

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

Tissa Appuhamylage Ranjaneer Malkanthi
Siriwardana,
“Suramya”, Wilegoda Road, Mathugama.

Petitioner

Court of Appeal No.
CA (PHC) 75/2020

Vs.

Kalutara High Court No.
Writ/46/2018

01. Lewwanduwa Liyanage Meril Munasinghe,
Chairman,
Mathugama Pradeshiya Sabha,
Mathugama.
02. Mathugama Pradeshiya Sabha,
Mathugama.
03. E. A. G. Susantha Bandara,
Wilegoda Road, Mathugama.
04. Technical Officer,
Mathugama Pradeshiya Sabha,
Mathugama.

Respondents

AND NOW BETWEEN

Tissa Appuhamylage Ranjaneer Malkanthi
Siriwardana,
“Suramya”, Wilegoda Road, Mathugama.

Petitioner- Appellant

Vs.

01. Lewwanduwa Liyanage Meril Munasinghe,
Former Chairman,
Mathugama Pradeshiya Sabha,
Mathugama.
- 01(a). Kasun Munasinghe,
Chairman,
Mathugama Pradeshiya Sabha,
Mathugama.

02. Mathugama Pradeshiya Sabha,
Mathugama.
03. E. A. S. Susantha Bandara,
Wilegoda Road, Mathugama.
04. Technical Officer,
Mathugama Pradeshiya Sabha,
Mathugama.

Respondent-Respondents

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

Counsels: Manoja Gunawardana with Diana Stephnie Rodrigo for the
Petitioner–Appellant.
Amanthi Jayasinghe for the 1st & 2nd Respondent- Respondents.

Argued: 10.03.2026

Written submissions
tendered on: 29.07.2024 by Petitioner – Appellant.
10.06.2024 by 1st & 2nd Respondent- Respondents.

Judgment Delivered: 28.04.2026

Thotawatte, J.

This appeal is preferred by the Petitioner–Appellant (hereinafter referred to as the Appellant) against the judgment of the learned Judge of the Provincial High Court of the Western Province holden at Kalutara dated 27.02.2020, whereby the learned High Court Judge dismissed the Appellant’s application seeking writ relief without costs.

Having carefully considered the submissions of learned Counsels, the pleadings, written submissions filed on behalf of the parties, and the judgment of the learned High Court Judge, this Court proceeds to determine the appeal.

Background of the Application

The Appellant instituted proceedings before the Provincial High Court invoking writ jurisdiction, seeking relief against a notice issued by the 1st Respondent under Section 107(1) of the Pradeshiya Sabha Act No. 15 of 1987, directing the Appellant to remove two trees said to be dangerous.

It is revealed that the impugned notice was issued following complaints made by neighbors that certain trees located within the Appellant's premises posed a danger to neighboring property and to the public using the adjacent roadway.

Subsequently, the Technical Officer of the Pradeshiya Sabha conducted an inspection and reported that the said trees were in a condition likely to endanger the surrounding area, whereupon the Chairman issued the impugned notice requiring their removal.

Being aggrieved by the said notice, the Appellant invoked writ jurisdiction seeking, *inter alia*, relief in the nature of *certiorari* and *mandamus* to quash or suspend the said order.

Judgment of the Learned High Court Judge

Upon considering the submissions made by both parties, the learned High Court Judge dismissed the application primarily on the following grounds:

1. That material facts were seriously disputed, particularly regarding the condition, and danger posed by the trees.
2. That such disputed factual matters required adjudication through civil proceedings where oral evidence could be recorded.
3. That the prayer sought by the Petitioner was ambiguous and combined inconsistent forms of writ relief.

In arriving at that conclusion, the learned High Court Judge relied upon the authority of *Thajudeen v. Sri Lanka Tea Board and another*¹, holding that where major facts are in dispute, writ jurisdiction is not the proper forum to resolve such disputes.

Accordingly, the learned High Court Judge dismissed the writ application without costs.

Grounds of Appeal

The principal grounds of appeal urged by the Appellant may be summarized as follows:

1. That the learned High Court Judge erred in failing to recognize that the impugned order was based on erroneous factual findings.
2. That the learned High Court Judge failed to consider alleged procedural defects, including lack of hearing prior to inspection.
3. That the learned High Court Judge failed to properly evaluate the relevance of documentary material relied upon by the Respondents.
4. That the learned High Court Judge failed to consider environmental considerations and the consequences of removal of the trees.

The Respondent–Respondents, had, maintained that the impugned notice was lawfully issued in exercise of statutory powers and that the writ application was correctly dismissed due to disputed factual matters and defective pleadings.

Issues for Determination

The decisive issues arising for determination in this appeal are:

1. Whether the learned High Court Judge erred in declining to grant writ relief on the basis that material facts were in dispute.
2. Whether the learned High Court Judge erred in holding that the relief sought by the Appellant was ambiguous or inappropriate in law.
3. Whether any error of law or fact has been demonstrated warranting appellate interference.

¹ (1981) 2 SLR 471

Disputed Facts and Writ Jurisdiction

The material placed before this Court reveals that the central dispute concerns whether the trees located within the Appellant's premises posed a danger to neighboring property and to the public roadway.

The Respondent–Respondents relied upon inspection findings and photographic material demonstrating decay and structural instability in the trees, while the Appellant disputed those findings and alleged inaccuracies in the reported heights of the trees.

These are quintessentially questions of fact requiring the evaluation of competing evidence.

The principle governing the exercise of writ jurisdiction in such circumstances is well settled.

In *Thajudeen v. Sri Lanka Tea Board*² it was held that:

Where major facts are in dispute and their legal consequences are controversial, such matters should be resolved through ordinary civil proceedings rather than by way of writ.

This principle was correctly applied by the learned High Court Judge.

Where disputed factual matters lie at the heart of the dispute, the writ jurisdiction—being discretionary and supervisory in nature—is not the proper forum to conduct fact-finding exercises requiring oral testimony and cross-examination. As such this Court finds no misdirection in the approach adopted by the learned High Court Judge.

Ambiguity of Relief Sought

It is further evident that the relief sought by the Appellant comprised multiple forms of writ relief, namely *certiorari*, *mandamus*, and prohibition, without clearly identifying the precise legal basis upon which each was invoked.

The Respondent–Respondents have correctly submitted that different writ remedies arise in distinct legal circumstances and cannot ordinarily be pursued in an indistinct or

² *Supra*

overlapping manner. The learned High Court Judge observed that the ambiguous nature of the prayer created uncertainty regarding the exact nature of the relief sought.

This Court is of the view that clarity in the formulation of relief is an essential prerequisite in writ jurisdiction, where each remedy is circumscribed by defined legal parameters. Accordingly, the learned High Court Judge acted correctly in declining to grant relief where the pleadings failed to properly articulate the specific relief sought.

Whether Grounds Exist for Appellate Interference

It is a well-established principle that an appellate court will not lightly interfere with the exercise of discretion by a lower court, particularly in matters relating to writ jurisdiction.

Interference is justified only where:

- there is illegality,
- procedural impropriety; or
- a manifest error of law.

Having examined the entirety of the record, this Court is unable to identify any such defect.

The learned High Court Judge properly identified the disputed factual nature of the case, applied the correct legal principles governing writ jurisdiction, and exercised judicial discretion in accordance with established authority; accordingly, the Appellant has failed to demonstrate any jurisdictional error or misdirection in law warranting appellate interference.

Observations on Section 107(1) of the Pradeshiya Sabha Act

It is also relevant to note that Section 107(1) of the Pradeshiya Sabha Act No. 15 of 1987 empowers the Chairman of a Pradeshiya Sabha to issue directions requiring removal or securing of trees that pose danger to public safety. The statutory purpose underlying this provision is preventative in nature and directed toward safeguarding life and property.

The exercise of such statutory authority, particularly when supported by inspection findings, does not ordinarily warrant judicial interference unless clear illegality is demonstrated. No such illegality has been established in the present case.

Conclusion

Having carefully evaluated the judgment under appeal, the written submissions tendered by both parties, and the applicable legal principles governing writ jurisdiction, this Court finds that:

- The learned High Court Judge correctly concluded that the matter involved disputed questions of fact unsuitable for writ adjudication,
- The prayer for relief was defective and ambiguous, and
- No error of law, jurisdictional defect, or improper exercise of judicial discretion has been demonstrated warranting appellate interference with the order of the learned High Court Judge.

For the reasons set out above, this Court finds no merit in the appeal.

The appeal is accordingly dismissed subject to costs fixed at Rs.30,000/-.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal