

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

In the matter of an Application for
Revision under Article 138 of the
Constitution of the Democratic
Socialist Republic of Sri Lanka.

Court of Appeal

**Revision Application No:
CA(PHC)APN/0096/2024**

Dissanayake Mudiyansele
Rupasinghe
Director,
Financial Intelligence Unit
Central Bank of Sri Lanka.

PETITIONER

High Court of Colombo

Case No. HC SPL/08/2018

Vs.

Palisena Appuhamilage Don
Oshadee Kasun Palisena
No. 21, Arthusa Lane,
Colombo-06

RESPONDENT

AND BETWEEN

Palisena Appuhamilage Don
Oshadee Kasun Palisena
No. 21, Arthusa Lane,
Colombo-06

RESPONDENT-PETITIONER

Vs.

Dissanayake Mudiyansele
Rupasinghe
Director,
Financial Intelligence Unit
Central Bank of Sri Lanka.

PETITIONER-RESPONDENT

Enoka Hasanthi Mohotti
Director,
Financial Intelligence Unit,
Central Bank of Sri Lanka.

**SUBSTITUTED-PETITIONER-
RESPONDENT**

AND NOW BETWEEN

Palisena Appuhamilage Don
Oshadee Kasun Palisena
No. 21, Arthusa Lane,
Colombo-06

**RESPONDENT-PETITIONER-
PETITIONER**

Vs.

Dissanayake Mudiyansele
Rupasinghe
Director,
Financial Intelligence Unit
Central Bank of Sri Lanka.

**PETITIONER-RESPONDENT-
RESPONDENT**

Enoka Hasanthi Mohotti
Director,
Financial Intelligence Unit,
Central Bank of Sri Lanka.

**SUBSTITUTED PETITIONER-
RESPONDENT-RESPONDENT**

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

RESPONDENT

BEFORE : **P. Kumararatnam, J.**
R. P. Hettiarachchi, J.

COUNSEL : **Razik Zarook, P.C., with Rohana
Deshapriya and Chanakya Liyanage for
the Petitioner.**
**Sudharshana de Silva, PC, ASG for the
Respondent.**

ARGUMENT ON : **29/01/2026.**

DECIDED ON : **30/03/2026.**

JUDGMENT**P. Kumararatnam, J.**

The Respondent-Petitioner-Petitioner (hereinafter referred to as ‘the Petitioner’) has filed this Revision Application to revise the Order of the Learned High Court Judge of Colombo dated 21.11.2023 pronounced in case number HC SPL 08/2018.

Upon receiving a report from the Criminal Investigation Department (hereinafter referred to as the CID) in relation to funds credited to two bank accounts maintained in the Hatton National Bank by the Petitioner, the Petitioner-Respondent-Respondent (hereinafter referred to as the Respondent) filed a Petition in terms of Section 15(1)(a) of the Financial Transactions Reporting Act No. 6 of 2006 in the High Court of Colombo.

In the Petition filed *ex parte* before the High Court it was alleged that the Petitioner had received a bonus amounting to Rs.63,570,274.61 in June 2015 and May 2016. It was revealed that, on 4th June 2015 an amount of Rs.20,840,375.00 was deposited to the Petitioner’s bank account (Current Account No.007-352966-001) maintained with Hongkong and Shanghai Banking Corporation (HSBC). The said amount of Rs.20,840,375.00 was drawn from the company named SSP Corporate Services (Pvt) Ltd by the cheque bearing No. 826015 issued by company Account No. 1110034293 maintained with Commercial Bank. It further transpired that the said amounts had been derived from the offence of conspiracy to commit Criminal Breach of Trust by abetment, among other offences mentioned below.

During the investigations, it was revealed that the total amount of employee salaries of the PTL Group of Companies were remitted to SSP Corporate Services Private Limited. The said Corporate Services Private Limited paid salaries and Bonuses to the employees of the PTL Group of companies. The Petitioner as the Chief Executive Officer of Perpetual Treasuries Limited received salaries and bonuses from SSP Corporate Services (Pvt) Ltd.

On 24th May 2016 by cheque bearing No. 383810 a sum of Rs. 15,000,000.00 out of Rs. 20,840,375,00 was transferred to Account No. 005300033598 maintained with Hatton National Bank PLC (HNB) by the Petitioner. On 25th May 2016, the Petitioner has divided the amount of Rs. 15,000,000.00 to two fixed deposits maintained with the same bank. The details are given below:

1. 005300048004 - Rs. 10,000,000.00
2. 005300048011 – Rs. 5,000,0000.00

During the investigation, it was further revealed that the Petitioner was suspected of committing unlawful activities which were deemed to be in relation to the offences of:

- I. The Bribery Act, No. 11 of 1954, as amended;
- II. The Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987, as amended and Rules issued under it where the maximum punishment is 5 years imprisonment (under Section 33A);
- III. The Registered Stocks and Securities Ordinance, No. 7 of 1937, where the maximum term of imprisonment is 5 years (under Section 56A).

In the meantime, the Central Bank of Sri Lanka by its letter dated 23rd May 2018 directed the Hatton National Bank not to proceed with any debit transactions in respect of the two above mentioned fixed deposits.

The Petitioner filing his Petition took up the position that the monies in the two fixed deposits are private money which has been existing since the year 2014. As such he vehemently objected to the freezing order issued.

Thereafter, the Substituted-Respondent filed her objections on 3rd May 2023 and the Petitioner had filed Counter-objections on 27th September 2023.

In the meantime, the Respondent had taken two preliminary objections regarding the maintainability of the Petitioner's application. The said two grounds are re-produced below:

- I. The monies in the said Fixed Deposits are the subject matter in the cases in the Trial-at-Bar High Court bearing Nos. HC(TAB) 2445/2021, HC (TAB) 2446/2021 and HC(PTB) 1/5/2019.
- II. The High Court of Colombo has no jurisdiction to hear and determine the Petition of the Petitioner.

Amidst the objections raised by the Petitioner regarding the preliminary objections, the matter was fixed for order by the Learned High Court Judge of Colombo.

By his order dated 21.11.2023, the Learned High Court Judge dismissed the Petition of the Petitioner.

Aggrieved by the said order, the Petitioner has invoked the Revisionary Jurisdiction of this Court on the following questions of law and exceptional circumstances.

- a. The said order is erroneous and contrary to law.
- b. The Learned High Court Judge has failed to consider the oral and written submissions made on behalf of the Petitioner that the said preliminary objections raised are without any basis, misleading, false and contrary to law.
- c. The Learned High Court Judge erred in law by upholding the preliminary objection that the High Court has no jurisdiction to

hear the application of the Petitioner which is raised at a later stage of the case namely at the inquiry, especially when this is a case filed *ex parte* by the Respondent.

- d. The Learned High Court Judge has not properly considered the written submissions of the Petitioner and the annexures marked A, B, and C filed therewith, the Indictments of the cases bearing Nos, HC(TAB) 2445/2021, HC(TAB) 2446/2021 and HC (PTB) 1/5/2019 which are in proof of the fact that the monies in the said accounts of the Petitioner are neither a subject matter nor a production in any of the said High Court Trial-at-Bar cases.
- e. The Learned High Court Judge has not considered that the Petitioner has denied the contents of the paragraph 12 of the Statement of the objections of the Respondent.
- f. The Petitioner made several attempts to obtain the documents made available to him but was only issued the documents annexed hereto marked as P1.
- g. The Petitioner is unable to find employment and has no other income to support his young family consisting of two sons aged 8 years and 2 years and a daughter aged 6 years who are presently schooling.
- h. The Petitioner faces dire financial difficulties, grave loss and damage as a result of the freezing of the said accounts for the last six years without any valid basis or without a proper investigation being conducted.
- i. The Petitioner was unable to secure the necessary resources to file this application in time due to his accounts being frozen and as he had no other income.

In **Hotel Galaxy Ltd & others v Mercantile Hotel Management Ltd** (1987) 1 SLR 5 Sharvananda C.J. reiterated that:

“it is settled law that the exercise of revisionary powers of the Appellate Court is confined to cases in which exceptional circumstances exist warranting its intervention”

In **Wijesinghe v Tharmaratnam** (Sri kantha Law Report Vol-IV 47), the court held that:

“Revision is a discretionary remedy and will not be available unless the application discloses circumstances which shocks the conscience of the Court.”

In the case of **Rasheed Ali v Mohamed Ali and Others** (1981) 1 SLR 262 it was held that:

“The powers of revision vested in the Court of Appeal are very wide and the Court can in a fit case exercise that power whether or not an appeal lies. Where the law does not give a right of appeal and makes the order final, the Court of Appeal may nevertheless exercise its powers of revision, but it should do so only in exceptional circumstances. Ordinarily the Court will not interfere by way of review, particularly when the law has expressly given an aggrieved party an alternate remedy such as the right to file a separate action except when non-interference will cause a denial of justice or irremediable harm.”

Our Courts have repeatedly held that the revisionary power of Courts is an extraordinary power and that the Courts must exercise it only in exceptional circumstances. Exceptional circumstances are not defined in the statute. Hence, what constitutes exceptional circumstances must be considered on its own facts and circumstances on a case-by-case basis.

In **Ramu Thamodarampillai v. The Attorney General** [2004] 3 SLR 180 the court held that:

“the decision must in each case depend on its own peculiar facts and circumstances”.

As the exceptional circumstances urged before this Court by the Petitioner are interrelated with the questions of law, all grounds will be considered together in this case.

The main contention brought by the Learned President's Counsel for the Petitioner is that the monies in the two fixed deposits are his private money, and further that no action had been taken by the Respondent up to now, despite 8 years having been passed after the freezing order was imposed. The said money had not been included in the production list of the three pending Indictments before the Trial-at-Bar court cases even until now.

The position taken up by the Learned Additional Solicitor General was that the Department of Supervision of Non-Banking Financial Institutions of Central Bank of Sri Lanka and the Criminal Investigations Department reported to the Financial Intelligence Unit (hereinafter referred to as FIU) as per the provisions of the Financial Transaction Reporting Act No 06 of 2006 (hereinafter referred to as FTRA), in respect of suspicious transactions identified by the Presidential Commission of Inquiry, and to investigate the Issuance of Treasury Bonds (hereinafter referred to as PCOI).

As per the progress report given by the CID on 14th August 2024, the CID is currently conducting a full and complex investigation for the Petitioner, and the Hon. Attorney General has filed indictments against Perpetual Treasuries Limited and the related parties, where it must be noted that the Petitioner has also been included as an Accused in the same three Trial-at-Bar cases. As the investigation is in respect of the two fixed deposits of the Petitioner, the Respondents are objecting to release the freezing order entered by the Learned High Court Judge of Colombo.

I too agree with the learned Additional Solicitor General that the Petitioner has failed to explain the detailed averment number 12 of the Objections filed by the Substituted-Petitioner-Respondent-Respondent in the High Court of Colombo on 03.05.2023 (R1). The learned High Court Judge too had relied on this averment and pronounced his order. The said averment is re-produced below.

පෙත්සමේ 5 ඡේදයේ සඳහන් කරුණු පිළිබඳ ආදේශිත පෙත්සම්කාර වගඋත්තරකාරිය වැඩිදුරටත් ප්‍රකාශ කර සිටින්නේ ශ්‍රී ලංකා මහ බැංකුවේ අධීක්ෂණය යටතේ සිදු වූ ප්‍රශ්නගත භාණ්ඩාගාර බැඳුම්කර නිකුතුවකට අදාළව අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුව විසින් ඉදිරිපත් කර ඇති විමර්ශන වාර්තාවන්ට අනුව වගඋත්තරකාර පැමිණිලිකරුගේ නමින් හැටන් නැෂනල් බැංකුවේ පවත්වාගෙන ගිය 005300048004 සහ 005300048011 ගිණුම්වල ඇති මුදල් එකී ප්‍රශ්නගත භාණ්ඩාගාර බිල්පත් නිකුතුවට අදාළ මුදල් බවට විශ්වාස කිරීමට තරම් සාධාරණ කරුණු පවතින බැවින් පෙත්සමේ 5 ඡේදයේ සඳහන් කරුණු පිළිබඳ අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුව මගින් සිදුකරන පරීක්ෂණයේ නිගමනයට යටත්ව ප්‍රතික්ෂේප කරන බවයි. තවද, විෂයගත කාරණය සම්බන්ධයෙන් අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුවේ විමර්ශන සහ මූල්‍ය බුද්ධි ඒකකයේ විශ්ලේෂණයන් තුළින්ව අනාවරණය කරගත් පරිදි මුදල් ගිණුම්ගත විමට අදාළ කරුණු සම්පිණ්ඩනය පහත පරිදි වේ.

1. පර්පෙටුවෙල් ට්‍රේෂරිස් සමාගමේ ප්‍රධාන විධායක නිලධාරී වශයෙන් කටයුතු කල මෙම පෙත්සමේ වගඋත්තරකාර පෙත්සම්කරු වෙත ප්‍රසාද දීමනා වශයෙන් රු. 63,570,274.61 ක මුදලක් 2015 ජුනි මාසයේ දී සහ 2016 මැයි මාසයේ දී ගෙවා ඇති බවට අනාවරණය වී ඇත.
2. එම මුදල් වලින් රු.20,840,375.00 ක මුදලක් SSP Corporate Services (Pvt) Ltd ආයතනය නමින් කොමර්ෂල් බැංකුවේ පවත්වාගෙන යනු ලබන 1110034293 දරණ ගිණුමෙන් නිකුත් කරන ලද අංක 826015 දරණ චෙක්පත මගින් ගෙවා ඇත. එම චෙක්පත වගඋත්තරකාර පෙත්සම්කරුගේ නමින් හොංකොං ඇන්ඩ් ෂැන්හයි බැංකුවේ පවත්වාගෙන යනු ලබන අංක 007-352966-001 දරණ ජංගම ගිණුමට 2015.06.04 දින බැර කර ඇත.
3. ඉහත කී ගි SSP Corporate Services (Pvt) Ltd ආයතනය නමින් වූ ගිණුමෙන් නිකුත් කරන ලද අංක 984428 දරණ චෙක්පත මගින් රු. 42,729,899.61 ක මුදලක් වගඋත්තරකාර පෙත්සම්කරුගේ නමින් හොංකොං ඇන්ඩ් ෂැන්හයි බැංකුවේ පවත්වාගෙන යනු ලබන අංක 001-529-650-040 දරණ ජංගම ගිණුමට 2016.05.10 දින බැර කර ඇත.
4. 2015 ජුනි 04 දින හොංකොං ඇන්ඩ් ෂැන්හයි බැංකුවේ 001-529-650-040 දරණ ගිණුමෙන් රු. 25,000,000.00 ක මුදලක් එම බැංකුවේම වගඋත්තරකාර පෙත්සම්කරුගේ නමින් පවත්වාගෙන ගිය 007-352966-001 ගිණුමට මාරු කර ඇත.
5. අනතුරුව වගඋත්තරකාර පෙත්සම්කරුගේ නමින් හොංකොං ඇන්ඩ් ෂැන්හයි බැංකුවේ පවත්වාගෙන යනු ලබන අංක 007-352966-001 දරණ ජංගම ගිණුමෙන් 2016.05.24 දින නිකුත් කර ඇති අංක 383810 දරණ රු.15,000,000.00 ක් වටිනා චෙක්පතට අදාළ මුදල තැන්පත් කර හැටන් නැෂනල් බැංකුවේ අංක

005300033598 දරණ ස්ථාවර තැන්පතු ගිණුමක් 2016.05.25 විවෘත කර ඇත.

6. එකී ගිණුම වරින් වර කල් පිරීමෙන් හැටන් නැණැල් බැංකුවේ අංක 005300048004 දරණ රු. 10,000,000.00 ක වටිනාකම සඳහන් සහ අංක 005300048011 දරණ රු. 5,000,000.00 ක වටිනාකම සඳහන් ස්ථාවර තැන්පතු දෙක 2017 නොවැම්බර් 27 දින විවෘත කර ඇත.

Although this averment contained a full disclosure about the investigation initiated against the Petitioner, the Petitioner simply denied the contents of the paragraph without giving any explanation.

As per the averment 5 of the Petition filed in the High Court of Colombo by the Respondents, the investigation has not only been conducted under the Financial Transactions Reporting Act, but the investigations have been directed under the Bribery Act, Securities and Exchange Commission Act, the Registered Stock and Securities Ordinance and the Money Laundering Act as well. Due to the complex nature of the investigation, it is quite obvious that the investigation will take a reasonably longer period of time.

At present, three Trial-at-Bar cases are pending against the Petitioner and number of charges levelled against him. Although the subject matter of this application has not been made as productions, the subject matter could be added as productions before the closure of the prosecution case as per Section 167 of the Code of Criminal Procedure Act No.15 of 1979.

Section 167 of the Code of Criminal Procedure Act No.15 of 1979 reads as follows:

- (1) Any court may alter any indictment or charge at any time before judgment is pronounced or, in the case of trials before the High Court by a jury, before the verdict of the jury is returned.
- (2) Every such alteration shall be read and explained to the accused.

(3) The substitution of one charge for another in an indictment or the addition of a new charge to an indictment and in a Magistrate's Court the substitution of one charge for another or the addition of a new charge shall be deemed to be an alteration of such indictment or charge within the meaning of this section.

In **John Perera v. Weerasinghe** 53 NLR 158 the court held that:

“An amendment of a charge should not be refused by the judge unless it is likely to do substantial injustice to the accused.”

In **Doole v. The Republic of Sri Lanka** [1978-1979] 2 SLR 33 the court held that:

“As a rule, an amendment to an indictment should be allowed if it would have the effect of convicting the guilty or securing the acquittal of the innocent, but it should not be allowed if it would cause substantial injustice or prejudice to the accused.”

Additionally, there is a possibility of framing charges under the different Acts as well upon the completion of the investigations.

Further in the matter of **SC (Writ) Nos. 03/2025, 04/2025 & 05/2025**, decided on 03.11.2025, it was identified that:

“In the Anti-Corruption Bill determination [S.C.S.D. 16-21/2023], it was held (supra. at page 21), that Sovereignty in Article 3 of the Constitution includes the right to a government free of bribery or corruption. The Act must be interpreted in a manner to make this right attainable and not merely illusory.

In the aforesaid circumstances, I hold that CIABOC is entitled to make an ex parte application to the High Court to confirm the freezing orders it may make as well as to seek its extensions. Therefore, the complaint of the Petitioners of the violation of the rules of natural justice in making, confirming and extension of the impugned freezing orders must necessarily fail.”

As such, this Court considers the necessity of such a freezing order in this case, and concludes that the freezing order is allowed to continue for the ongoing investigations to be conducted in a proper and effective manner.

Considering all the materials placed before this Court, I see no reason to disturb the findings of the Learned High Court Judge of Colombo.

Considering all the circumstances of this case, especially the complex nature of the investigation, and the absence of exceptional circumstances, this Court concludes that this is not an appropriate case to use the Court's discretionary power in favour of the Petitioner.

Therefore, this revision application is dismissed.

The Registrar of this Court is directed to send this judgment to the High Court of Colombo.

JUDGE OF THE COURT OF APPEAL

R. P. Hettiarachchi, J.

I agree.

JUDGE OF THE COURT OF APPEAL