

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

In the matter of an Application for
Revision under and in terms of Article
138 of the Constitution of the
Democratic Socialist Republic of Sri
Lanka.

CA CPA No: 30/2025

PHC Ratnapura No: HCR/RA/38/2022

MC Ratnapura No. :56940/A

Dharmalankara Panditha Mohottalalage
Jayasena Nilame,
Thalangama, Marapana.

Petitioner

Vs

Palitha Samaranayake
No. 131, Dandeniya, Eheliyagoda.

Respondent

AND BETWEEN

Palitha Samaranayake,
No. 131, Dandeniya, Eheliyagoda

Respondent-Petitioner

Vs

Dharmalankara Panditha Mohottalalage
Jayasena Nilame,
Thalangama, Marapana.

Petitioner-Respondent

AND NOW BETWEEN

Palitha Samaranayake,
No. 131, Dandeniya, Eheliyagoda.

Respondent-Petitioner-Petitioner

Vs

Dharmalankara Panditha Mohottalalage
Jayasena Nilame,
Thalangama, Marapana.

Petitioner-Respondent-Respondent

Before: Damith Thotawatte, J.
K.M.S. Dissanayake, J.

Counsels: Upendra Walgampaya instructed by Zahara Hassim for the
Respondent-Petitioner-Petitioner.

Mohan Seneviratne instructed by Niluka Dissanayake for the
Petitioner-Respondent-Respondent.

Supported: 15-07-2025

Written submissions 07-08-2025 By the Respondent-Petitioner-Petitioner.
tendered on: 11-09-2025 By the Petitioner-Respondent-Respondent.

Order Delivered on: 22-10-2025

D. Thotawatte, J.

The Petitioner–Respondent–Respondent (hereinafter sometimes referred to as “Respondent”) had on 04th May 2021 filed an information under Section 66(1)(b), under the Primary Court’s Procedure Act No. 44 of 1979, in the Magistrate Court of Ratnapura alleging that on 5th March 2021, the Respondent-Petitioner-Petitioner (hereinafter sometimes referred to as “Petitioner”) had forcibly dispossessed him from the impugned land.

Learned Magistrate of Ratnapura acting as Primary Court Judge, having inquired into this information, delivered the order dated 21st July 2022, holding in favour of the Respondent.

Being aggrieved by the said Order, the Petitioner had invoked the revisionary jurisdiction of the Provincial High Court of the Sabaragamuwa Province holden in Ratnapura against the order of the Learned Magistrate. However, the learned High Court Judge had

affirmed the Order of the learned Magistrate and dismissed the application of the Petitioner.

Being dissatisfied with the Order of the learned High Court Judge dated 12th March 2025, the Petitioner has preferred this instant revision application seeking to set aside the Order of the learned High Court Judge dated 12th March 2025 and the Order of the learned Magistrate dated 21st July 2022.

On the day when this matter was fixed for support, the Counsel appearing for the Respondent raised a preliminary objection regarding the maintainability of this application due to non-compliance with Rule 3(1)(b) of the Court of Appeal (Appellate Procedure) Rules 1990.

Counsel for both parties having made submissions, have in addition filed written submissions on behalf of their respective positions.

It is the contention of the Counsel for the Respondent that the Petitioner had failed to annex a duly certified copy of the record of the case No. 56940/A of the Magistrate's Court, Ratnapura, even though the revision seeks to set aside the order made therein. Further the record attached to the High Court brief cannot be considered as a certified copy of the Court of First Instance record within the meaning of Rule 3(1)(b).

Rule 3(1)(a) and 3(1)(b) of Court of Appeal (Appellate Procedure) Rules 1990 is as follows;

Rule 3(1)(a)

"Every application made to the Court of Appeal for the exercise of the powers vested in the Court of Appeal by Articles 140 and 141 of the Constitution shall be by way of petition, together with an affidavit in support of the averments therein, and shall be accompanied by the originals of documents material to such application (or duly certified copies thereof) in the form of exhibits. Where a petitioner is unable to tender any such document, he shall state the reason for such inability and seek the leave of the Court to furnish such document later. Where a petitioner fails to comply with the provisions of this rule, the Court may, ex mero motu at the instance of any party, dismiss such application."

Rule 3(1)(b)

"Every application by way of revision or restitutio in integrum under

Article 138 of the Constitution shall be made in like manner together with copies of the relevant proceedings (including pleadings and documents produced), in the Court of First instance, tribunal or other institution to which the application relates.

Rule 3(1)(a) read with Rule 3(1)(b) of the Court of Appeal (Appellate Procedure) Rules of 1990 operates as an essential procedural safeguard to ensure that the appellate and revisionary courts are properly equipped with authentic and complete records before exercising their jurisdiction. These provisions, as comprehensively set out in *Shanmugavadivu v. Kulathilake*¹ and reaffirmed in *Urban Development Authority v. Ceylon Entertainments Ltd.*², are not intended as mere technical requirements but as imperative rules that preserve the integrity and reliability of the process.

Under Rule 3(1)(a), every application invoking the Court’s jurisdiction under Articles 140 and 141 must be accompanied by the originals or duly certified copies of all documents material to the application, or, where this is not possible, the petitioner must state reasons and seek leave to furnish such documents later. Rule 3(1)(b) extends this requirement to applications by way of revision or *restitutio in integrum* under Article 138, thereby ensuring that proceedings are filed “in like manner” with verified records from the court of first instance. This framework guarantees that the appellate court exercises its extraordinary powers only on the basis of authentic and complete documentation.

In *Shanmugavadivu v. Kulathilake*, her ladyship Bandaranayake J. stressed that compliance with these Rules is imperative, holding that failure to file the required documents or to obtain leave to do so cannot be excused, as the Court would otherwise lack the material necessary to exercise its revisionary powers. Similarly, in *Urban Development Authority v. Ceylon Entertainments Ltd.*, Edussuriya J. reiterated that adherence to Rule 3 is settled law and that non-compliance is fatal since it deprives the Court of an adequate evidentiary foundation to assess whether a miscarriage of justice has occurred.

Thus, Rule 3(1)(a) read with 3(1)(b) performs a vital function in maintaining procedural discipline, authenticity of records, and the integrity of appellate review. It ensures that the Court’s extraordinary jurisdiction is exercised only upon verified materials.

¹(2003) 1 SLR 215

²(2004) 1 SLR 95

If the Petitioner seeks to invoke the jurisdiction of this Court to review and set aside the order of the learned Magistrate dated 21st July 2022, the Petitioner needs to file a duly certified copy of the Magistrate Court record. It is the registrar of the Magistrate's Court alone who is vested with the authority to certify copies of records pertaining to that Court, and the registrar of the High Court has no competence to verify copies of records originating from the Magistrate's Court. I agree with the Counsel for the Respondent that the copy of the Magistrate's Court record embedded in the certified copy of the High Court record is not a duly certified copy of the Magistrate Court record within the meaning of Rule 3(1)(a) read with Rule 3(1)(b). The Petitioner has not sought leave of the Court to furnish such document later.

For the above-mentioned reasons, I dismiss this application for failure to comply with Rule 3(1)(a) read with Rule 3(1)(b) of Court of Appeal (Appellate Procedure) Rules 1990 subject to a cost of Rs. 20,000/-.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal