

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

Court of Appeal No.
CA (PHC) 200/2018

Ampara High Court Writ
Application No :-
HC/AMP/WRIT/451/2016

In the matter of an appeal under Article 138
and Article 154(P)(6) of the Constitution of
Republic.

D.G. Prabhath Sanjeewa,
G/IV 15 Neeththa, Madawalalanda,
Ampara.

Petitioner

Vs.

1. Ampara Multi-Purpose Co-operative
Society Ltd,
D.S. Senanayake Mawatha,
Ampara.
2. H.P.J. Wijethilaka,
Arbitrator,
Viharapalugama,
Anuradhapura.
3. V. Diwakara Sharma,
Commissioner of Co-operative
Development and Registrar of Co-operative
societies, (Eastern Province)
No. 120, Court Road,
Trincomalee.
4. Assistant Commissioner of Co-operative
Development,
Ampara.

Respondents

AND NOW BETWEEN

D.G. Prabhath Sanjeewa,
G/IV 15 Neeththa, Madawalalanda,
Ampara.

Petitioner- Appellant

Vs.

1. Ampara Multi-Purpose Co-operative
Society Ltd,

D.S. Senanayake Mawatha,
Ampara.

2. H.P.J. Wijethilaka,
Arbitrator,
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Development and Registrar of Co-operative
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No. 120, Court Road,
Trincomalee.
4. Assistant Commissioner of Co-operative
Development,
Ampara.

Respondent- Respondents

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

Counsels: Malin Danansuriya with Maheema Hanchapola instructed by
Nadeeka Senanayake for the Petitioner – Appellant.
Parakrama Agalawatta with Upali Weerasinghe for the 1st
Respondent.
Panchali Witharana, S.C. instructed by Nimalika
Wickramasinghe, SSA for the 3rd & 4th Respondents.

Argued: 05.02.2026 & 17.03.2026

Written submissions
tendered on: 16.03.2026 by 3rd & 4th Respondents.
08.12.2021 & 19.03.2025 by 1st Respondent- Respondent.
05.05.2022 & 02.08.2024 by Petitioner – Appellant.

Judgment Delivered: 09.06.2026

Thotawatte, J.

Introduction

The Petitioner-Appellant (hereinafter sometimes referred to as the “Appellant”) has preferred this appeal against the judgment of the learned Judge of the Provincial High Court of the Eastern Province holden at Ampara dated 26.07.2018 whereby the learned High Court Judge dismissed the Appellant’s application seeking, *inter alia*, a Writ of Certiorari to quash the arbitral award dated 27.06.2013 made by the Arbitrator, 2nd Respondent-Respondent (hereinafter sometimes referred to as the “2nd Respondent”) and the appellate determination dated 30.06.2016 made by the 3rd Respondent-Respondent, Commissioner of Co-operative Development and Registrar of Co-operative Societies of the Eastern Province (hereinafter sometimes referred to as the “3rd Respondent”).

Factual Background

The material placed before this Court discloses that the Appellant was employed by the 1st Respondent Co-operative Society and had functioned as a storekeeper at a distribution facility operated by the 1st Respondent. Following the detection of substantial shortages in stock, the 1st Respondent initiated proceedings under Section 58 of the Co-operative Societies Law No. 5 of 1972 (hereinafter sometimes referred to as the “Law”). The dispute was referred by the 3rd Respondent to the 2nd Respondent for determination in accordance with the statutory scheme.

Procedural History

Upon conducting the arbitration, the 2nd Respondent delivered an award dated 27.06.2013 holding the Appellant liable in respect of the shortages detected and directing payment of a specified sum as damages together with costs. Being dissatisfied with that award, the Appellant exercised the statutory right of appeal provided by Section 58(3) of the Law and preferred an appeal to the 3rd Respondent.

The 3rd Respondent thereafter considered the appeal and delivered a determination dated 30.06.2016. The appellate authority did not merely affirm the arbitral award but reconsidered aspects of the computation and granted partial relief to the Appellant by reducing the amount recoverable. Notwithstanding the availability and exercise of the statutory appellate process, the Appellant subsequently invoked the writ jurisdiction of

the High Court seeking to quash both the arbitral award and the appellate determination.

In the writ application, it had been contended by the Appellant that the 3rd Respondent had erred in affirming the arbitral award despite the fact that the financial documents relied upon by the 2nd Respondent had not been tested through cross-examination and that document F20 had not been prepared in a proper or reliable manner. It had been further contended that insufficient consideration had been given to the robbery at the store premises of the 1st Respondent, which, according to the Appellant, materially affected the determination of liability.

Those contentions had been rejected by the learned High Court Judge, who held that those contentions related to the evaluation of evidence, factual findings, and quantification undertaken by the Arbitrator and affirmed by the 3rd Respondent rather than to any jurisdictional error, procedural impropriety, or breach of natural justice. Having found that the Appellant had been afforded an opportunity to participate in the proceedings, cross-examine witnesses, and present a defence, it had been concluded that no recognized ground for certiorari had been established and that the Court could not, in the exercise of its writ jurisdiction, re-evaluate the evidentiary weight or factual conclusions reached by the statutory authorities.

The learned High Court Judge, having considered the pleadings and submissions of the parties, dismissed the application. It is against that judgment that the present appeal has been preferred.

