

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

In the matter of an application for Leave to
Appeal from an order of the High Court of the
Western Province exercising Revisionary
Jurisdiction

National Medicines Regulatory Authority
No. 120,
Norris Canal Road,
Colombo 10.

Complainant

CA Revision case No.

CA LTA 0012/2025

High Court of Colombo (Revision)

Case No. 112/25

Magistrate's Court of Maligakanda

Case No. 52624/23

Vs.

1. Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita,
Colombo 05.

2. Vishal Bali
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita,
Colombo 05.

3. Ashok Kariyawasam Pathirage
Chairman/ Managing Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita,
Colombo 05.

4. Ankur Nand Thadani
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita,
Colombo 05.

5. Karunamuni Manjula Prassana
Karunarathne
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

6. Sudarshan Ahangama
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

7. Gardiya Lokuge Haris Premarathne
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

8. Sivakumar Selliah
Deputy Chairman,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

9. Haresh Kumara Kaimal
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

10. Ajith Karunaratne
Director-Finance,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

11. B.D. Sadathisaruru
Assistant Manager- Billing Department,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

Accused

AND THEN

1. Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

2. Ashok Kariyawasam Pathirage
Chairman/ Managing Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita,
Colombo 05.

3. Karunamuni Manjula Prasanna
Karunarathne
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

4. Haresh Kumara Kaimal
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

5. B.D. Sadathisaru
Assistant Manager- Billing Department,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

Accused-Petitioners

Vs

1. Vishal Bali
Director,
Asiri Hospital Holdings PLC

No. 181/1, Kirula Road,
Narahenpita,
Colombo 05.

2. Ankur Nand Thadani
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita,
3. Sudarshan Ahangama
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Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
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Colombo 05.
4. Gardiya Lokuge Haris Premarathne
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.
5. Sivakumar Selliah
Deputy Chairman,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.
6. Ajith Karunarathne
Director-Finance,
Asiri Hospital Holdings PLC

No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

Accused-Respondents

National Medicines Regulatory Authority
No. 120, Norris Canal Road,
Colombo 10.

Complainant-Respondent

Hon. Attorney General
Attorney General's Department,
Colombo 12.

Respondent

Sanath Kumara Athukorala
No. B/5, Madduwa Waththa,
High Level Road,
Nugegoda.

1st Complainant-Respondent

AND NOW BETWEEN

1. Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.
2. Ashok Kariyawasam Pathirage
Chairman/ Managing Director,
Asiri Hospital Holdings PLC

No. 181/1, Kirula Road,
Narahenpita,
Colombo 05.

3. Karunamuni Manjula Prasanna
Karunarathne
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

4. Haresh Kumara Kaimal
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

5. B.D. Sadathisaru
Assistant Manager- Billing Department,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
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Colombo 05.

Accused-Petitioner-Petitioners

Vs.

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Narahenpita,
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2. Ankur Nand Thadani
Director,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita,
3. Sudarshan Ahangama
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Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
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Colombo 05.
4. Gardiya Lokuge Haris Premarathne
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Asiri Hospital Holdings PLC
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Narahenpita
Colombo 05.
5. Sivakumar Selliah
Deputy Chairman,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.
6. Ajith Karunaratne
Director-Finance,
Asiri Hospital Holdings PLC
No. 181/1, Kirula Road,
Narahenpita
Colombo 05.

Accused-Respondents-Respondents

National Medicines Regulatory Authority
No. 120, Norris Canal Road,
Colombo 10.

Complainant-Respondent-Respondent

Hon. Attorney General
Attorney General's Department,
Colombo 12.

Respondent-Respondent

Sanath Kumara Athukorala
No. B/5, Madduwa Waththa,
High Level Road,
Nugegoda.

1st Complainant-Respondent-Respondent

Before: B. Sasi Mahendran. J,
Amal Ranaraja. J,

Counsel: Dr. Romesh De Silva, P.C., with Jeewantha Jayathilake, R. Amarasena and Niran Ankitel instructed by S. Kaluarachchi for the Accused-Petitioner-Petitioners

Saliya Peiris, P.C., with Sarinda Jayawardena and Ishan Jayasundera for the 1st Complainant-Respondent-Respondent

Lakmini Girihagama, D. S.G. for the State

Supported on: 29.10.2025

Written

Submissions 06.11.2025 (by the 1st Complainant-Respondent-Respondent)

On :

Order on: 10.11.2025

ORDER

B. Sasi Mahendran. J,

The Accused-Petitioner-Petitioners (hereinafter referred to as the 'Petitioners') filed a Leave to Appeal application, seeking reliefs outlined in the petition dated 09 October 2025.

