

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

**CA Writ Application No :  
695/2025**

**1. HAYLEYS NATURE NEST (PVT) LTD**

No.400, Deans Road,  
Colombo 10.

**2. HAYLEYS AGRICULTURE HOLDINGS  
LIMITED,**

No. 25, Foster Lane,  
Colombo 10.

**PETITIONERS**

**Vs.**

**1. COCONUT DEVELOPMENT AUTHORITY**

Head Office,  
54, Nawala Road, Narahenpita,  
Colombo 5.

**2. BOARD OF INVESTMENT OF SRI  
LANKA,**

Level 24, West Tower, World Trade Centre,  
Colombo 01.

**3. HON. MINISTER OF PLANTATION AND  
COMMUNITY INFRASTRUCTURE**

11<sup>th</sup> Floor,  
Sethsiripaya 2<sup>nd</sup> Stage,  
Battaramulla.

**4. SHENGDA INDUSTRIAL COMPANY (PVT)  
LTD**

No. 98, Nattandiya watta,  
Kuliyapitiya Road,  
Nattandiya.

**RESPONDENTS**

Before : **Hon. Rohantha Abeysuriya PC, J.(P/CA)**

: **Hon. K. Priyantha Fernando, J.(CA)**

Counsel : Nishan Premathiratne with Shenali Dias and  
Dilmi Jayatissa instructed by Chanuka  
Ekanayake for the Petitioners.

Faiszer Musthapha, P.C. with Pulasthi  
Rupasinghe and Z. Rogel instructed  
by Sanjeewa Kaluarachchi for the 4<sup>th</sup>  
Respondent.

Medhaka Fernando, S.C for the State.

Written Submissions : 4<sup>th</sup> Respondent filed on 29.08.2025  
1<sup>st</sup> to 3<sup>rd</sup> Respondents filed on 09.09.2025  
Petitioner filed on 11.09.2025

Supported on : 04.08.2025

Decided on : 08.10.2025

**K. Priyantha Fernando, J.(CA)**

The Petitioners filed this action on 25<sup>th</sup> June 2025 challenging the conduct of the Coconut Development Authority-CDA (1<sup>st</sup> Respondent) and the Board of Investment-BOI (2<sup>nd</sup> Respondent) in granting approvals to the 4<sup>th</sup> Respondent-Shengda Industrial Company (Pvt.) Ltd. to establish a coconut water processing project in Nattandiya, within Sri Lanka’s “Coconut Triangle.”

FACTUAL MATRIX:

The 1<sup>st</sup> Petitioner, a company incorporated to manufacture frozen concentrated coconut water, had obtained prior approvals from the relevant authorities and entered into an agreement under Section 17 of the Board of Investment Law No 4 of 1978. The project, which required 150,000 litres of coconut water daily (approximately 45 million litres annually), was to be the first of its kind in the country. Substantial investment, including USD 2 million of the projected USD 4.6 million, has already been brought into Sri Lanka.

THE PETITIONERS’ POSITION:

The Petitioners argued that **they had a legitimate expectation that, having granted its no-objection, the 1<sup>st</sup> Respondent would not allow new entrants**

**into the market until the 1<sup>st</sup> Petitioner's raw material requirements were established.** However, despite earlier revocations of approval for Nattandiya on grounds of resource scarcity and risks to sustainability, the 1<sup>st</sup> Respondent subsequently reinstated approval for the 4<sup>th</sup> Respondent at the same location. This occurred against the backdrop of a severe national coconut shortage, during which the Government had permitted limited imports of coconut products but not coconut water, the essential raw material for the Petitioners' operations. The Petitioners contended that the approval of the 4<sup>th</sup> Respondent exacerbated the scarcity, undermined their project's viability, and threatened the broader coconut industry in the region.

They alleged that the Respondents' actions are unlawful, arbitrary, discriminatory, and in breach of natural justice, procurement norms, and the principles of fairness and rationality.

#### THE POSITION OF THE 4<sup>th</sup> RESPONDENT:

The 4<sup>th</sup> Respondent by way of its Limited Statement of Objections dated 9<sup>th</sup> July 2025, raised several preliminary objections. It was contended that the affidavit filed by the Petitioners was invalid, as it had been affirmed by an individual without authority to represent the Petitioner companies, rendering the application to be dismissed *in limine*. The 4<sup>th</sup> Respondent further alleged that the Petitioners had suppressed material facts, acted with *mala fides*, and failed to establish a *prima facie* case. It was submitted that their project involved a foreign investment of USD 1 million, much of which had already been committed towards the construction of factory premises and the importation of machinery. The 4<sup>th</sup> Respondent further maintained that coconut water was merely a by-product of copra production and would not be affected by an alleged shortage of coconuts. As per the 4<sup>th</sup> Respondent, it was an attempt by the Petitioners to obstruct legitimate competition and secure a monopoly, and was therefore *mala fide* and vexatious.

COUNTER OBJECTIONS OF THE PETITIONER:

The Petitioners denied the positions advanced by the Respondents and described them as frivolous, technical, and irrelevant. They argued that the **real issue laid in the arbitrary and unreasonable decision of the 1<sup>st</sup> Respondent to revoke approval previously granted for Hambantota and to permit operations in Nattandiya during a period of coconut scarcity.**

The Petitioners emphasised that the **1<sup>st</sup> Respondent had not filed objections**, thereby leaving the positions set out in the Petition uncontested. They contended that the Respondents had failed to show any genuine progress in relation to the Hambantota project, and had misrepresented their operations in Nattandiya. The Petitioners contended the approval granted to the Respondents was unlawful, irrational, and contrary to principles of fairness, natural justice, and rational decision-making, especially given the prevailing coconut crisis. The Petitioners rejected the allegations of anti-competitive conduct, maintaining that their challenge was directed solely against the improper actions of the 1<sup>st</sup> Respondent.

Subsequently, by way of their Reply Statement dated 1<sup>st</sup> August 2025, the Petitioners responded to the Motions of the 1<sup>st</sup> to 3<sup>rd</sup> Respondents. They denied the averments contained therein, asserting that they were adduced only to divert the Court from the real issues, and lacked a valid legal basis.

In support of their *bona fide* position, the Petitioners produced evidence of substantial investment, including LKR 300 million contributed by the 2<sup>nd</sup> Petitioner, USD 1.2 million invested by foreign partners, arrangements for machinery importation worth USD 1.3 million, and procurement of bowsers for transportation of coconut water.

While affirming their commitment to the project, they reiterated that uncertainty remained regarding coconut production, and that the approval granted to the 4<sup>th</sup>

Respondent to operate in Nattandiya after its earlier revocation was irrational, unreasonable, and unlawful. Accordingly, the Petitioners sought rejection of the Respondents' objections and reaffirmed their entitlement to the reliefs prayed for in the Petition.

#### SUBMISSIONS:

The 4<sup>th</sup> Respondent in its synopsis of submissions dated 29<sup>th</sup> August 2025 contended that the reliefs sought by the Petitioners are vague, open-ended, and anti-competitive. As per the 4<sup>th</sup> Respondent, the Writ of Prohibition effectively seeks to bar all competitors from entering the coconut triangle until one year after the Petitioners commence operations, yet no date has been specified, rendering the relief indefinite. Similarly, the Writ of Certiorari to quash the approvals granted to the 4<sup>th</sup> Respondent is described as a blatantly anti-competitive device to shut out competition.

Courts have repeatedly refused to grant vague and overly broad reliefs. In *H.K.D. Amarasinghe v. Central Environmental Authority* [CA/Writ/132/2018, CA Minutes 03.06.2021], it was held that a relief must be specific and directly address the petitioner's concerns, while in *Rev. Battaramulle Seelarathana v. Ceylon Electricity Board* [CA/Writ/213/2017, CA Minutes 19.07.2017] it was emphasised that Writs cannot be vague, since their enforcement must be precise.

The 4<sup>th</sup> Respondent also argued that the Petition is misconceived in law and vexatious, as the Petitioners have shown no specific legal right and no statutory violation. By citing *Samastha Lanka Nidahas Grama Niladhari Sangamaya v. Dissanayake* [2013] BLR 68, *Ratnasiri v. Ellawala* (2004) 2 SLR 180, *P.S. Bus Co. Ltd. v. Members and Secretary, Ceylon Transport Board* (61 NLR 491), and *Siddeek v. Jacolyn Seneviratne* (1984) 1 SLR 83, it was emphasised that prerogative remedies are discretionary and may be withheld if they are futile, vexatious, or would serve no useful purpose.

Turning to the doctrine of legitimate expectation, the 4<sup>th</sup> Respondent submitted that the Petitioners' claim rests on a fundamental misapprehension. They wrongly assumed that the State was bound to guarantee coconuts exclusively for them and to block other entrants until their supply was secured.

In *Ariyaratne v. Inspector General of Police* (2019) 1 SLR 100, the Supreme Court held that "a mere wish, a desire or a hope cannot find a legitimate expectation which will be protected by the Court." Similarly, in *Siriwardene v. Seneviratne* (2011) 2 BLR 336, it was held that legitimate expectation must be based on facts, promises, or regular procedures, not vague hopes. These dicta were endorsed in *The Ark Universal (Pvt) Ltd v. M. Umamagal* [CA/Writ/56/24, CA Minutes 30.01.2025]. Accordingly, the Petitioners' expectation is described as no more than a desire to monopolise resources.

The Respondent further challenged the premise of coconut scarcity and relied on CRI forecasts issued in July 2025, which indicated an 11% increase in yield over 2024, with a 5% increase expected in September–October and a 38% increase in November–December 2025. It was also highlighted that coconut water exports rose by 24% in 2024 compared to 2023, generating over USD 5 million in additional revenue. Total production reached 2.79 billion nuts, with 1.37 billion allocated to industry. The 4<sup>th</sup> Respondent stressed that coconut water is a by-product of copra manufacture, which mills must dispose of regardless, and therefore the Petitioners' allegations of scarcity are misplaced. Indeed, the Petitioners themselves admitted that the bulk of their supply would come from their own subsidiary, Sunfrost (Pvt) Ltd, conceding that only residual supply would come from other mills.

Finally, the 4<sup>th</sup> Respondent set out its status as a legitimate investor. It was a 100% foreign direct investment of USD 1 million, incorporated on 4 June 2024, with a principal focus on exports. It obtained approvals from the CDA and BOI, culminating in Agreement No. 415 of 15<sup>th</sup> May 2025 under Section 17 of the BOI Law, and has already completed most of its factory construction and commenced

machinery importation. Customs duty exemptions were duly granted, and the project is lawfully established. The 4<sup>th</sup> Respondent further contended that, while the Petitioners' venture is a joint venture with only 50% local shareholding, the 4<sup>th</sup> Respondent's venture is a wholly foreign-funded project aimed at developing the export market. Thus, the 4<sup>th</sup> Respondent argued that the Petition is *mala fide*, vexatious, and intended solely to block competition.

1<sup>st</sup>–3<sup>rd</sup> Respondents in their synopsis of submissions dated 09<sup>th</sup> September 2025 submitted that the central issue is whether the 4<sup>th</sup> Respondent's entry into the coconut water processing market would deprive the Petitioners of the 150,000 litres per day (45 million litres annually) required for their business. They relied on Sri Lanka Coconut Statistics (2024) and research by the Coconut Research Institute (CRI). Based on these, they argued:

- An SLT coconut produces on average 172 ml of water, but even assuming 100 ml per nut, the 2024 harvest yielded 137,700 MT of coconut water.
- After exports of 36,348 MT, there remained 100,000 MT for domestic use.
- Since Petitioners require 45,000 MT annually, at least 65,000 MT remained available, showing that even in a low-yield year, there was sufficient supply for another entrant.
- CRI forecasts predicted improved coconut yield in 2025, justifying CDA's approval (letter P18).

On the Petitioners' complaint that CDA had failed to give reasons when reversing its earlier decision (P10), Respondents relied on *Jefferjee v. Commissioner of Labour* (2008) 1 Sri L.R. 12, 20, where the Court held that not giving reasons does not *ipso facto* vitiate an administrative decision, except in appealable matters, provided valid grounds exist. They argued such grounds were present here, based on available statistics and forecasts.

Respondents further stressed that the BOI has already signed an agreement with the 4<sup>th</sup> Respondent for a USD 1 million investment, requiring operations to commence within 12 months of 15.05.2025. To quash CDA's approval would cause serious loss of foreign investment.

In the case of Wannigama v. Incorporated Council of Legal Education and Others (2007) 2 Sri LR 281, 292–293, where the Supreme Court, citing Maha Nayake Thera, Malwatte Vihare v. Registrar General (39 NLR 186), held that Writs may be refused not only on merits but also due to special circumstances, **including administrative inconvenience.**

Accordingly, they argued reliefs sought by Petitioners particularly quashing CDA's approval (P18), preventing new entrants into the coconut triangle, or staying BOI's agreement should be refused. Given sufficient coconut water supply and the need to protect foreign investment, they pray that the Petition be dismissed, and that notice and interim relief be refused.

The Petitioners, in their Synopsis of Submissions dated 11<sup>th</sup> September 2025, emphasised that their challenge is firmly grounded on the doctrine of legitimate expectation. They relied on several judicial precedents, including Ariyaratne and Others v. Inspector General of Police and Others (2019) 1 SLR 100, where it was held;

*“the doctrine of legitimate expectation envisages that a court may, in appropriate circumstances and where the public interest does not require otherwise, enforce a legitimate expectation... that a public authority will act as it has promised or held out.”*

Similarly, in Wickremaratne v. Jayaratne and Others [2001] 3 Sri LR 161, the Court recognised that legitimate expectation extends beyond procedural rights of hearing to require fairness in administrative conduct. Further reliance is placed on Vavuniya Solar Power (Private) Limited v. Ceylon Electricity Board and Others SC FR Application 172/2017 (decided 20.09.2023) where His Lordship Justice Kodagoda, P.C. observed that;

*“public authorities must be required by law to honour expectations created by their own representations and practices.”*

On this basis, the Petitioners contended that a clear legitimate expectation arose from the CDA’s decision of 3<sup>rd</sup> September 2024, which had revoked the Nattandiya approval in their favour, following the 2<sup>nd</sup> Petitioner’s objection. This expectation was undermined by the impugned decision of 28<sup>th</sup> March 2025, whereby the CDA reinstated approval for the 4<sup>th</sup> Respondent without affording notice or hearing to the Petitioners. The Petitioners argue that this action was arbitrary, unreasonable, and in breach of natural justice.

The Petitioners further stressed on the irreparable harm that would have resulted if relief had been denied. They contended that their substantial investment of USD 2 million already injected into the country, with an additional USD 2.6 million contractually committed under their BOI agreement. The project, valued at USD 4.6 million with an anticipated annual revenue of LKR 2.5 billion (as recognised by the BOI), would be rendered commercially unviable due to the scarcity of raw materials and oversaturation in the Coconut Triangle. They emphasised that their request is moderate and bona fide, as they seek only reasonable time for their project to commence, without excluding the 4<sup>th</sup> Respondent from operating in Hambantota where its licence remains valid.

The Petitioners highlighted that the CDA’s failure to provide reasons for reversing its earlier decision rendered the March 2025 approval unlawful. They cited Karunadasa v. Unique Gem Stones Ltd. and Others where it was held that

*“if reasons are withheld, once judicial review commences, the decision may be condemned as arbitrary and unreasonable.”*

The Petitioners further contended that the CDA has deliberately suppressed material, as even its official Sri Lanka Coconut Statistics for 2024 disclose depletion in national coconut production, contrary to the figures placed before Court.

The Petitioners maintained that the impugned decision directly undermines their rights and legitimate expectations, jeopardises their investment, and is ex facie arbitrary, irrational, and unreasonable. They urge Court to issue notice, call for the full record of decision-making, and grant the reliefs prayed for, stressing that grave injustice would otherwise befall them. As poignantly captured in the words of Dr. Martin Luther King Jr., *“Injustice anywhere is a threat to justice everywhere.”*

#### CONCLUSION:

In the instant case, it is apparent that the Petitioners were not heard before any change of CDA’s decision of 3<sup>rd</sup> September 2024, to which the alleged legitimate expectation attached, which had revoked the Nattandiya approval in their favour, following the 2<sup>nd</sup> Petitioner’s objection. This expectation has been undermined by the impugned decision of 28<sup>th</sup> March 2025, whereby the CDA reinstated approval for the 4<sup>th</sup> Respondent without affording notice or hearing to the Petitioners.

It is stated in the judgment by His Lordship Prasanna Jayawardena J. in *Ariyaratne and Others v. IGP and Others* (supra) that a survey of decisions on issues of procedural legitimate expectation shows that where a public authority acting intra vires has given an assurance that it will hear a person before it changes its policy with regard to that matter or has an established practice of holding a hearing before a change of policy is effected, that person will have a procedural legitimate expectation that the public authority will give him notice and a reasonable and adequate opportunity to make representations and be heard before it decides whether to change its policy with regard to the matter that will affect that person.

It was further held that a Court will by way of judicial review enforce such a procedural legitimate expectation other than in limited circumstances such as for example, where considerations of national security override that expectation of being consulted or heard.

Justice Prasanna Jayawardena has further stated as follows:

*“As evident from the principles I endeavoured to set out earlier, the first characteristic which will sustain a petitioner’s claim that he has a substantive legitimate expectation the respondent public authority will act in a particular manner with regard to him, is that the petitioner must establish the public authority gave him a specific, unambiguous and unqualified assurance that it will act in that manner [or, alternatively that the respondent public authority has followed an established and unambiguous practice which entitled the petitioner to have legitimate expectation the public authority will continue to act in that manner or that the **facts and circumstances of the dealings between the public authority and the petitioner have created such an expectation.**” (the emphasis added)*

In the instant case, the following facts and circumstances *prima facie* give rise to legitimate expectation:

1. By letter dated 3<sup>rd</sup> September 2024 (P10), the CDA (1<sup>st</sup> Respondent) has revoked the No Objection Letter previously issued to Shengda (4<sup>th</sup> Respondent) to operate in Nattandiya.
2. By P10, the CDA has recognised the objections of local investors and industry stakeholders as evidenced as follows: *“Subsequent to the issuance of No Objection letter, we have received significant objection from local investors and stakeholders within the industry. Their primary concern is the availability of raw material in the proposed area, which already supports similar factories. Given the potential risks to the local industry and the sustainability of resources in the area, CDA respectfully requests that BOI disregard the no objection letter quoted above, that was issued for this project. CDA will require more time to thoroughly assess the feasibility of the proposed project through field inspections”*

3. It is seen that the CDA has effected the cancellation of the 4<sup>th</sup> Respondents Nattandiya approval on the strength of the 2<sup>nd</sup> Petitioner's complaint.
4. The CDA has provided an extensive list of manufacturers in the industry within the coconut triangle, rationalising point being on oversaturation.
5. The decision in favour of the 2<sup>nd</sup> Petitioner to revoke Shengda's Nattandiya approval does not encapsulate a coconut crisis but oversaturation.
6. Even without a coconut crisis, the CDA revokes the no objection letter of Shengda (4<sup>th</sup> Respondent) in favour of the 2<sup>nd</sup> Petitioner addressing 2<sup>nd</sup> Petitioner's grievance.
7. Thus, it is undisputed that if the 2<sup>nd</sup> Petitioner had not complained, Shangda's Nattandiya licence would not have been revoked.
8. The 1<sup>st</sup> Respondent-CDA has had a clear finding of oversaturation of players in Nattandiya as way back in September 2024.
9. Thus, the 1<sup>st</sup> Respondent through the decision P10 has clearly made a finding that another manufacturer to enter the coconut triangle after the Petitioners' project is not viable and there is a shortage of raw material in the locality; and represented to the Petitioners that their grievance is addressed, thus giving rise to a legitimate expectation.
10. Pursuant thereto, the Petitioners' project has proceeded upon the reliance of the decision of CDA to revoke the No Objection letter. If in hindsight, the

CDA had dismissed the 2<sup>nd</sup> Petitioner's grievance, the Petitioners would have been able to decide to abandon the project.

11. In fact, the 4<sup>th</sup> Respondent-Shengda also did not appeal against the decision P10 dated 3<sup>rd</sup> September 2024.

DID THE 1<sup>ST</sup> RESPONDENT ACT ARBITRARILY IN PERMITTING THE 4<sup>TH</sup> RESPONDENT TO ENTER THE MARKET?

It was the contention of the 1<sup>st</sup> to 3<sup>rd</sup> Respondents that given the availability of all information, it was reasonable decision on the part of 1<sup>st</sup> Respondent-CDA to issue the letter P18, authorizing the 4<sup>th</sup> Respondent to enter the industry. It was submitted that this is especially because there was 65,000 MT of coconut water available for domestic use, after factoring in the 45,000 MT needed for the 1<sup>st</sup> Petitioner's business. However, on perusal of the of the 1<sup>st</sup> Respondent's formally issued Sri Lanka Coconut Statistics of 2024, Table 12 (Addendum 7) shows that there was a **depletion in the overall total coconut production**. Such document was not placed before this Court.

The 'Annex D' to the motion dated 29.07.2025 of the 1<sup>st</sup> Respondent presents data that contradicts the 1<sup>st</sup> Respondent's own assertions. The document itself demonstrates a decline in yield, not an increase. Nevertheless, relying on the Annual Forecast of Coconut Production published by the Coconut Research Institute, (vide document 'd' attached to the motion dated 29.07.2025) it was contended by the 1<sup>st</sup>-3<sup>rd</sup> Respondents that the coconut production was expected to improve in the year 2025 compared to the year 2024. However, the question still looms large as to why the September 2024 decision was taken giving reason of over saturation conceding the objections of the Petitioners. It is the view of this Court that the change of decision in March 2025 should have taken after giving hearing to the affected party-the Petitioners. The contradictory statistics

provided by the 1<sup>st</sup> to 3<sup>rd</sup> Respondents does not render the impugned decision justifiable.

ARE THERE VALID GROUNDS FOR NOT GIVING REASONS?

Not giving reasons does not *ipso facto* vitiate an administrative decision, except in appealable matters, provided valid grounds exist for not giving reasons. It was argued for the 4<sup>th</sup> Respondent that such grounds are present here, based on available statistics and forecasts.

It was contended by the 4<sup>th</sup> Respondent that Coconut water is an excess product of the process of manufacturing copra since coconut mills have to dispose the coconut water of fresh coconuts during the process of manufacturing copra; thus, the Respondent's business pertains to manufacture and processing of coconut water by packaging and value addition relies on collecting coconut water from coconut mills which have already processed fresh coconuts; as such, lack of coconut production has no impact on the quantity of coconut water that can be collected from coconut mills provided, that said mills have an adequate supply of coconut water; Petitioners' object is to shut out the Respondent from collecting supplies from various mills in order to lessen the demand for coconut water by reducing the number of bulk purchasers, thereby keeping the price of raw material artificially low and creating a virtual monopoly-anti competitive exercise.

Nevertheless, there is no evidence adduced as to the Coconut Mills have an adequate supply of coconut water. Furthermore, the CDA has not adduced any evidence, even its official Sri Lanka Coconut Statistics for 2024 disclose depletion in national coconut production, contrary to the figures placed before Court.

In the circumstances, this Court takes the view that this matter raises questions of law that has to be assayed and evaluated along with the merits of the arguments in this application. Therefore, this Court is of the view that the Petitioners have satisfied the initial threshold requirement which warrants this Court to issue formal notice of this application on the Respondents. Depending

on the nature and the strength of the preliminary objections raised by the Respondents, those objections should be fully considered at the final hearing of this Case after entertaining the full affidavits of the Respondents.

Having considered the issuance of notice, the question arises whether this Court can grant interim reliefs that the Petitioners have sought in the prayer of the Petition.

The tests applicable to the grant of interim reliefs:

“The whole purpose of granting interim restraining relief is to preserve the status quo which existed prior to the purported exercise of power complained of. The effect of an interim restraining order is twofold: firstly, an exercise of power in violation of it is a nullity; secondly, any purported exercise of power or any physical act or omission, done in violation of it is an act of contempt of court punishable as such”. (Vide – Sunil F. A. Cooray, Principles of Administrative Law in Sri Lanka, 4<sup>th</sup> edition, Vol. II, chapter 23, p.142.)

As discussed in *Duwearachchi & another vs. Vincent Perera & others* (19 4) 2 SLR 94, an interim stay order in a Writ application is an incidental order made in the exercise of the inherent or implied powers of the Court and the Court should be guided by the following principles:

- 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?

It is seen that by only seeking time for the Petitioners’ project to commercially commence (made in complete reliance of the decision by the CDA in September 2024), which can only be done with adequate raw materials. By seeking not to exclude the 4<sup>th</sup> Respondent from all operations, but if the Court intervenes 4<sup>th</sup> Respondent is still permitted to operate in Hambantota as the 4<sup>th</sup> Respondent’s Hambantota license is operative.

On the contrary, the Petitioners would suffer irremediable harm if the reliefs are not granted:

- a. As the Petitioners are compelled to bring in the remaining funds of USD 2.6 million under its obligations to the BOI for a project which would not be able to receive the required raw materials or in alternate extreme terminate the agreements and run the risk of losing over USD 2 million;
- b. Oversaturation in the region remains in issue as confirmed by 1<sup>st</sup> Respondent-CDA, thereby causing economic harm to the Petitioners,
- c. The harm suffered by the Petitioners continue to remain unaddressed by the CDA and the BOI, notwithstanding the September 2024 decision.

On the other hand, the 4<sup>th</sup> Respondent (Shengda) has failed to adduce any evidence of any investment being brought into Sri Lanka: unlike the Petitioners' investment which the BOI has granted approval (vide C5), there is no such document confirming any investment brought into the country. Moreover, 4<sup>th</sup> Respondent has been well aware of the issues in Nattandiya as demonstrated through the CDA's decision made in September 2024. Thus, the balance of convenience favours the Petitioners.

Therefore, I am of the view that unless interim orders (e) and (f) are granted, the final order would be rendered nugatory. Accordingly, the interim orders (e) and (f) are granted.

**Judge of the Court of Appeal**

**Hon. Rohantha Abeysuriya PC, J.(P/CA)**

I agree.

**President of the Court of Appeal**

