

**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 Writs of  
Certiorari and Mandamus under and in  
terms of Article 140 of the Constitution of  
the Democratic Socialist Republic in Sri  
Lanka.*

Siyambalapitiyage Don Chandrasena,  
No. 239/27/1,  
Polgahahena,  
Ragama.

Presently at  
Via degli imbarcati,  
9, Santomoso,  
Pistoia, (Fi), Italy.

(Appearing through his attorney Etheege  
Prinsly Nadeep Malinda Silva of No. 243,  
Polgahahena, Ragama.)

**Petitioner**

CA (Writ) Application  
No761/2024

**Vs.**

1. Debt Conciliation Board  
No. 35 A,  
Dr. N. M. Perera Mawatha,  
Colombo 08.
2. Hon. Piyasena Ranasinghe  
Chairman,

Debt Conciliation Board  
No. 35 A,  
Dr. N. M. Perera Mawatha,  
Colombo 08.

3. Hon. Padma Palihakkara  
Member,  
Debt Conciliation Board  
No. 35 A,  
Dr. N. M. Perera Mawatha,  
Colombo 08.
4. Hon. Milton Marasinghe  
Member,  
Debt Conciliation Board  
No. 35 A,  
Dr. N. M. Perera Mawatha,  
Colombo 08.
5. Hon. Sarath Chandrasiri Withana  
Member,  
Debt Conciliation Board  
No. 35 A,  
Dr. N. M. Perera Mawatha,  
Colombo 08.
6. Hon. Somapala Karunathilake  
Member,  
Debt Conciliation Board  
No. 35 A,  
Dr. N. M. Perera Mawatha,  
Colombo 08.
7. D. Subhashini Dayananda  
Secretary,  
Department of Debt Conciliation Board,  
No. 35 A,  
Dr. N. M. Perera Mawatha,  
Colombo 08.

8. Hon. Piyaseeli Wickremasinghe Maturata  
Chairperson,  
Debt Conciliation Branch Board,  
No.2/11, Wijaya Road,  
Gampaha.
9. Hon. Nandini Ranawaka  
Member,  
Debt Conciliation Branch Board,  
No.2/11, Wijaya Road,  
Gampaha.
10. Hon. D.M. Karunaratne  
Member,  
Debt Conciliation Branch Board,  
No.2/11, Wijaya Road,  
Gampaha.
11. Secretary  
Department of Debt Conciliation Board,  
Gampaha Branch,  
No.2/11, Wijaya Road,  
Gampaha.
12. Hon. Attorney-General  
Attorney-General's Department,  
Colombo 12.
13. Welisarage Easton Lakshman Fernando  
No. 343/D/1,  
Batagama-South  
Kandana.  
(No. 240 A, Batagama-South, Kandana.)

**Respondents**

**Before** : Dhammika Ganepola, J.  
Adithya Patabendige, J.

**Counsel** : Shyamal A. Collure with Prabhath S.  
Amarasinghe for the Petitioners.  
Indunil Bandara for the 13<sup>th</sup> Respondent  
Instructed by Naveen Hettiyadurage.  
R. Mukthar SC for the 1<sup>st</sup>, 2<sup>nd</sup>, 11<sup>th</sup> and  
12<sup>th</sup> Respondents.

**Argued on** : 14.10.2025

**Written Submissions** : Petitioner : 14.11.2025  
**tendered on** : 13<sup>th</sup> Respondent : 14.11.2025

**Decided on** : 19.02.2026

**Dhammika Ganepola, J.**

In the instant application, the Petitioner challenges the impugned decisions of the 1<sup>st</sup> Respondent, Debt Conciliation Board of Gampaha, dated 06.08.2024 and 25.08.2024 marked Y(f) and Y(a). The Petitioner states that he executed the Deed bearing No. 1129, dated 29.04.2021, marked X3, in respect of the subject matter of this application, as security for the sum of Rs. 2,500,000/- obtained from the 13<sup>th</sup> Respondent for the medical and related expenses of his sister, who became paralysed. The sum of Rs. 2,500,000/-, which was the amount of the transaction, has been mentioned in the Deed as consideration. The Petitioner had left the country on 03.01.2024 for Italy, leaving the Power of Attorney bearing No. 2530, dated 19.12.2023, marked X6, by which Prinsly Nadeep Malinda had been appointed as a Power of Attorney holder.

The Petitioner states that he repaid full amount of the loan obtained from the 13<sup>th</sup> Respondent, together with interest, in cash and by electronic transactions, amounting to about Rs. 6,000,000/- through his wife and mother-in-law. It is stated that the 13<sup>th</sup> Respondent failed and neglected

to retransfer the subject matter to the Petitioner and forcibly entered into the same. Thereafter, the Petitioner had made an application to the 1<sup>st</sup> Respondent, the Debt Conciliation Board, through his Power of Attorney holder to recover the property. However, the 13<sup>th</sup> Respondent had raised a preliminary objection as to the maintainability of the application of the Petitioner, on the basis that the said application was lodged on an invalid Power of Attorney bearing No. 2530, marked X6. However, the Petitioner had filed a subsequently executed Special Power of Attorney for the better manifestation and ratification of the authority already granted. However, the Debt Conciliation Board had dismissed the application of the Petitioner by its Order dated 06.08.2024, marked Y(f), on the premise that there had been no valid Power of Attorney at the time the application was instituted.

Thereafter, the Petitioner had made an application to the Debt Conciliation Board under Section 54(1) of the Debt Conciliation Ordinance to review its Order marked Y(f). The Petitioner states that the 8<sup>th</sup> Respondent, acting alone in chambers, had issued the Order dated 25.08.2024, marked Y(a), dismissing the said application on the ground that the Petitioner had not placed the signature on the application. The Petitioner states that the above Orders of the Debt Conciliation Board marked Y(f) and Y(a) are illegal, arbitrary, unreasonable, and liable to be quashed. Accordingly, the Petitioner *inter alia* seeks Writs of Certiorari to quash the decisions marked Y(f) and Y(a), and Writs of Mandamus directing the Respondent to reconsider and determine the application made under Section 54 of the Debt Conciliation Ordinance, as well as the original application bearing No. GAM 324, which was made before the Debt Conciliation Board.

The Petitioner challenges the Order dated 06.08.2024, marked Y(f), delivered by the Debt Conciliation Board. It is on common ground that the Petitioner made the application bearing No. GAM 324 before the Debt Conciliation Board through his attorney, who held the Power of Attorney No.2530 marked X6. The 13<sup>th</sup> Respondent had taken up a preliminary objection that the said application to the Debt Conciliation Board is invalid on the ground that the said Power of Attorney is

defective. It had been submitted that the Power of Attorney marked X6 does not include a schedule of the property in dispute, which confers the Attorney with legal authority to proceed with the application before the Debt Conciliation Board. Further, no reference or indication has been made in the said Power of Attorney marked X6 for the Attorney to represent the Petitioner in the application before the Debt Conciliation Board. After considering the submissions made by both parties, the Debt Conciliation Board had made the Order dated 06.08.2024 marked Y(f) dismissing the application on the basis that there was no valid Power of Attorney at the time when the application was made.

In the case of **Charlis Silva v. Ariyadasa 1983 (2) SLR 298** the Court of Appeal held that the power of attorney must be construed strictly. As per Section 3A of the Power of Attorney Ordinance, a Power of Attorney granted to be used for the purpose of a transaction falling within the scope of Section 2 of the Prevention of Frauds Ordinance shall comply with certain requirements, *inter alia* contain a description of the land or land parcel as the case may be, with its metes and bounds, and its extent. Said Section is reads as follows:

*3A (2) If a power of attorney specified in subsection (1) is executed in Sri Lanka, it shall -*

*(a) be duly attested by a notary public in accordance with the Notaries Ordinance (Chapter 107) and the Prevention of Frauds Ordinance;*

*(b) contain a description of the land or land parcel as the case may be, with metes and bounds, and the extent, in the case of a land or land parcel;*

In the instant application, the Petitioner had lodged the application before the Debt Conciliation Board in desirous of obtaining relief in respect of a debt purporting to be secured by a Deed bearing No. 1129, dated 29.04.2021, marked X3, in respect of the subject matter of this application. Accordingly, including a description of the land in issue in the said Power of Attorney is mandatory and non-compliance with said requirement is fatal. Failure to comply with such requirements renders the Power of Attorney invalid. Subsequent filling of another Special Power

of Attorney with the view of rectifying the defect makes no difference as the rights of the Parties are determined at the date of the institution of the application. Therefore, I view that there is no illegality in the impugned decision marked Y(f), which concludes that the Power of Attorney is invalid.

The Petitioner further impugns the decision of the Debt Conciliation Board dated 25.08.2024, marked Y(a), which had been made upon an application under Section 54(1) of the Debt Conciliation Ordinance, on the ground of illegality. Section 54 (1) is as follows:

*54(1) The Board may, of its own motion or on application made by any person interested, within three months from the making of an order by the Board dismissing an application, or granting a certificate, or approving a settlement, or before the payment of the compounded debt has been completed, review any order passed by it and pass such other in reference thereto as it thinks fit.*

The Board has refused to entertain the application made under Section 54 of the Debt Conciliation Ordinance on the ground that the applicant had not signed the application lodged with the Debt Conciliation Board, and that it had been signed only by the Power of Attorney holder. The Chairman of the Debt Conciliation Board had relied on the decision in **Iranganie v. Abeyratne and others 1991(2) SLR 183**, where S. N. Silva J. held that, *“if the jurisdiction of the Board is invoked by a person who is not entitled to make an application under section 14 of the Ordinance, the steps taken upon such purported application are void and are of no consequence in law.”* Nevertheless, the Petitioner contends that the **Iranganie v. Abeyratne and Others [supra]** has no application to the present case, as the said case did not deal with a situation where a Power of Attorney holder of a debtor has signed and preferred the application to the Debt Conciliation Board. The Said case deals with a situation where an application was made on behalf of a debtor or a creditor by a person claiming to be an agent or representative of such debtor.

However, it is noted that the impugned decision marked Y(a) was made solely by the Chairman of the Board. Nevertheless, the decision marked

y(f) has been made by the three members of the branch Board. As per Section 3(2) of the Ordinance, three members shall constitute a quorum of the Board. Further, I observed that under Section 8(1), in conjunction with Section 9(2), of the Debt Conciliation Ordinance, the Chairman of a branch Board alone cannot exercise the powers and functions of the branch Board. Therefore, it is apparent that there is a clear procedural defect in the process of reaching the conclusion by the Chairman in the decision marked Y(a), and as such, it cannot stand in law.

In **Thirimavithana V UDA and others (2010(2)SLR 262 at 274, 275, Sisira de Abrew J.** considered the Respondents' failure to follow the procedure laid down in law and held as follows:-

*"Even if the Petitioners have not come to court on the basis that the UDA had failed to follow the procedure laid down in law, it is brought to the notice of court that the respondents have taken decisions after violating the procedure so laid down and without following the mandatory requirements, can the court, exercising supervisory jurisdiction over the decisions made by the Public Bodies, turn a blind eye to such decisions? The answer is no."*

Furthermore, it is my view that, as there is a procedural impropriety in the decision arrived at, consideration of the applicability of the principles enumerated in the above case referred to as **Iranganie v. Abeyratne and others** [ supra] does not arise at this point. However, it is also observed that the Chairman appears to have reached her conclusion by herself, solely based on the decision of **Iranganie v. Abeyratne and others**, without giving a fair hearing to the parties. In fact, the Board should have taken into consideration the said legal position at the earliest stage, i.e. the time when the Board was considering the main application.

In **N. H. J. Mallika Samarasinghe Vs. Malini Abeywardhana Ranatunga and Others – CA (Writ) Application 161/2018** decided on 05th October 2020, it was held that,

*"In considering this argument, I am mindful that this Court is exercising its Writ Jurisdiction as opposed to its Appellate Jurisdiction, and that this Court is not concerned with the rights and wrongs of the decision sought to be impugned but only whether the*

*said decision is legal or not. As Lord Brightman stated in the House of Lords in Chief Constable of North Wales Police V Evans.*

*Judicial review is concerned, not with the decision, but with the decision-making process. Unless that restriction on the Power of the court is observed, the court will, in my view, under the guise of preventing the abuse of power, be itself guilty of usurping power” ..... “Judicial review, as the words imply, is not an appeal from a decision, but a review of the manner in which the decision was made.”*

Thus, irrespective of the correctness or legality of the decision, if the decision maker has failed to adhere to the due procedure specified under the law, such a decision has to be considered *ultra vires*.

In the circumstances and for the reasons given, this Court is inclined to grant the Writ of Certiorari quashing the decision dated 25.08.2024 marked Y(a) and the Writ of Mandamus directing the 1<sup>st</sup> Respondent Board to reconsider the Petitioner’s application made under Section 54(1) of the Debt Conciliation Ordinance and make an appropriate order according to law. I order no cost.

**Judge of the Court of Appeal**

**Adithya Patabendige, J.**

**I agree.**

**Judge of the Court of Appeal**