- a. Issue notice on the respondents;
- b. Grant leave to appeal the Order of the High Court in HCRA 112/2025 dated 25th September 2025;
- c. Set aside the Order of the High Court in HCRA 112/2025 dated 25th September 2025;
- d. Make an order granting the interim relief prayed for in the Petition before the High Court, namely,
 - 1) To say effect of the order date cd 11th July 2025 by the Hon. Magistrate of Maligakanda case No. 52624/23 marked P10 until final determination of the Revision application.
 - 2) Make an interim order staying the proceedings in the Magistrate Court of Maligakanda Case No 52624/23, until the final hearing and determination of the revision Application.
- e. Make interim order pending final determination of this application staying the proceedings of the Magistrate's Court Maligakanda in case No. 52624/23 until HCRA 112/025 is heard and determined.
- f. Grant costs;
- g. Grant other reliefs

On 29th October 2025, when the application for leave to appeal was brought before this Court for support, the Learned Deputy Solicitor General raised a preliminary objection, asserting that the application filed by the Petitioner was legally untenable. It was argued that no legal provision exists allowing the petitioners to seek leave to appeal against an order made by a Provincial High Court in the exercise of its revisionary jurisdiction under Article 154P(3)(b) of the Constitution.

It is noteworthy that the Petitioners, in the said petition, have failed to identify or rely upon any specific provision of the Judicature Act No. 2 of 1978 (as amended), the Code of Criminal Procedure Act No. 15 of 1979 (as amended), or any other relevant statutory enactment that confers jurisdiction for seeking leave to appeal in order to challenge the impugned order.

It is pertinent to examine the factual background of the application before addressing the aforementioned preliminary objection.

The Petitioners, along with other Accused, were charged before the Magistrate's Court for offences under the National Medicines Regulatory Authority Act. On 17.01.2014, a representative entered a plea of guilt on their behalf, and a fine of Rs. 25,000 was imposed. Subsequently, the purported aggrieved party and the Attorney General, representing the National Medicines Regulatory Authority (NMRA), made an application to set aside the said order, contending that the order is illegal. The Magistrate then held an inquiry and, on 11th July 2025, concluded that the earlier order dated 17th January 2024 was per *incuriam* and issued summons on the Petitioners of the instant application and took steps to proceed with the matter.

After this, the Petitioners filed a revision application bearing case number HCRA 112/2025 in the High Court of the Western Province, holden in Colombo, on the ground that the order made by the Learned Magistrate is illegal.

The matter was taken up for hearing on 10th September 2025, with notice duly issued to the Respondents. On the same date, the Attorney General was absent, while the aggrieved party from the lower court was present. Upon hearing submissions from the parties in attendance, the Learned Judge of the High Court directed that formal notices be issued to the Respondents. However, no interim relief was granted at that stage. When the case was subsequently mentioned on 25th September 2025, the Court declined to issue a stay order, citing the Petitioners' failure to demonstrate that the balance of convenience lay in their favour. The said order was marked as X2.

Being aggrieved by the said Order dated 25th September 2025, the petitioners filed this application along with another revisionary application bearing No. CPA 95/2025, which was not supported.

The central issue for determination in this application is whether the petitioners possess the right to invoke the jurisdiction of the Court of Appeal by way of leave to appeal against an order issued by the Provincial High Court in the exercise of its revisionary jurisdiction under Article 154P(3)(b) of the Constitution.

The order which the Hon. Provincial High Court judge of Colombo refused to grant interim relief as prayed for in the said revision application, while issuing notices for the same.

The said Provincial High Court was created under Article 154P of the Constitution, introduced by the 13th amendment to the Constitution, certified on 14.11.1987, which provided for the establishment of a High Court for each province.

Article 154P of the Constitution reads as follows;

154P. (1) There shall be a High Court for each Province with effect from the date on which this Chapter comes into force. Each such High Court shall be designated as the High Court of the relevant Province.

(2) The Chief Justice shall nominate, from among Judges of the High Court of Sri Lanka, such number of Judges as may be necessary to each such High Court. Every such Judge shall be transferable by the Chief Justice.

(3) Every such High Court shall -

(a) exercise according to law, the original criminal jurisdiction of the High Court of Sri Lanka in respect of offences committed within the Province;

(b) notwithstanding anything in Article 138 and subject to any law, exercise, appellate and revisionary jurisdiction in respect of convictions, sentences and orders entered or imposed by Magistrates Courts and Primary Courts within the Province;

(c) exercise such other jurisdiction and powers as Parliament may, by law, provide.

(4) Every such High Court shall have jurisdiction to issue, according to law-

a. orders in the nature of habeas corpus, in respect of persons illegally detained within the Province; and

b. order in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto against any person exercising, within the province, any power under-

i. Any law; or

ii. Any statutes made by the Provincial Council established for that Province,

In respect of any matter set out in the provincial Council List.

(5) The Judicial Service Commission may delegate to such High Court, the power to inspect and report on, the administration of any Court of First instance within the province.

(6) Subject to the provisions of the Constitution and any law, any person aggrieved by a final order, judgment or sentence of any such Court, in the exercise of its jurisdiction under paragraph (3) (b) or (3) (c) or (4) may appeal there from to the Court of Appeal in accordance with Article 138.

It should be noted that although the Provincial High Court was established in 1987, it was not included in the Judicature Act. By amending by Judicature (amended) Act No. 34 of 2022, the said High Court of the province was included in Section 2 of the said act.

In terms of an amendment to Article 138 of the Constitution, the Court of Appeal could hear an appeal from the High Court of the Province. Article 138 of the Constitution provides the Appellate jurisdiction to the Court of Appeal. Original Article 138 was amended after the 13th Amendment came into operation.

Article 138 of the Constitution, which reads as follows,

The Court of Appeal shall have and exercise subject to the provisions of the Constitution or of any law, an appellate jurisdiction for the correction of all errors in fact or in law which shall be committed by any Court of First Instance, tribunal or other institution and sole and exclusive cognizance, by way of appeal, revision and restitutio in integrum of all causes, suits, actions, prosecutions, matters and things of which such Court of First Instance, tribunal or other institution may have taken cognizance.

The Court of Appeal shall have and exercise subject to the provisions of the Constitution or of any law, an appellate jurisdiction for the correction of all errors in fact or in law which shall be **committed by the High Court, in the exercise of its appellate or original jurisdiction or by any Court of First Instance**, tribunal or other institution and sole and exclusive cognizance, by way of appeal, revision and restitutio in integrum, of all causes, suits, actions, prosecutions, matters and things **of which such High Court, Court of First Instance** tribunal or other institution may have taken cognizance.
[emphasis added]

However, no statutory provisions have been enacted to govern the manner in which the Court of Appeal may entertain an appeal arising from the High Court of the Provinces when exercising its appellate or original jurisdiction. While the Court of Appeal is the designated appellate forum for such matters, the absence of a clearly defined procedural framework underscored the necessity for such a mechanism to be enacted by legislation.

The procedural framework applicable to the High Court of the Provinces, particularly in relation to the exercise of its appellate and original jurisdiction and the hearing of appeals therefrom, was enacted through The High Court of the Provinces (Special Provisions) Act No. 19 of 1990 (hereinafter referred to as the “Act”) and the bill was duly certified on 15 May 1990. This legislation provides for the filing of appeals to both the Court of Appeal and the Supreme Court. In this context, it is particularly relevant to examine Sections 9, 10, and 11 of the said Act, which delineate the mechanisms governing such appellate processes.

High Court of the Provinces (Special Provisions) ACT No. 19 of 1990,

9.

(a) a final order, judgment, decree or sentence of a High Court established by Article 154P of the Constitution in the exercise of the appellate jurisdiction vested in it by paragraph (3) (b) of Article 154P of the Constitution or section 3 of this Act or any other law, in any matter or proceeding whether civil or criminal which involves a substantial question of law, may appeal therefrom to the Supreme Court if the High Court grants leave to appeal to the Supreme Court ex mero moue or at the instance of any aggrieved party to such matter or proceedings :

Provided that the Supreme Court may, in its discretion, grant special leave to appeal to the Supreme Court from any final or interlocutory order, judgment, decree or sentence made by such High Court, in the exercise of the appellate jurisdiction vested in it by paragraph (3) (b) of Article 154P of the Constitution or section 3 of this Act, or any other law where such High Court has refused to grant leave to appeal to the Supreme Court, or where in the opinion of the Supreme Court, the case or matter is fit for review by the Supreme Court: Provided further that the Supreme Court shall grant leave to appeal in every matter or proceeding in which it is satisfied that the question to be decided is of public or general importance ; and

(b) a final order, judgment or sentence of a High Court established by Article 154P of the Constitution in the exercise of its jurisdiction conferred on it by paragraph (3) (a), or (4) of Article 154P of the Constitution may appeal therefrom to the Court of Appeal.

10.

(1) The Supreme Court shall, subject to the Constitution be the final Court of appellate jurisdiction within Sri Lanka for the correction of all errors in fact or in law which shall be committed by a High Court established by Article 154P of the Constitution, in the exercise of the appellate jurisdiction vested in it by paragraph (3) (b) of Article 154P of the Constitution or section 3 of this Act, or any other law and the judgments and orders of the Supreme Court shall, in such cases, be final and conclusive in all such matters.

(2) The Supreme Court shall, in the exercise of its jurisdiction, have sole and exclusive cognizance by way of appeal from any order, judgment, decree or sentence made by a High Court established by Article 154P of the Constitution, in the exercise of the appellate jurisdiction vested in such High Court by paragraph (3) (b) of Article 154P of the Constitution or section 3 of this Act or any other law and it may affirm, reverse or vary any such order, judgment, decree or sentence of such High Court and may issue such directions to such High Court or Court of First Instance or order a new trial or further hearing in any proceedings as the may require and may also shall for and admit fresh or additional evidence if the interests of justice so demands and may in such event, direct that such evidence be recorded by such High Court, or any Court of First Instance.

11,

(1) The Court of Appeal shall have and exercise, subject to the provisions of this Act or any other law, an appellate jurisdiction for the correction of all errors in fact or in law which shall be committed by any High Court established by Article 154P of the Constitution in the exercise of its jurisdiction under paragraph (3)(a), or (4) of Article 154P of the Constitution and sole and exclusive cognizance by way of appeal, revision and restitution interim of all causes, suits, actions, prosecutions, matters and things of which such High Court may have taken cognizance : Provided that, no judgment, decree or order of any such High Court, shall be reversed or varied on account of any error, defect, or irregularity which has not prejudiced the substantial rights of the parties or occasioned a failure of justice.

(2) The Court of Appeal may in the exercise of its jurisdiction, affirm, reverse, correct or modify any order, judgment, decree or sentence according to law or it may give directions to any High Court established by Article 154P of the Constitution or order a new trial or further hearing upon such terms as the Court of Appeal shall think fit.

(3) The Court of Appeal may farther receive and admit new evidence additional to, or supplementary of, the evidence already taken in any High Court established by Article 154P of the Constitution touching the matters at issue in any original case,

suit, prosecution or action, as the justice of the case may require.

Upon analyzing Section 9 of the said Act in conjunction with Article 154P(3)(b) of the Constitution, it becomes evident that a right of appeal to the Supreme Court exists in instances where the High Court exercises its appellate jurisdiction. However, such a right is conditional upon the High Court granting leave to appeal to the Supreme Court. In circumstances where the High Court refuses to grant such leave, the Supreme Court may, in its discretion, entertain the appeal by granting special leave to appeal.

On the other hand, Section 9(b) of the said Act provides that, where the High Court exercises the jurisdiction conferred upon it under Article 154P(3)(a) or 154P(4)(4) of the Constitution, an appeal may lie therefrom to the Court of Appeal.

It is important to note that Article 154P(3)(a) of the Constitution pertains to the exercise of original criminal jurisdiction by the High Court of the Provinces. Similarly, Article 154P(4) governs the High Court's jurisdiction in respect of applications for writs. Both provisions confer original jurisdiction upon the High Court, distinguishing them from its appellate functions.

Pursuant to Section 11 of the said Act, an appeal lies to the Court of Appeal from an order of the High Court where such order arises from the exercise of jurisdiction under Article 154P(3)(a) or Article 154P(4) of the Constitution. Notably, Section 11 does not stipulate that leave to appeal must be granted by the High Court. Instead, it establishes a distinct appellate framework empowering the Court of Appeal to entertain appeals from the High Court in matters involving appellate, revisionary, and restitutory jurisdiction.

In the present case, the Petitioners have invoked the revisionary jurisdiction of the Provincial High Court under Article 154P(3)(b) of the Constitution. Article 154P(6) further confers jurisdiction upon the Court of Appeal to hear appeals arising from such proceedings. Accordingly, the right of appeal to the Court of Appeal is preserved under Section 11 of the said Act, where the Provincial High Court has exercised its revisionary jurisdiction.

Jurisprudence has established that a party aggrieved by a judgment or order of a Provincial High Court, rendered in the exercise of its revisionary jurisdiction—as distinct from its appellate jurisdiction—cannot directly appeal to the Supreme Court. Instead, such a party must first invoke the appellate jurisdiction of the Court of Appeal. Only if

unsuccessful in that forum may the party proceed to appeal before the Supreme Court. This principle was affirmed by Samayawardana J in Nilantha Fernando v Nilanthi Perera SC Appeal No. 65/2025, decided on 10th October 2025, held that,

‘The Provincial High Court exercises not only original and appellate jurisdiction but also revisionary jurisdiction, as provided in Article 154P(3)(b) of the Constitution. Section 9 of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990, stipulates that a party aggrieved by a final order, judgment, decree or sentence of a Provincial High Court in the exercise of its appellate jurisdiction may appeal to the Supreme Court with leave obtained. By way of illustration, section 74(2) of the Primary Courts’ Procedure Act No. 44 of 1979, expressly provides that no appeal lies against an order made under section 66 of that Act. In such circumstances, an aggrieved party may invoke the revisionary jurisdiction of the Provincial High Court to challenge such orders.

Since section 9 of Act No. 19 of 1990 states that appeals to the Supreme Court lies against judgments and orders made by the Provincial High Court “in the exercise of the appellate jurisdiction”, in cases such as Gunaratne v. Thambinayagam [1993] 2 Sri LR 355, Abeygunasekera v. Setunga [1997] 1 Sri LR 62, and Abeywardene v. Ajith De Silva [1998] 1 Sri LR 134, this Court held that a party aggrieved by a judgment or order of a Provincial High Court in the exercise of its revisionary jurisdiction, as opposed to its appellate jurisdiction, cannot directly appeal to the Supreme Court, and such a party must first invoke the appellate jurisdiction of the Court of Appeal, and only thereafter, if unsuccessful, may appeal to the Supreme Court.’

In Officer in Charge, Police Station, Thanamalwila v. Thanthrasinghage Dinusha Saranaga, CA/PHC/APN/CPA-134/2024, Decided on 27.03.2025 held that:

“Thus, we hold that, in the instant application, the Petitioner has already exhausted the remedy available by the statute. Therefore, the Petitioner cannot invoke the same revisionary jurisdiction against the said order where the High Court exercises a parallel or concurrent jurisdiction with this Court. The Petitioner should have come by way of an appeal to this Court. “

It has been judicially recognized that a right of appeal to the Court of Appeal exists where a party invokes the revisionary jurisdiction of the High Court of the Province. Accordingly, we hold that the Petitioners are entitled to exercise their right of appeal against the order of the High Court, rendered in the exercise of its revisionary jurisdiction, in terms of Section 11 of the said Act.

The central issue for determination is whether leave to appeal is required in respect of the impugned order. Section 9 of the said Act provides that, where the High Court exercises its appellate jurisdiction, a party seeking to appeal to the Supreme Court must first obtain leave to appeal from the High Court. In the event such leave is refused, the aggrieved party may seek special leave to appeal directly from the Supreme Court.

However, the same Act also confers appellate jurisdiction upon the Court of Appeal in respect of matters arising under Article 154P(3)(a) and Article 154P(4) of the Constitution. Notably, neither these constitutional provisions nor Section 11 of the said Act—which governs appeals from the High Court in the exercise of its appellate, revisionary, and restitutory jurisdiction—contains any provision with regard to leave to appeal application. This legislative silence suggests that appeals to the Court of Appeal under these provisions may be pursued as of right, without the necessity of obtaining prior leave.

Moreover, Section 31DD of the Industrial Disputes (Amendment) Act No. 32 of 1990 confers a right of appeal to the Supreme Court against an order of the High Court. However, such an appeal is subject to the prior grant of leave, either by the High Court itself or, in the event of refusal, by the Supreme Court upon an application for special leave to appeal.

It is pertinent to refer to section 31DD of the said Act.

31DD (1) Any workman, trade union or Supreme Court from employer who is aggrieved by any final High Court order of a High Court established under and powers of Supreme Article 154P of the Constitution, in the exercise of the appellate jurisdiction vested in it by law or in the exercise of its revisionary jurisdiction vested in it by law, in relation to an order of a labour tribunal, may appeal therefrom to the Supreme Court with the leave of the High Court or the Supreme Court first had an obtained.

Furthermore, Sections 14, 15, and 16 of the Judicature Act, as amended by Act No. 34 of 2022, provide for a procedural framework governing applications for leave to appeal. However, such provisions are applicable only in instances where the petitioner has

invoked the original criminal jurisdiction of the High Court under Article 154P(3)(a) of the Constitution. Accordingly, the leave to appeal mechanism under the Judicature Act is confined to appeals arising from orders made in the exercise of original criminal jurisdiction and does not extend to matters arising under revisionary or appellate jurisdiction arising from 11 of the said Act.

We are mindful that after the 13th Amendment appeals to the Court of Appeal from the High Courts established by the Article 154 P of the Constitution were govern by the Court of Appeal (Procedure for appeals from High Courts established by Article 154P of the Constitution) Rules 1988 made by the Supreme Court and published in Gazette extraordinary No. 549/6 of 13.03.1989 which reads as follows.

Rules

1. *These rules may be cited as the Court of Appeal (Procedure for appeals from High Courts established by Article 154P of the Constitution) Rules 1988.*

Part I

Appeals from Orders made by a High Court in the exercise of its jurisdiction under Article 154P (3) (b) of the Constitution.

2. *(1) Any person who shall be dissatisfied with any judgment or final order or sentence pronounced by a High Court in the exercise of the appellate or revisionary jurisdiction vested in it by Article 154 P (3) (b) of the Constitution may prefer an appeal to the Court of Appeal against such judgment for any error in law, or in fact –*

(a) by lodging within fourteen days from the time of such judgment or order being passed or made with such High Court, a petition of appeal addressed to the Court of Appeal, or

(b) by stating within the time aforesaid to the Registrar of such court or to the jailer of the prison in which he is for the time being confined his desire to appeal and the grounds therefor, providing at the same time a stamp of the value of five rupees, and it shall thereupon be the duty of such Registrar or jailer as the case may be, to prepare a petition of appeal and lodge it with the court by which such judgment or order was pronounced.

According to the relevant rules, there is no indication that leave to appeal is required. It is also important to recognize that the procedures for final appeals and those for leave to appeal are distinct. A final appeal may be pursued as of right, whereas an appeal requiring leave involves a preliminary step of obtaining judicial permission before the appeal can be entertained.

During the course of oral submissions, the Court inquired as to the rationale behind the decision to seek leave to appeal. In response, Learned Counsel contended that, upon the filing of a petition of appeal by a party aggrieved by an order of the trial court, it is incumbent upon the High Court Judge to stay all further proceedings in the matter and to transmit the original case record to the Court of Appeal, thereby effectively suspending the proceedings before the trial court.

Furthermore, it is observed that the petitioners, in the said petition, failed to specify the statutory provision under which the jurisdiction was invoked. Upon inquiry, the petitioners stated that the application was made under Section 340 of the Criminal Procedure Code.

Section 340 of the Criminal Procedure Code reads as follows,

‘340. An application for leave to appeal may be lodged by presenting it to the Registrar of the Court of Appeal within 14 days from the date when the conviction, sentence or order sought to be appealed against was pronounced and the provisions of proviso to subsections (1), of the section 331 and subsections (2), (3) and (4) of the section shall mutatis mutandis apply to such application.’

We are mindful that the aforementioned provisions fall under Chapter XXVIII B of the Code of Criminal Procedure, encompassing Sections 331 to 352, which govern appeals from the High Court to the Court of Appeal, including applications for leave to appeal. These provisions are applicable in instances where the High Court exercises its original criminal jurisdiction under Article 154P(3)(a) of the Constitution. However, in the present case, the Petitioners have invoked the revisionary jurisdiction of the High Court pursuant to Article 154P(3)(b) of the Constitution, to which the procedural framework governing leave to appeal does not apply.

For the above-said reasons, we are not inclined to issue notice on the respondents and dismiss the instant application.

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja, J.

I AGREE

JUDGE OF THE COURT OF APPEAL