

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

In the petition of appeal under and in terms of Article 138(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka and Article 154P(6) thereof, as amended by the 13th Amendment to the Constitution.

CA Appeal No:
CA(PHC)49/22
HC Badulla Case No:
Writ 20/2015

Wijesinghe Mudiyanseelage Gunapala,
Millagaharaawa,
Walgollagama,
Badulla.

Petitioner

- Vs-

1. **The Commissioner of Co-Operative Development and Registrar of Co-Operative Societies (Uva Province),**
Uva Provincial Department of Co-Operative Development,
No.199, Keppetipola Road,
Badulla.

2. **Wijekoon Mudiyanseelage Muthubanda,**
Arbitrator (Arbitral Inquiry No. @/2A 1812)
The Department of Co-Operative Development No.199, Keppetipola Road,
Badulla.

**3. Passara Multi Purpose Co-Operative
Society Limited,**

Samupakara Mandiraya (සමුපකාර මන්දිරය),
Passara

4. Honourable Attorney General,

The Attorney General's Department,
Superior Court Complex,
Hulfsdorp, Colombo 12.

Respondents

AND NOW BETWEEN

Wijesinghe Mudiyanseelage Gunapala,

Millagaharaawa,
Walgollagama,
Badulla.

Petitioner-Appellant

- Vs-

**1. The Commissioner of Co-Operative
Development and Registrar of Co-
Operative Societies (Uva Province),**

Uva Provincial Department of Co-Operative
Development,
No.199, Keppetipola Road,
Badulla.

2. **Wijekoon Mudiyansele Muthubanda,**
Arbitrator (Arbitral Inquiry No. 2/2A 1812)
The Department of Co-Operative
Development No.199, Keppetipola Road,
Badulla.
3. **Passara Multi Purpose Co-Operative
Society Limited,**
Samupakara Mandiraya (සමුපකාර මන්දිරය),
Passara
4. **Honourable Attorney General,**
The Attorney General's Department,
Superior Court Complex,
Hulfsdorp, Colombo 12.

Respondents-Respondents

Before : **D. THOTAWATTA, J.**
K. M. S. DISSANAYAKE, J.

Counsel : D.P.L.A.K. Perera for the Petitioner-
Appellant.

Panchali Witharana, SC for the 1st and 4th
Respondents- Respondents.

Avinda Silva instructed by Charika
Wanigabaduge for the 3rd Respondent-
Respondent.

2nd Respondent-Respondent is absent and
unrepresented.

Written Submissions
of the Petitioner-Appellant

tendered on : 01.09.2025 and 14.01.2026

Written Submissions
of the 1st Respondents
-Respondents

tendered on : 18.11.2025

Written Submissions
of the 3rd Respondent
-Respondent

tendered on : 29.01.2026

Written Submissions
of the 2nd and 4th Respondents
-Respondents

tendered on : not tendered

Decided on : 13.03.2026

K. M. S. DISSANAYAKE, J.

Instant appeal arises from an order dated 16.12.2021 made by the learned High Court Judge of the Uva Province holden at Badulla (Hereinafter called and referred to as “the learned High Court Judge of the Province”) whereby, he had dismissed the application of the Petitioner-Appellant (Hereinafter called and

referred to as “the Appellant”) for a mandate in the nature of writ of *certiorari* to quash the decisions contained in ๑๒2, ๑๒3, and ๑๒3A.

When this matter came on for hearing before us on 19.11.2025, all the parties were agreeable to dispose of the instant appeal by way of written submissions and accordingly, the judgement of this appeal is delivered on the strength of the written submissions as agreed by the parties.

Upon a careful perusal of the order dated 16.12.2021 made by the Learned High Court Judge of the Province (Hereinafter called and referred to as “the order”), it clearly, appears that the Learned High Court Judge of the Province had firstly, proceeded to examine whether decision contained in **P2** is illegal for; no reason had been adduced therefor, by the 1st-Respondent-Respondent (Hereinafter called and referred to as “the 1st Respondent”).

However, the Learned High Court Judge of the Province had proceeded to reject the ground so urged by the Appellant as aforesaid by holding that it appears that fair trial had been afforded to the Appellant.

It is however, regretful to observe that no reason whatsoever, had been adduced by the Learned High Court Judge of the Province for the said findings made by him and therefore, we are unable to review the said findings of the Learned High Court Judge of the Province in the absence of the reasons adduced therefor.

Hence, the said findings of the Learned High Court Judge of the Province cannot in any manner, sustain both in fact and law and as such it should be rejected.

The Learned High Court Judge of the Province had secondly, proceeded to examine whether the Respondents had come to the impugned decisions by not considering and/or not directing their minds to the facts as contended by the Appellant.

However, upon a careful perusal of the order, it clearly, appears that no finding whatsoever, had been arrived at by the Learned High Court Judge of the Province in his order regarding the ground of appeal so considered by him.

Hence, there is no finding reached by the Learned High Court Judge of the Province on the said ground for review by this Court in appeal.

Finally, the Learned High Court Judge of the Province had found that Court had no jurisdiction to hear and determine the said application for a mandates in the nature of a writ of *certiorari* for; Court has no jurisdiction to hear and determine it in view of section 68(5) of the Co-operative Societies law.

However, upon a careful perusal of the Co-operative Societies law it clearly, shows that, there is no such provision as “section 68(5)” in the Co-operative Societies law.

Hence, the said findings of the Learned High Court Judge of the Province that Court had no jurisdiction to hear and determine the said application for a mandates in the nature of a writ of *certiorari* for; Court has no jurisdiction to hear and determine it in view of section 68(5) of the Co-operative Societies law, cannot in any manner, sustain both in fact and law and as such it should be rejected.

In view of all the above, facts and circumstances, I would hold that the order cannot sustain both in fact and law and therefore, it should not be allowed to stand.

In the result, I would set aside the order.

In view of the aforesaid, I would direct the Learned High Court Judge of the Province to hold a *de-novo* trial/inquiry into the application of the Appellant for a mandate in the nature of a writ of *certiorari* and hear and determine it strictly, in accordance with the law as expeditiously, as possible.

In view of the foregoing, I would make no order for costs.

JUDGE OF THE COURT OF APPEAL

D. THOTAWATTA, J.

I agree.

JUDGE OF THE COURT OF APPEAL