The grounds of appeal in the instant Application

The grounds of appeal, when examined in substance, may be summarized as follows:

A. The limited grounds of appeal given in the petition of appeal

- a) Failure to consider the arbitral proceedings and the subsequent appellate determination had been reached in violation of the principles of natural justice and in excess of jurisdiction.
- b) Lack of evidence supporting liability for the alleged shortage.
- c) Failure to disclose the basis of computation of the sums awarded against the Appellant.
- d) Failure to consider the significance of the burglary that had occurred and the effect thereof upon the determination of liability.

B. Additional Grounds and Contentions Developed in the Written Submissions;

- e) That the learned High Court Judge failed to appreciate that the arbitral award and appellate determination were founded upon unreliable financial records, including document F20.
- f) That the learned High Court Judge failed to consider that the financial documents relied upon by the Arbitrator had not been properly established through evidence or tested by cross-examination.
- g) That the learned High Court Judge failed to appreciate that the evidence did not justify attributing sole responsibility for the alleged shortages to the Appellant.
- h) That the learned High Court Judge failed to consider the Appellant's challenge to the legality and propriety of the appointment of the Arbitrator.

The principal question before this Court is therefore whether the learned High Court Judge erred in declining to exercise writ jurisdiction in respect of the impugned arbitral and appellate determinations.

On Amenability to Writ Review

It is trite law that the writ jurisdiction is concerned primarily with the legality of the decision-making process and not with the correctness of factual conclusions reached by a tribunal acting within jurisdiction. *Certiorari* is not available merely because another view of the facts is possible or because a party is dissatisfied with findings of fact or the weight attributed to evidence.

The statutory framework established by Section 58 of the Co-operative Societies Law provides a specialized mechanism for the resolution of disputes arising within co-operative societies. The Legislature has entrusted such disputes to arbitral determination and has further provided an appellate remedy before the Registrar. The existence of such a statutory scheme is a matter of significance when considering the scope of judicial review.

The complaint that there was insufficient evidence to hold the Appellant liable for the shortages is, in essence, an invitation to this Court to re-evaluate the factual findings reached by the Arbitrator and subsequently reconsidered by the statutory appellate authority. Such an exercise lies outside the proper scope of judicial review.

The material before the Court demonstrates that evidence was led before the Arbitrator, witnesses were examined, documents were produced and written submissions were tendered. The Arbitrator considered the evidence and arrived at

findings regarding the shortages and the Appellant's responsibility. Thereafter, the 3rd Respondent entertained the statutory appeal and revisited aspects of the award. The fact that the Appellant disagrees with those findings cannot, without more, transform the matter into one amenable to *Certiorari*.

The Appellant has further alleged that the appointment of the Arbitrator was objectionable and that such objections were disregarded. However, no material has been placed before this Court demonstrating that the Arbitrator lacked jurisdiction to hear the dispute or that any disqualifying circumstance existed which rendered the proceedings a nullity. The allegations advanced appear to rest largely upon conjecture and general assertions concerning the arbitration process rather than upon identifiable facts establishing actual bias, apparent bias, or legal incapacity.

The rule against bias is undoubtedly a fundamental component of natural justice. Nevertheless, allegations of bias must be supported by cogent material. Mere suspicion, dissatisfaction with the outcome, or general criticism of the institutional framework is insufficient to establish a violation of natural justice.

The Appellant has also contended that the proceedings were conducted in breach of procedural fairness. The record, however, discloses that the Appellant participated in the arbitration proceedings, was afforded an opportunity to present his case, was represented during the inquiry, was permitted to lead evidence, and thereafter exercised his statutory right of appeal. There is no material before this Court capable of demonstrating that the Appellant was denied a fair hearing or prevented from presenting his case.

In considering whether writ relief should issue, the learned High Court Judge was required to determine whether any recognized public law ground had been established. The learned Judge was not required to undertake a fresh examination of the evidence led before the Arbitrator or substitute his own factual conclusions for those reached by the statutory decision-makers.

Having examined the grounds urged before this Court, I am unable to identify any jurisdictional defect, error of law apparent on the face of the record, denial of natural justice, procedural impropriety, irrationality, or other recognized basis upon which the extraordinary remedy of *Certiorari* could properly have been granted.

Indeed, the Appellant's principal grievance is directed not at the legality of the decision-making process but at the correctness of the factual findings and computations made by the Arbitrator and thereafter considered by the 3rd Respondent in the exercise of the

statutory appellate jurisdiction vested in that authority. Questions relating to the evaluation of evidence, the accuracy of factual findings, and the correctness of computations are matters going to the merits of the dispute and are precisely the type of issues which the legislature has entrusted the statutory appellate authority to determine. The function of the High Court in the exercise of its writ jurisdiction is not to undertake a further merits review or to substitute its own conclusions for those of the designated statutory decision-maker, but rather to examine whether the decision-making process was affected by illegality, jurisdictional error, procedural impropriety, irrationality, or some other recognized ground of judicial review. In these circumstances, this Court is of the view that the learned High Court Judge correctly appreciated the nature and limits of writ jurisdiction and properly declined to interfere with the impugned determinations.

Conclusion

For the foregoing reasons, this Court finds no basis to disturb the judgment of the learned Judge of the Provincial High Court of the Eastern Province holden at Ampara in HC/AMP/WRIT/451/2016 dated 26.07.2018.

Accordingly, the judgment of the learned Judge of the Provincial High Court of the Eastern Province holden at Ampara dated 26.07.2018 is affirmed and the appeal is dismissed subject to costs fixed at Rs. 50,000/-.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal