

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

In the matter of an application preferred under and in terms of Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Court of Appeal Case No:
CPA/0023/23
Panadura High Court Case
No: HCW 0002/2022

Ajith Amarasinghe,
Thebuwanage Awatta, Elawella,
Bellapitiya, Horana.

Petitioner

Vs

1. **Horana Urban Council,**
Horana.
2. **Witharamage Sirisoma,**
Chairman,
Horana Urban Council,
Horana.
3. **Nelu Nishanthi Iddegoda,**
Secretary,
Horana Urban Council,
Horana.
4. **Indika Gunawardhana,**
Chief Revenue Inspector,
Horana Urban Council,
Horana.
5. **Mahawattage Amarawaththi,**
No 41/13 B, Hospital Road,
Horana.

6. Hon. Attorney General,

Attorney General's Department,
Colombo 12.

Respondents

AND NOW BETWEEN

1. Horana Urban Council,

Horana.

2. Witharamage Sirisoma,

Chairman,

Horana Urban Council,

Horana.

2.a Badugamage Dona Achini Kisa

Gayanthi,

Secretary,

Horana Urban Council,

Horana.

2.b. A. P. Anil Indika Preamsiri,

Chairman,

Horana Urban Council,

Horana.

Added 2b Petitioner-Respondent

3. Nelu Nishanthi Iddegoda,

Secretary,

Horana Urban Council,

Horana.

3.a Badugamage Dona Achini Kisa

Gayanthi,

Secretary,
Horana Urban Council,
Horana.

4. **Indika Gunawardhana,**
Chief Revenue Inspector,
Horana Urban Council,
Horana.

Respondent-Petitioners

Vs

Ajith Amarasinghe,
Thumbuwanage watta, Elawella,
Ballapitiya.

Petitioner-Respondent

5. **Mahawattage Amarawaththi,**
No 41/13 B, Hospital Road,
Horana.

5th Respondent-Respondent

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

6th Respondent-Respondent

Before : **D. THOTAWATTA, J.**
K. M. S. DISSANAYAKE, J.

Counsel : Keerthi Thilakarathna with Chanuka
Ekanayake for the 01st to 04th Respondent-
Petitioners.

Uditha Malalasekera with Angelica Nanayakkara and Chandika Lakshan instructed by Saumya Jayasena for the Petitioner-Respondent.

5th Respondent and 6th Respondent are both absent and unrepresented.

Jurisdictional objection

raised on : 18.12.2025

Written Submissions

of the 01st to 04th Respondent

-Petitioners tendered on : 27.02.2026

Written Submissions

of the Petitioner-Respondent : 02.02.2026

tendered on

Decided on : 19.06.2026

K. M. S. DISSANAYAKE, J.

Instant application in revision has been preferred to this Court by the 1st to 4th Respondent-Petitioners (hereinafter called and referred to as “the 1st to 4th Petitioners”) seeking to revise and set aside the judgement dated 05.01.2023 (hereinafter called and referred to as “the HC Order”) made by the learned High Court Judge of the Western Province holden at Panadura (hereinafter called and referred to as “the learned High Court Judge of the Province”) whereby, he had issued a mandate in the nature of a writ of *Certiorari* and a writ of *Mandamus* as prayed for by the Petitioner-Respondent (hereinafter called and referred to as

“the Respondent”) in prayer ‘අ’ and ‘ඉ’ respectively, of the amended petition dated 29.09.2022 filed of record.

When this matter came on before us for argument on 18.12.2025, the learned Counsel for the Respondent had taken up a preliminary objection on jurisdiction on the premise that this Court has no jurisdiction to entertain the instant application in revision derived from the judgement made by the learned High Court Judge of the Province in the exercise of the concurrent writ jurisdiction vested in it under Article 154P(4)(b) of the Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter called and referred to as “the Constitution”) in view of the judicial reasoning of the decision in **SC/Appeal/65/2025** pronounced by the Supreme Court. Then the parties were permitted to file written submissions on the preliminary objection on jurisdiction and the written submissions were thus, furnished to this Court by the respective parties and hence, the order on the preliminary legal objection on jurisdiction on the strength of the written submission.

The crux of the preliminary objection on jurisdiction is that in view of Article 154P(4)(b) of the Constitution to be read with Article 140 thereof, the Provincial High Court act as a writ Court, not as a subordinate tribunal, and hence, in the exercise of the writ jurisdiction, the Provincial High Court and the Court of Appeal function as concurrent constitutional authority within their respective territorial competence and therefore, the Provincial High Court in determining the writ jurisdiction, is original in character, extra-ordinary in nature, and constitute an exercise of the judicial power of the people within the meaning of Article 4(C) of the Constitution, but only confined to the matters within the Province and hence, when exercising writ jurisdiction under Article 154P(4)(b) of the Constitution, the Provincial High Court functions as a superior Court of record acting independently, and not as a subordinate tribunal subject to the supervisory and revisionary control of the Court of Appeal, and therefore, an order made by the Provincial High Court in the exercise of the concurrent original writ jurisdiction is not amendable to revisionary jurisdiction of the Court of

Appeal and as such this Court lacks jurisdiction to entertain the instant application in revision to revise the HC order as such by invoking the extraordinary revisionary jurisdiction vested in it by Article 138 of the Constitution.

On the other hand, it was contended by the learned Counsel for the 1st to 4th Petitioners in countering the preliminary objection on jurisdiction that in view of section 11 of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990 as amended (hereinafter called and referred to as “the Act”), this Court has revisionary jurisdiction against the orders made by Provincial High Court under Article 154P(4)(b) of the Constitution, and as such judicial reasoning of the Supreme Court decision in **SC/Appeal/65/2025** has no application to the instant application in revision and therefore, the preliminary objection on jurisdiction should be dismissed *in-limine*.

In view of the preliminary objection on jurisdiction, the pivotal question that would first, arise for our consideration is whether the original writ jurisdiction vested in the High Court of the Province by the Article 154P(4)(b) is concurrent with the original writ jurisdiction vested in the Court of Appeal by Article 140 of the Constitution.

It may now, be examined.

The Thirteenth Amendment to the Constitution enacted Article 154P(1) to the Constitution and it reads thus;

“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.”

Article 154P(1) of the Constitution so enacted by the Thirteenth Amendment, made provisions for the establishment of the High Courts in the provinces.

Article 154P(4)(b) of the Constitution enacted by the Thirteenth Amendment to the Constitution, reads thus;

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

(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.”

Hence, Article 154P(4)(b) enacted by the 13th Amendment to the Constitution, conferred upon the High Court so established under Article 154P(1) thereof, **the original writ jurisdiction to issue according to law 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.**

[Emphasis is mine]

Section 12 of the Act would in my opinion, be significantly, important in determining as to whether original writ jurisdiction so vested in the High Court established by Article 154P(1) of the Constitution as enacted by the 13th Amendment to the Constitution, is concurrent with the original writ jurisdiction conferred upon the Court of Appeal by Article 140 of the Constitution, for; it makes provisions in case where appeal or application in respect of same matter is filed in the Court of Appeal as well as in the High Court and it reads thus;

“(a) Where any appeal or application is filed in the Court of Appeal and an appeal or application in respect of the same matter has been filed in a High Court established by Article 154P of the Constitution invoking jurisdiction vested in that Court by paragraph (3) (b) or (4) of Article 154P of the

Constitution, within the time allowed for the filing of such appeal or application, and the hearing of such appeal or application by such High Court has not commenced, the Court of Appeal may proceed to hear and determine such appeal or application or where it considers it expedient to do so, direct such High Court to hear and determine such appeal or application:

Provided, however, that where any appeal or application which is within the jurisdiction of a High Court established by Article 154P of the Constitution is filed in the Court of Appeal, the Court of Appeal may if it considers it expedient to do so, order that such appeal or application be transferred to such High Court and such High Court shall hear and determine such appeal or application.

(b) Where the Court of Appeal decides to hear and determine any such appeal or application, as provided for in paragraph (a), the proceedings pending in the High Court shall stand removed to the Court of Appeal for its determination.

(c) No appeal shall lie from the decision of the Court of Appeal under this section to hear and determine such appeal or application or to transfer it to a High Court.

(d) Nothing in the preceding provisions of this section shall be read and construed as empowering the Court of Appeal to direct a High Court established by Article 154P of the Constitution to hear and determine any appeal preferred to the Court of Appeal from an order made by such High Court in the exercise of the jurisdiction conferred on it by paragraph (4) of Article 154P of the Constitution.” [Emphasis is mine]

A plain reading of Article 138 of the Constitution as amended, Article 154P(1) and Article 154P(4)(b) in conjunction with section 12 of the Act, makes it abundantly, clear that **both Courts namely; the Court of Appeal as well as the High Court established by Article 154P(1) of the Constitution which**

enacted by the Thirteenth Amendment to the Constitution, now, enjoy and exercise concurrent and/or parallel and/or coordinate appellate original writ jurisdiction on matters referred to both in Articles 138 and 154P(4)(b) of the Constitution as quoted above which the Court of Appeal **otherwise**, had **solely, and exclusively**, exercised **before the Thirteenth Amendment to the Constitution**. [Emphasis is mine]

In the circumstances, I am of the view that the original writ jurisdiction that had been solely, and exclusively, vested with the Court of Appeal before the Thirteenth Amendment to the Constitution as aforesaid, would after Thirteenth Amendment to the Constitution, now, be exercised by a High Court established by Article 154P(1) of the Constitution which enacted by the Thirteenth Amendment to the Constitution, concurrently or parallel or co-ordinately with the Court of Appeal subject to the express limitation imposed by Article 154P(4)(b) of the Constitution by itself as enumerated above.

The view taken by me as aforesaid is fortified and well supported by a plethora of authorities of the Supreme Court and the Court of Appeal and they may now, be examined.

Supreme Court in dealing with the Thirteenth Amendment to the Constitution and the Provincial Councils bill, had determined on page 323(In **RE Thirteenth Amendment to the Constitution and the Provincial Councils Bill-1987 [2] SLR 312**) as follows;

“The Bills do not effect any change in the structure of the Courts or judicial power of the People. The Supreme Court and the Court of Appeal continue to exercise unimpaired the several jurisdictions vested in them by the Constitution. There is only one Supreme Court and one Court of Appeal for the whole Island, unlike in a Federal State. “The 13th Amendment Bill only seeks to give jurisdictions in respect of writs of Habeas Corpus in respect of persons illegally detained within the Province and Writs of Certiorari, Mandamus and Prohibition against any person exercising

within the Province any power under any law or statute made by the Provincial Council in respect of any matter in the Provincial Council list **and appellate jurisdiction in respect of convictions ‘and sentences by Magistrate’s Courts and Primary Courts within the Province to the High Court of the Province, without prejudice to the executing jurisdiction of the Court of Appeal. Vesting of this additional jurisdiction in the High Court of each Province only brings justice nearer home to the citizen and reduces delay and cost of ligation.** The power of appointment of Judges of the High Court remains with the President and the power of nominating them to the several High Courts remains with the Chief Justice. The appointment, transfer, dismissal continue to be vested in the Judicial Service Commission. Thus, the centre continues to be supreme in the judicial area and the Provincial Council has no control over the judiciary functioning in the Province.” [Emphasis is mine]

It was *inter-alia*, held by Supreme Court in **Weragama v. Eksath Lanka Wathu Kamkaru Samithiya and others 1994[1] SLR 329** at pages 296 and 297 that, “These amendments affected the appellate, revisionary and writ jurisdiction of the Court of Appeal only in two respects. Firstly, Article 154P (3) (b) conferred appellate and revisionary jurisdiction (but not writ jurisdiction) in respect of Magistrate’s Courts and Primary Courts (but not Labour Tribunals, or other courts and tribunals); this was “notwithstanding anything in Article 138” (and that Article was in any event “subject to the provisions of the Constitution”), and so either the jurisdiction of the Court of Appeal was pro tanto transferred to the High Courts or the Court of Appeal and the High Courts had concurrent jurisdiction. **Secondly, Article 154P(4) conferred writ jurisdiction over any person exercising, within the province, any power under any law or statute specified therein; this was not stated to be “exclusive”, or “notwithstanding anything in Articles 140 and 141”, and hence the High Courts had concurrent jurisdiction with the Court of Appeal.....**” [Emphasis is mine]

It was further held at pages 299 and 300 that, “....However, the jurisdiction of the Court of Appeal under Article 138 is not an entrenched jurisdiction, because Article 138 provides that it is subject to the provisions “of any law”; hence it was always constitutionally permissible for that jurisdiction to be reduced or transferred by ordinary law (of course, to a body entitled to exercise judicial power)....”

See, also; **Nilwala Vidulibala Company (PVT) LTD. v. Kotapola Pradeshiya Sabha and Others [2005] 1 SLR 296, Kaluarachchige Allen Nona Vs. Sunil Weerasinghe and Others-CA WRIT 23/2023-Decided on 10.06.2016, T. Withanarachchi Gunawardana Vs. H. L. Pathmasiri de Silva and Others-CA WRIT 45/2020-Decided on 26.05.2022**

It is in this context, let me examine the precise meaning assigned to the phrase “concurrent jurisdiction”?.

According to **Black’s Law Dictionary-Eleventh Edition at page 1017**, the phrase “concurrent jurisdiction” is defined to mean as follows;

“1. Jurisdiction that might be exercised simultaneously by more than one court over the same subject matter and within the same territory, a litigant having the right to choose the court in which to file the action. 2. Jurisdiction shared by two or more states, esp. over the physical boundaries (such as rivers or other bodies of water) between them. - Also termed coordinate jurisdiction; overlapping jurisdiction.”

According to **Wharton’s Law Lexicon-Fourteenth Edition at page 228**, the said phrase is defined to mean as follows;

“Concurrent jurisdictions, the jurisdiction of several different tribunals, both authorized to deal with the same subject-matter at the choice of the suitor. In equity, the jurisdiction was concurrent where no complete relief was obtainable at law. It was exercised in order to avoid circuitry of action or multiplicity of suits”

In the light of the definition assigned to the phrase “concurrent jurisdiction” by law dictionaries as referred to above, “concurrent jurisdiction” means and refers to jurisdiction that might be exercised simultaneously by more than one court over the same subject matter and within the same territory, a litigant having the right to choose the court in which to file the action.

Let me then, examine the primary objective intended to be achieved by conferring concurrent jurisdiction upon more than one Court over the same subject matter with a litigant having the right to choose the court in which to file the action. It is in my opinion, to avoid circuity of action or multiplicity of suits with a view to preventing a wasteful or unnecessary legal process where a party files multiple, separate lawsuits to resolve issues that could have been dealt with in a single action, so that it may avoid waste of judicial resources and unnecessary legal costs.

In my opinion, the cumulative effect of the provisions of Articles 138, 154P(4)(b) section 12 of the Act and of the authoritative and binding judicial precedent cited above taken in conjunction with the definition assigned to the phrase “concurrent jurisdiction”, is that when the High Court established by Article 154P(1) of the Constitution (enacted by the Thirteenth Amendment to the Constitution) exercises original writ jurisdiction, it exercises it hitherto exclusively, vested in the Court of Appeal before the Thirteenth Amendment to the Constitution and therefore, it exercises concurrent or parallel jurisdiction with the Court of Appeal; and that, the High Court established by Article 154P(1) of the Constitution (enacted by the Thirteenth Amendment to the Constitution) when it exercises original writ jurisdiction, is not subordinate to the Court of Appeal for; when concurrent or parallel jurisdiction is conferred by law upon two Courts, the question of a superior and inferior Court does not arise; and that, as far as the jurisdiction granted to the two Courts in certain matters goes, they are equal.

For the reasons stated above, I am inclined to the view so taken by the learned Counsel for the Petitioner that the High Court established by Article 154P(1) of the Constitution has concurrent original writ jurisdiction with the Court of Appeal vested in it by Article 140 of the Constitution.

It is in this context, let me next, examine the legal effect and consequence of Article 154P(6) of the Constitution enacted by the Thirteenth Amendment thereto, and section 9(b) of the Act.

Article 154P(6) of the Constitution reads thus;

“(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 paragraphs (3)(b) or (3)(c) or (4) may appeal there from to the Court of Appeal in accordance with Article 138.”

[Emphasis is mine]

Hence, Article 154P(6) of the Constitution enacted by Thirteenth Amendment to the Constitution confers upon any person aggrieved by a final order, judgment or sentence of any such High Court so established under Article 154P(1) of the Constitution made in the exercise of its jurisdiction under paragraphs (3)(b) or (3)(c) or (4) a right of appeal to the Court of Appeal in accordance with Article 138 of the Constitution subject to the provisions of the Constitution.

Nonetheless, no provision was made with regard to the procedure to be followed in such High Courts. With a view to providing for the lacuna in the law with regard to the procedure to be followed in the High Court of the Provinces, so established under Article 154P(1) of the Constitution which enacted by the Thirteenth Amendment to the Constitution, “the Act” was enacted making provision “regarding the procedure to be followed in, and the right to appeal to, and from, the High Court established under Article 154P(1) of the Constitution” and section 9(b) of the Act reads thus;

“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.”.

Section 11 of the Act makes provisions for the appeals to the Court of Appeal from the High Court and section 11(1) thereof, reads thus;

“(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 restitutio in integrum 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.”

A careful reading of the Article 154P(6) of the Constitution in the light of the sections 9(b) and 11 of the Act, becomes manifest that appellate jurisdiction has been conferred upon the Court of Appeal from the judgement made by a High Court established by the Article 154P(1) of the Constitution in the exercise of its concurrent original jurisdiction vested in it by Article 154P(4)(b) of the Constitution.

It is in this light, let me now, examine the section 12(d) of the Act and it reads thus;

“Nothing in the preceding provisions of this section shall be read and construed as empowering the Court of Appeal to direct a High Court

established by Article 154P of the Constitution to hear and determine any appeal preferred to the Court of Appeal from an order made by such High Court in the exercise of the jurisdiction conferred on it by paragraph (4) of Article 154P of the Constitution.”

Hence, appellate jurisdiction so conferred upon the Court of Appeal by Article 154P(6) of the Constitution to be read with sections 9(b) and 11 of the Act, from the judgement made by such High Court established by the Article 154P(1) of the Constitution in the exercise of its concurrent original jurisdiction vested in it by Article 154P(4)(b) of the Constitution, has been re-endorsed by section 12(d) of the Act thereby, exclusively, vesting the Appellate jurisdiction upon the Court of Appeal from the orders made by such High Court established by Article 154P(1) of the Constitution in the exercise of its concurrent original writ jurisdiction vested in it by Article 154P(4)(b) of the Constitution.

In view of the above, it clearly, appears that it is only, the concurrent original writ jurisdiction with the Court of Appeal that has been conferred upon such High Court established by Article 154P(1) of the Constitution and not the concurrent appellate jurisdiction which has now, been exclusively, vested with the Court of Appeal by Article 154P(6) of the Constitution to be read with sections 9(b), 11 and 12(d) of the Act and the resultant position is that the appellate jurisdiction has not been so conferred upon such High Court established by Article 154P(1) of the Constitution with the Court of Appeal and hence, appellate jurisdiction has been so vested exclusively, on the Court of Appeal.

In the result, it is my considered view that the Court of Appeal has been vested with the revisionary jurisdiction too, conferred upon it by Article 138 of the Constitution from the orders made by such provincial High Court in the exercise of its concurrent original jurisdiction vested in it by Article 154P(4)(b) of the Constitution as a necessary, corollary to the exercise of the appellate jurisdiction so vested in it, subject however to the accomplishment of pre-requisites

necessary to invoke the extra-ordinary revisionary jurisdiction vested in it by Article 138 of the Constitution.

Hence, I would hold that the preliminary objection on jurisdiction has been raised by the Respondent on a total misconception and/or misapprehension that appellate and/or revisionary jurisdiction so exclusively, vested in Court of Appeal under Article 138 of the Constitution to be read with Article 154P(6) thereof, and sections 9(b), 11 and 12(d) of the Act too, has been concurrently, vested with the High Court established by Article 154P(1) of the Constitution in the same manner as the original writ jurisdiction vested in it with the Court of Appeal as enumerated above.

In view of the foregoing, I would hold that the preliminary objection on jurisdiction so raised by the Respondent cannot in any manner, sustain in law and as such it should be rejected *in-limine*.

In consequence, I would hold that neither the judicial reasoning in the decision in **SC/APPEAL/65/2025(Supra)** nor the authorities cited in the written submissions by the Respondents are, if I may say so with all due respect, of any assistance for the resolution of the preliminary objection on jurisdiction so raised by the Respondent.

Hence, I would proceed to overrule the preliminary objection on jurisdiction raised by the Respondent with costs.

JUDGE OF THE COURT OF APPEAL

D. THOTAWATTA, J.

I agree.

JUDGE OF THE COURT OF APPEAL