have failed to establish any exceptional grounds for this court to exercise its revisionary jurisdiction in favour of the Petitioners. The revision application is accordingly dismissed *in limine* subject to cost.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal