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

In the matter of an application for revision under and in terms of Article 138 of the Constitution.

Court of Appeal Case No: CA/CPA/0090/2025

Hight Court Matara Case No: 51/2024 Revision

Magistrate's Court Matara Case No: 13569

Zainul Abdeen Mohamed Faizal,
Director,
Muslim Mosques and Charitable Trusts,
Department of Muslim Religious & Cultural Affairs,
No. 180, T.B. Jayah Mawatha, Colombo 10.

Petitioner

AND BETWEEN

Mohamed Usman Abubakkar,
45/ 9, Galbokke Road, Weligama.

Petitioner

Vs.

1. **Zainul Abdeen Mohamed Faizal**,
1A. **M. H. A. M. Riflan**,
Acting Director,
Muslim Mosques and Charitable Trusts,
Department of Muslim Religious & Cultural Affairs,
No. 180, T.B. Jayah Mawatha,
Colombo 10.

Petitioner-Respondent

2. **Zaid Mukrim Hafeel**,
Sea Road, Weligama.

3. **Mohamed Waisu Mohamed Wasik**,
No.41, Mohamed Lane, Galbokke,

Weligama.

4. **Mohamed Zubair Ahmed Hai**,
   Jinna Road, Galbokke, Weligama.

5. **Mohamed Nazeer Mohamed Rizwan**,
   Galbokke Road,Weligama.

6. **Mohamed Thawfeek Mohamed Areel**,
   No. 46/10, Jinna Road, Galbokka,
   Weligama.

7. **Abdulla Mohammad**,
   No. 119, Galbokka Road, Weligama.

8. **Ahmad Khafy Muhammed**,
   No. 39/12D, Rubber Watta Road,
   Nedimala, Dehiwala.

9. **Ahmad Khafy Mohamed Athraf**,
   No. 55/ 20, Vagirajana Mawatha
   Korattuwa, Weligama

10. **M. Mohideen Cader**,
    No. 7, 36th Lane, Off Shady Grove Avenue,
    Castle Street, Colombo-8.

Respondents

AND NOW BETWEEN

Mohamed Usman Abubakkar,
45/ 9, Galbokke Road, Weligama

Petitioner-Petitioner

Vs.

1. **Zainul Abdeen Mohamed Faizal**,
   1A. **M. H. A. M. Riflan**,
   Acting Director,
   Muslim Mosques and Charitable Trusts,
   Department of Muslim Religious &
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   No. 180, T.B. Jayah Mawatha,
   Colombo 10.

Petitioner-Respondent-Respondent

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No. 7, 36th Lane, Off Shady Grove Avenue,
Castle Street, Colombo-8.

Respondent-Respondents

Before	:	**D. THOTAWATTA, J.** **K. M. S. DISSANAYAKE, J.**
Counsel	:	Saliya Pieris, PC with Anjana Rathnasiri and Ishan Jayasundara instructed by Eksith Madawela for the Petitioner-Petitioner. Yoosuff Nasar with M.N.M. Israth instructed by Dimuthu Jayawardena for the 2nd-5th for the Respondents. Suren Gnanaraj with Sandun Batagoda instructed by Shafena Maharoof for the 6th, 7th, 9th and 10th Respondents.
Written Submissions of the Petitioner -Petitioner tendered on	:	19.11.2025
Written Submissions of the 6th, 7th,9th and 10th Respondent -Respondents tendered on	:	19.11.2025
Written Submissions of the Petitioner- Respondent -Respondent and 2nd, 3rd, 4th, 5th and 8th Respondent -Respondents tendered on	:	Not tendered.
Decided on	:	19.12.2025

K. M. S. DISSANAYAKE, J.

Instant application in revision has been preferred to this Court by the Petitioner-Petitioner (hereinafter called and referred to as 'the Petitioner") seeking to revise and set aside the order dated 15.09.2025, made by the learned High Court Judge of the Southern Provincial High Court holden at Matara in an application in revision bearing No. 51/2024 in the exercise of the revisionary jurisdiction vested in him by Article 154P(3)(b) of the Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter called and referred to as 'the Constitution") to be read with Article 138 of the Constitution, a certified copy of which was annexed to the petition furnished to this Court by Petitioner marked as **X11** (hereinafter called and referred to as 'the HC order") whereby, he had dissolved the interim order previously issued by it staying the order of the learned Magistrate of Matara dated 04.04.2024, made by him in the case bearing No. 13569, a certified copy of which was annexed to the petition furnished to this Court by the Petitioner marked as **X1D** (hereinafter called and referred to as 'the MC order") whereby, he had acting under the powers vested in him by section 15A(3) of the Muslim Mosques and Charitable Trusts or Wakfs Act No. 51 of 1956 (as amended), directed Fiscal to deliver possession of/or handover such property as morefully, described in the first schedule to the application made to it by the Petitioner-Respondent under and in terms of section 15A(3) of the Act in his capacity as the Director Muslim Mosques and Charitable Trusts, Department of Muslim Religious and Cultural Affairs, to the trustees of the Buhari Mosque and Bari Madrasa of Galbokka, Weligama, named in the second schedule thereto.

When this matter came on before us on 22.10.2025 for support for notice, learned Counsel for the 6th, 7th, 9th and 10th Respondent-Respondents (hereinafter called and referred to as 'the 6th, 7th, 9th and 10th Respondents") raised a jurisdictional objection by way of a preliminary legal objection in relation to the maintainability of the instant application in revision on the premise that the Petitioner cannot invoke the revisionary jurisdiction of this Court against the HC order (**X11**) made by the learned High Court Judge of the Southern Province

holden at Matara in the exercise of the parallel or concurrent revisionary jurisdiction vested both in the Provincial High Court and in this Court as well. In support thereof, learned Counsel sought to rely on the recent decision of the Supreme Court in **SC/APPEAL No. 65/2025-decided on 10.10.2025**,

On the other hand, relying particularly, on the decision in **SC/APPEAL No. 111/2015-decided on 27.05.2020**, the Petitioner sought to resist the said jurisdictional objection on the premise that the revisionary jurisdiction vested in this Court is sufficiently, broad to empower it to revise any other made by an original Court.

Hence, the pivotal question that would arise for our consideration is whether this Court can exercise its revisionary jurisdiction in relation to an order made by the High Court of the Provinces established under Article 154P of the constitution enacted by the 13th Amendment thereto, in the exercise of its revisionary jurisdiction under and in terms of Article 154P(3)(b) of the Constitution to be read with Article 138 thereof.

Written submissions were filed by the parties as enumerated above on the jurisdictional objection in addition to the oral submissions made by the learned President's Counsel for the Petitioner.

Jurisdictional objection so raised by the 6th, 7th, 9th and 10th Respondents may now, be examined.

It is in this context, I would think it expedient at this juncture to examine the 13th Amendment to the extent it would be necessary for the resolution of the jurisdictional objection so raised to this Court.

Before the 13th Amendment, Article 138 of the Constitution reads thus;

> '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:"

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In the light of the Article 138 of the Constitution as it existed before the 13th Amendment, appellate and revisionary jurisdiction was solely, and exclusively, vested with the Court of Appeal (Vide-**Weragama v. Eksath Lanka Wathu Kamkam Samithiya and Others 1994[1] SLR 329**, at page 295).

After the 13th Amendment, Article 138 of the Constitution reads thus;

"(1)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:"

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Article 138 of the Constitution was amended by the Thirteenth Amendment to the constitution by the substitution for the words "**committed by any Court of First Instance**" of the words "**committed by the High Court in the exercise of its appellate or original jurisdiction or by any Court of First Instance**."[Emphasis is mine]

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(3)(b) of the Constitution enacted by the Thirteenth Amendment to the Constitution, reads thus;

"Every such High Court shall –

(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;" [Emphasis is mine]

Hence, Article 154P(3)(b) conferred upon the High Court so established under Article 154P(1) the appellate and revisionary jurisdiction in respect of convictions, sentences and orders entered or imposed by Magistrates Courts and Primary Courts within the Province **notwithstanding anything in Article 138 and subject to any law**. [Emphasis is mine]

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 and any law and it 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]

However, 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 High Court of the Provinces (Special Provisions) Act, No. 19 of 1990 (hereinafter called and referred to as '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 of the Constitution".

The Act also made provision for the appeals to be brought in before the Court of Appeal as well as the Supreme Court from the High Court. While section 9 of the Act provides for the appeals to Supreme Court from High Court, section 11 thereof provides for appeals to Court of Appeal from the High Court established under Article 154P of the Constitution.

Section 9 of the Act reads thus;

> "9. Subject to the provisions of this Act or any other law, any person aggrieved by
>
> (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 motu 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."

Section 11 of the Act 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 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."

Section 10 of the Act deals with the powers of the Supreme Court on appeal and it reads thus;

"(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 he 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."

Both the Sections 5 and 12 of the Act would in my opinion, be significantly, important for the proper resolution of the jurisdictional objection before us and therefore, it would for clarity and convenience, be useful to reproduce both of them *verbatim* the same as follows;

Section 5 of the Act makes provisions for the procedure for appealing to High Court so established under Article 154P(1) of the Constitution and it reads thus;

"The Provisions of written law applicable to appeals to the Court of Appeal, from convictions, sentences or orders entered or imposed by a Magistrate's Court, and to applications made to the Court of Appeal for revision of any such conviction, sentence or order shall, *mutatis mutandis*, apply to appeals to the High Court established by Article 154P of the Constitution for a Province, from convictions, sentences or orders entered or imposed by Magistrate's Courts, Primary Courts and Labour Tribunals within that Province and from orders made under section 5 or section 9 of the Agrarian Services Act, No. 58 of 1979, in respect of land situated within that Province and to applications made to such High Court, for revision of any such conviction, sentence or order."

Section 12 of the Act makes provisions where appeal or application in respect of same matter is filed in Court of Appeal and in High Court and it reads thus;

"(a) Where any appeal or application is field 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."

Upon a plain reading of Article 138 of the Constitution as amended, Article 154P(1), Article 154P(3)(b), and Article 154P(6) in conjunction with sections 5 and 12 of the Act, it 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 or parallel or coordinate appellate and revisionary jurisdiction on matters referred to in Article 154P(3)(b) of the

Constitution as quoted above that the Court of Appeal had solely, and exclusively, exercised before the Thirteenth Amendment to the Constitution.

In the result, I am of the view that the revisionary jurisdiction that was solely, and exclusively, vested with the Court of Appeal before the Thirteenth Amendment to the Constitution, 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 coordinately with the Court of Appeal.

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]

The question before Court in **Abeywardene vs. Ajith de Silva 1998[1] SLR 134- a bench of five judges of the Supreme Court** was **whether a direct appeal lies to this court from an order of the High Court in the exercise of its revisionary jurisdiction without first preferring an appeal to the Court of Appeal,** wherein, Supreme Court had on page 137, *inter-alia*, held that, "**After the 13th Amendment, section 5 of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990 read with Article 154P (3)(b) of the Constitution (enacted by the 13th Amendment) entitled him to file such application in the High Court of the province. The jurisdiction of the High Court in the matter is concurrent. In Re the 13th Amendment to the Constitution. In the result, he may file an application in the Court of Appeal or in the High Court**."[Emphasis is mine]

It was *inter-alia*, held by the Supreme Court in **Gunaratne v. Thambinayagam and Others 1993 [2] SLR 355** at pages 357 and 358, which was cited with approval by a bench of five judges of the Supreme Court in **Abeywardene vs. Ajith de Silva(Supra)**, that, "In each of these cases a dispute relating to land had been referred to a Magistrate (exercising the powers of the Primary Court) in terms of S. 66 (1) (b) of the Primary Courts Procedure Act No. 44 of 1979. After due inquiry, the Magistrate made his determination, the object of which is to maintain the status quo until final adjudication of the rights in a civil suit. S. 74 (2) of the Act provides that an appeal shall not lie against such determination.

Prior to the 13th Amendment to the Constitution, a party aggrieved with such a determination used to apply to the Court of Appeal to have it set aside by way of revision in the exercise of the power of that Court under Article 138 of the Constitution read with Article 154. S. 5 of the High Court of the Provinces (Special Provisions) Act, No. 19 of 1990 read with Article 154 P (3) (b) of the Constitution (enacted by the 13th Amendment) entitled him to file such application in the High Court of the Province. **The jurisdiction of the High Court in the matter is concurrent. In Re the Thirteenth Amendment to the Constitution. In the result, he may file his application in the Court of Appeal or in the High Court……S. 12 of Act No. 19 of 1990 makes provision for resolving some of the anomalies arising by reason of the provisions of Article 154P which vested new jurisdictions in the High Court, but concurrently with the existing jurisdiction of the Court of Appeal in the same sphere.**"[Emphasis is mine].

It was further held by Court in the decision in **Gunaratne v. Thambinayagam and Others** (Supra) at page 362 that, "(a) that in **the light of the concurrent jurisdiction of the Court of Appeal and the High Court which still exists, which fact is confirmed by S. 12 of Act No. 19/1990, the identical dispute may be decided by the Court of Appeal or by the High Court.** A decision in the High Court would permit two appeals whilst a decision in the Court of Appeal would permit one more appeal;"[Emphasis is mine]

It was *inter-alia,* held by Supreme Court in **Weragama v. Eksath Lanka Wathu Kamkam Samithiya and others** (Supra) at page 296 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."[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). That is the reason why I held (in Swastika Textile Industries Ltd. v. Dayaratne, that section 3 of the High Court of the Provinces (Special Provisions) Act, No. 19 of 1990, conferred concurrent, appellate and revisionary jurisdiction on the High Courts in respect of Labour Tribunals, and that thereafter section 31D3 of the Industrial Disputes Act, as amended by Act No. 32 of 1990, made that jurisdiction exclusive, thereby taking away the jurisdiction of the Court of Appeal in that respect).

It was *inter-alia*, held by the Supreme Court in **SC/Appeal/65/2025(Supra)** at page 32 that, "In this context, it would be legally impermissible and institutionally unsound for the Court of Appeal, in *pari materia*, to sit in appeal over judgments and orders pronounced by a Provincial High Court in the exercise of its appellate or revisionary jurisdiction. **A party cannot pursue successive appeals before two courts of coordinate jurisdiction in respect of the same matter. This strikes at the very root of the issue. Such a practice is inimical to legislative intent, imposes unnecessary burdens on the judicial system, and undermines the principle of finality in litigation. These considerations make clear that concurrent jurisdiction was intended to provide an alternative forum for appellate review, not to create an additional tier in the appellate hierarchy.**"[Emphasis is mine].

It was *inter-alia*, held by this Court in **Ramalingam Vs. Parameswary and Others 2000 [2] SLR 340** at pages 347 and 348 that, "It is to be noted that the power given under Article 138 of the Constitution to the Court of Appeal to hear

and determine applications in revision against orders made by Primary Courts was not in any way taken away by either the Thirteenth Amendment or Act No. 19 of 1990. **In effect both Courts were conferred concurrent jurisdiction in respect of these matters**……Further, the alleged equation of a Superior Appellate Court to the High Court of a Province need not be considered demeaning or debasing. **The whole purpose of the Thirteenth Amendment establishing a High Court in every province was to confer jurisdiction in respect of certain matters in the High Court granting it concurrent jurisdiction with the Court of Appeal. When concurrent or parallel jurisdiction is given by Law to two Courts the question of a superior and inferior Court would not arise. As far as the jurisdiction granted to the two Courts in certain matters goes, they are equal……**"[Emphasis is mine]

In **Sharif and Others Vs. Wickramasuriya and Others 2010 [1] SLR 255**, it was *inter-alia*, held by this Court at pages 265, 268 and 269 that, "**It is thus clear that both Courts enjoy concurrent jurisdiction on matters referred to in Article 154P (3)(b)**. **The jurisdiction enjoyed by the Court of Appeal had not been disturbed by Articles of the Constitution or by the Acts of Parliament…..Thus both Courts enjoy concurrent jurisdiction with regard to judgments and orders of the Magistrate/Primary Courts and District Courts**. **The powers enjoyed by the Court of Appeal had been given to the High Court of the Provinces to facilitate the litigants in the provinces and also to reduce the work load of the Court of Appeal**.".[Emphasis is mine]

In **Seylan Bank PLC v. Christobel Daniels (CA/PHC/APN/58/2014, CA Minutes of 14.12.2016)**, it was *inter-alia*, that "The structure of Article 138 would also prevent this Court exercising revisionary jurisdiction when the sole and exclusive jurisdiction has been vested in the Supreme Court. The revisionary jurisdiction is bestowed in the Court of Appeal thus in Article 138 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 which such High Court, Court of First Instance, tribunal or other

institution may have taken cognizance". It is crystal clear beyond any scintilla of doubt that the revisionary power of this Court lies only against orders made by such High Court, Court of First Instance, tribunal or other institution when they have taken cognizance of causes, suits, actions, prosecutions, matters and things. The words "such High Court, Court of First Instance, tribunal or other institution" must be read ejusdem generis and such collocation of words read together with the words causes, suits, actions, prosecutions, matters and things clearly indicates that these Courts exercise original jurisdiction. Only when the High Court of First Instance, tribunal or other institution has exercised original jurisdiction, revision lies to this court**. In other words, only when the High Court has exercised original jurisdiction, the revisionary jurisdiction of this Court can be invoked. In my view Article 138 intentionally suggests such a deliberate intendment of Parliament and when the High Court has sat in its appellate jurisdiction as has happened in this case, no revision lies to this Court.**" [Emphasis is mine]

It was *inter-alia*, held by this Court in **CA/MC/RE Application No. 04/2017- Decided on 08.06.2018** at page 5 that, "The petitioner had filed revision applications in Gampaha High Court seeking revision of the said orders made by the learned magistrate and the said high court has dismissed the applications. (Vide paragraph 8 of the petition). **It must be noted that high courts now exercised the same revisionary jurisdiction once this court exercised over magistrate courts. As he has filed revision applications on the same orders previously in the High Court of Gampaha he has exhausted his remedy.** His position is that his lawyers have not brought to the notice of High Court the facts averred in this petition. **A party to an action cannot be given a chance to have a second bite of the same cherry**. If this court allows this application it may create a bad precedent to allow a party who fails to present his case properly file another application." [Emphasis is mine]

In the decision in **SC/Appeal/65/2025**(Supra), the Supreme Court cited with approval the following observations of this Court made by it in the case in

Malwatta v. Softlogic Finance PLC and Others (CA/CPA/152/2022, CA Minutes of 31.08.2023). which *inter alia*, identified several practical difficulties that would arise if the Court of Appeal were permitted to review judgments and orders of the Provincial High Courts made in the exercise of their appellate jurisdiction. The said case concerned a party who, being dissatisfied with a judgment of the Provincial High Court of Civil Appeal delivered in the exercise of its revisionary jurisdiction, sought once again to invoke the revisionary jurisdiction of the Court of Appeal against the judgment of the Provincial High Court. **In practical terms, this amounted to two successive applications in revision being pursued in respect of the same judgment of the District Court, although the second application was formally directed against the judgment of the Provincial High Court as observed by the Supreme Court in the said case in SC/Appeal/65/2025(Supra).** [Emphasis is mine]

> "Moreover, if litigants are allowed to file a revision application in the Court of Appeal against a judgment or order given by the Provincial High Court exercising revisionary jurisdiction it would lead to unnecessary duplication of court proceedings. This could result in a revision application being filed in the Court of Appeal while an appeal is pending in the Supreme Court. It would also have the effect of the Court of Appeal being given an opportunity to overrule a judgment of the Supreme Court if the revision application is successful while the appeal to the Supreme Court is not, which is an unintended absurdity. is highly unlikely that Parliament or the legislative draftsmen intended to manifestly complicate the appeal process when the Provincial High Courts have been introduced to reduce and simplify the court process not to complicate it even further. According to the legal maxim 'Boni judicis est lites dirimere, ne lis ex lite oritur, et interest republicae ut sint fines litium', it is the duty of a good judge to prevent litigations, that suit may not grow out of suits, and it concerns the welfare of the State that an end be put to litigation. It would be contrary to the practice of a good judge to interpret statutes in a manner

that would give rise to unnecessary complications in the judicial process. I would also mention here that allowing an appeal or a revision application from a judgment or order from the Provincial High Court would also lead to, the Court of Appeal having revisionary jurisdiction over an instance where the Provincial High Court exercises its revisionary jurisdiction as is requested for in the instant case. In effect, the Court of Appeal would lie in revision of a revision application. Seeing as Revisionary jurisdiction is to be exercised in exceptional circumstances, allowing a revision application on a revision application would be conceptually contradictory to the spirit of a revision application. In the instant case, for example, this court is invited to lie in revision of a revision application filed in the Provincial High Court."

In my opinion, the cumulative effect of the provisions of Articles 138, 154P(3)(b), 154P(6) and sections 5 and 12 of the Act and of the authoritative and biding judicial precedent cited above, is that when the High Court established by Article 154P(1) of the Constitution (enacted by the Thirteenth Amendment to the Constitution) exercises revisionary jurisdiction, it exercises revisionary jurisdiction 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 revisionary 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.[Emphasis is mine]

The pertinent point to be noted here is that, the Petitioner sought to heavily, rely particularly, on the decision in **SC/APPEAL No. 111/2015**(Supra) in support of

the contention so advanced by him to resist the jurisdictional objection so raised by the 6th, 7th, 9th and 10th Respondents that the revisionary jurisdiction vested in this Court is sufficiently, broad to empower it to revise any other made by an original Court.

Then, the pertinent question is; What was the precise question of law that arose for consideration by the Supreme Court in the decision in **SC/APPEAL No. 111/2015**(Supra). It reads thus;

> "Having failed to exercise the right to file an appeal in terms of Section 9 of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990 as amended, could a person invoke the revisionary jurisdiction of the Court of Appeal referred to in Article 138 of the Constitution of the Republic of Sri Lanka in order to canvass a decision made by a Provincial High Court exercising its appellate powers?"

What then, was the question of law that arose for our consideration in the instant application? It is as follows;

> "Can the Petitioner invokes the revisionary jurisdiction of this Court against the HC order **(X11)** made by the learned High Court Judge of the Southern Province holden at Matara in the exercise of the parallel or concurrent revisionary jurisdiction vested both in the Provincial High Court and in this Court as well?."

Hence, it clearly, appears to me upon a careful scrutiny of the question of law arose before the Supreme Court and this Court, the question of law that arose for determination by this Court in the instant action is totally, different from the question of law that arose for determination by the Supreme Court in the decision in **SC/APPEAL No. 111/2015**(Supra) for; the question of law that arose for our determination in this case is; **Can the Petitioner invoke the revisionary jurisdiction of this Court against the HC order (P3) made by the learned High Court Judge of the Southern Province holden at Matara in the exercise**

of the parallel or concurrent revisionary jurisdiction vested both in the Provincial High Court and in this Court? whereas, the question of law that arose for determination by the Supreme Court in the decision in **SC/APPEAL No. 111/2015**(Supra) is; **Having failed to exercise the right to file an appeal in terms of Section 9 of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990 as amended, could a person invoke the revisionary jurisdiction of the Court of Appeal referred to in Article 138 of the Constitution of the Republic of Sri Lanka in order to canvass a decision made by a Provincial High Court exercising its appellate powers?.** [Emphasis is mine]

Hence, I would hold that the facts and circumstances of the case in **SC/APPEAL No. 111/2015**(Supra) can be clearly, distinguishable from the facts and circumstances of the instant application and therefore, the decision in **SC/APPEAL No. 111/2015**(Supra) has if I may say so with all due respect, no bearing on the resolution of the question of law that has arisen before us in the instant application for our consideration and determination.

A further reason for the above conclusion is manifest on an examination of the decision in **Abeywardene vs. Ajith de Silva** (Supra) which I think, I should deal with before I depart from this judgment and it may now, be examined.

It was emphatically, delineated by a bench of five judges of the Supreme Court in **Abeywardene vs. Ajith de Silva** (Supra) at page 139 that, "The cumulative effect of the provisions of Articles 154P (3)(b), 154P(6) and section 9 of Act No. 19 of 1990 is that, while there is a right of appeal to the Supreme Court from the orders, etc., of the High Court established by Article 154P of the Constitution in the exercise of the appellate jurisdiction vested in it by Article 154P (3) (b) or Section 3 of Act No. 19 of 1990 or any other law, there is no right of appeal to the Supreme Court from the orders in the exercise of the revisionary jurisdiction. An appeal from an order of the High Court in the exercise of its revisionary jurisdiction **should be** made to the Court of Appeal. An appeal to the Supreme

Court from the decision of the Court of Appeal would lie, with leave;" [Emphasis is mine]

It was further held by the bench of five judges of the Supreme Court in **Abeywardene vs. Ajith de Silva** (Supra) at page 140 that, "……a direct appeal does not lie to the Supreme Court from the order of the High Court in the exercise of the revisonary jurisdiction. An appeal from the order of the High Court in the exercise of its revisionary jurisdiction **should be** made to the Court of Appeal. Where a party is dissatisfied with the order of the Court of Appeal, the party may, with leave of the Court of Appeal or when such leave is refused by the Court of Appeal, with leave of the Supreme Court, appeal to the Supreme Court" [Emphasis is mine]

In the light of the principle enunciated by the bench of five judges of the Supreme Court in **Abeywardene vs. Ajith de Silva** (Supra), it is well settled that an appeal from the order of the High Court in the exercise of its revisionary jurisdiction **should be** made to the Court of Appeal.[Emphasis is mine]

It is in this backdrop of the case, let me now, briefly, set out the facts and circumstances as recited in the petition filed before this Court by the Petitioner, which according to him, led him to have preferred the instant application in revision to this Court

"The Petitioner is a member of Jamaat and a person in charge of the Buhari Mosque and Bari Madrasa of Galbokka, Weligama, a historic and sacred institution of worship and education, which has served the Muslim community for over a period of one hundred (100) years; and that traditionally, trustees of the said Mosque have been appointed from among the members of the village (Jamaat), in line with long-established custom with about 3,000 Muslim devotees in the village, the Mosque has historically been administered by the majority of them in accordance with this practice; and that on previous occasions, the Wakfs Board of Sri Lanka had appointed trustees for this Mosque, disregarding these

customs and however, due to the strong opposition of the majority of the villagers, such appointments remained ineffective and were confined only to paper; and that nevertheless, the 6th to 10th Respondent-Respondents have now been appointed on or about 20.09.2023 as trustees of the said Mosque by the Wakf Board, disregarding requests made to appoint trustees from among the members of the village (Jamaat); and that the Jamaat members of the said Mosque preferred an application to the Wakf Board challenging the said appointment of the 6th to 10th Respondent-Respondents in Case No.WB/9500/23, but the Wakf Board had refused to issue notice on the said Respondents and dismissed the said application on or about 06.03.2024; and that the appeal made to the Wakfs Tribunal against the said order was also dismissed in Case No. WT/301/2024 without fixing the said case for hearing, and an appeal is presently pending before this Court against the said dismissal in Case No.CA/Wakf/0002/2024; and that in terms of the provisions of the Wakf Act and Regulation No.7, upon receipt of an application, it is the statutory duty of the Secretary of the Wakf Board and/or Wakf Tribunal to assign a case number, fix the matter for inquiry, and cause service of summons upon the Respondents; and that however, in the said case Nos.WB/9500/23 and WT/301/2024, the Secretaries of the Wakf Board and the Wakf Tribunal had failed to discharge this statutory duty by not effecting service of notice upon the Respondents; and that the persons in charge of the Buhary Mosque and Bary Madrasa had received a notice from the Secretary of the Wakf Board in Case No. WB/9548/23, stating that the matter was fixed for answer before the Wakf Board on 13.12.2023 at 2:00 p.m., at the Department of Muslim Religious and Cultural Affairs; and that the persons in charge of the said Mosque and Madrasa had filed their Answer by way of a motion, however, the Wakf Board had refused to accept the said Answer and dismissed it, and made an order against the said persons without a fair hearing and fixing the matter for inquiry, on or about 06.03.2024; and that an appeal had thereafter, been preferred to the Wakfs Tribunal against the said order, but it was also dismissed in Case No. WT/302/2024 on 26.04.2025, and an appeal is presently pending before this Court against the

said dismissal; and that in the meantime, the Wakf Board had made an order on 06/03/2024 directing the Director of Muslim Mosques and Charitable Trusts to make an application and seek an order for the Fiscal to deliver possession of the property or to hand over the property to the trustees of the Mosque from the Magistrate where the Mosque is situated; and that the order of the learned Magistrate in the present application had been made based upon the said order of the Wakf Board dated 06/03/2024; and that an appeal has already been filed before the Wakf Tribunal, in terms of law, against the said order dated 06/03/2024 (Vide-**X, X-1** and **X-1A**) ; and that by a Petition dated 27/03/2023 and an Affidavit dated 27/03/2024, the Petitioner-Respondent had made an application to the Magistrate's Court of Matara in case No. 13569 under Section 15A of the Muslim Mosque and Charitable Trust or Wakf Act No. 51 of 1956, seeking, *inter alia*, an order directing the Fiscal to deliver possession of the land described in the First Schedule of the said Petition and Affidavit (namely, the Buhari Mosque and Bari Madrasa of Galbokka, Weligama) to the persons named in the Second Schedule thereof (namely, the 6th to 10th Respondent-Respondents) (Vide- **X-1B** and **X-1C**); and that the said application was supported *ex-parte* on 04/04/2024 and on the same day, the learned Magistrate delivered an order allowing the application of the Petitioner-Respondent (Director of Muslim Mosques and Charitable Trust or Wakfs) (Vide-**X-1D**); and that the Petitioner became aware of the existence of such an order of Court only upon observing the Fiscal's notice affixed on the wall of the Mosque referred to in this case, which stated that execution of the order would take place on 24/04/2024; and that thereafter, on 22/04/2024, the members of the said Mosque (Jamaat), had by way of a motion, made an application to the learned Magistrate to vacate the said ex-parte order, and along with the said motion, a copy of the order made by the Wakfs Tribunal on 20/04/2024 (**X-1E**), directing the learned Magistrate to stay proceedings in case No. 13569 until the final determination of the appeal pending before the Wakfs Tribunal, was also tendered, however, the learned Magistrate refused the application to vacate the said ex-parte order (**X-1F**); and that being aggrieved by the aforesaid orders of the learned Magistrate of Matara

dated 04/04/2024 and 22/04/2024, the Petitioner had sought to invoke the revisionary jurisdiction of the High Court of the Southern Province holden at Matara in case No. 51/2024 Revision on the exceptional circumstances set out in the Petition (**X-2**); and that the aforesaid revision application was supported on 24/04/2024, whereupon the Court had issued notice together with an order staying the impugned order for 14 days as prayed for in prayer (c) of the Petition, which has thereafter been extended from time to time (Vide-**X-3** and **X-4**); and that the Petitioner-Respondent and Respondent-Respondents had sought to set aside the stay order and accordingly, they had filed statement of objections and documents(Vide- **X-5**) and parties had thereafter, made lengthy oral submissions on 14/05/2024 and 14/06/2024, consequent to which the matter was fixed for order; and that those proceedings took place before the learned High Court Judge Thamara Tennakoon, who fixed the matter for order regarding the stay order, however, prior to the delivery of the said order, Hon. Thamara Tennakoon was transferred and no proceedings, save for the amendment of the caption of the matter, had taken place before the successor to Hon. Thamara Tennakoon, and even the written submissions of the Petitioner and the 6th to 10th Respondent-Respondents were filed before him however, Hon. A. M. N. P. Amarasinghe the successor to Hon. Thamara Tennakoon had delivered his order on 15/09/2025 (**X-11**), by which the order suspending the execution of the order of the learned Magistrate was vacated and the learned High Court Judge thereafter fixed the matter for objections on 31/10/2025; and that being aggrieved by the aforesaid order of the Judge of the Provincial High Court of the Southern Province holden at Matara dated 15/09/2025 at X-11, the Petitioner sought to invoke the revisionary jurisdiction of this Court."

Now, the pivotal question is; **Where did the jurisdiction of Court emanate from, to grant a stay order staying the operation of the order of the learned Magistrate of Matara(X1D) in the first instance, and subsequently, to dissolve the stay order previously, granted by the learned High Court Judge of Southern Province holden at Matara?** [Emphasis is mine]

A definite answer to this question can be found in Article 154P(3)(b) of the Constitution to be read with Article 138 thereof and sections 5 and 12 of the Act and they may be re-quoted for clarity and convenience as follows;

> "Every such High Court shall –
>
> (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;" [Emphasis is mine]

Section 5 of the Act reads thus;

> "The Provisions of written law applicable to appeals to the Court of Appeal, from convictions, sentences or orders entered or imposed by a Magistrate's Court, and to applications made to the Court of Appeal for revision of any such conviction, sentence or order shall, *mutatis mutandis*, apply to appeals to the High Court established by Article 154P of the Constitution for a Province, from convictions, sentences or orders entered or imposed by Magistrate's Courts, Primary Courts and Labour Tribunals within that Province and from orders made under section 5 or section 9 of the Agrarian Services Act, No. 58 of 1979, in respect of land situated within that Province and to applications made to such High Court, for revision of any such conviction, sentence or order."

Section 12 of the Act reads thus;

> "(a) Where any appeal or application is field 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."

Hence, it becomes abundantly, clear that the learned High Court Judge of Southern Province holden at Matara had directly, derived jurisdiction by the Article 154P(3)(b) of the Constitution to be read with Article 138 thereof and sections 5 and 12 of the Act to grant the stay order staying the operation of the order of the learned Magistrate of Matara(**X1D**) in the first instance, and subsequently, to dissolve the stay order previously, granted by the Court.

It thus, becomes manifestly, clear that the learned High Court Judge of Southern Province holden at Matara, had proceeded to grant the stay order staying the operation of the order of the learned Magistrate of Matara(**X1D**) in the first instance, and subsequently, to dissolve the stay order previously, granted by the Court in the exercise of the concurrent revisionary jurisdiction vested in it by Article 154P(3)(b) of the Constitution to be read with Article 138 thereof and sections 5 and 12 of the Act which this Court had exclusively, exercised before the enactment of the Article 154P(3)(b) pursuant to the 13th amendment to the constitution and which this Court can now, exercise concurrently by virtue of Article 154P(3)(b) of the Constitution to be read with Article 138 thereof and sections 5 and 12 of the Act.

Hence, the High Court of the Southern Province holden at Matara had exhausted the concurrent revisionary jurisdiction vested in it by Article 154P(3)(b) of the Constitution to be read with Article 138 thereof and sections 5 and 12 of the Act by granting the stay order staying the operation of the order of the learned Magistrate of Matara(**X1D**) in the first instance, and subsequently, by dissolving the stay order previously, granted by the Court and therefore, this Court cannot now, exercise the concurrent revisionary jurisdiction so vested in it to revise and set aside the order made by the learned High Court Judge of Southern Province holden at Matara(**X11**) dissolving the stay order previously, granted by the Court in the exercise of the concurrent revisionary jurisdiction vested in it by Article by Article 154P(3)(b) of the Constitution to be read with Article 138 thereof and sections 5 and 12 of the Act for; the High Court of the Southern Province holden at Matara had already, exercised the concurrent revisionary jurisdiction so vested in it in respect of the same matter as so arisen before the High Court of the Southern Province holden at Matara.

In view of the law set out above, I would hold that, the Petitioner cannot invoke the revisionary jurisdiction of this Court against the HC order (**X11**)made by the learned High Court Judge of the Southern Province holden at Matara in the exercise of concurrent or parallel revisionary jurisdiction vested in it by Article

154P(3)(b) to be read with Article 138 of the Constitution and sections 5 and 12 of the Act for; the Petitioner have already exhausted the remedy available by the law as enumerated above, and therefore, the Petitioner is now, debarred from invoking the concurrent or parallel revisionary jurisdiction of this Court against the said order of the learned High Court Judge of the Southern Province holden at Matara made in the exercise of concurrent or parallel jurisdiction.

In the result, I would hold that the jurisdictional objection so raised by the 6th, 7th, 9th and 10th Respondents with regard to the maintainability of the instant application in revision, is entitled to succeed in law.

I would thus, uphold the same.

It is to be observed upon a careful perusal of the averments in paragraph 21 of the petition of the Petitioner that even an appeal too, had been preferred to this Court by the Petitioner from the order sought to be revised and set aside by him in the instant application in revision. Under the circumstances, the principal objective intended to be achieved by the Petitioner by preferring the instant application in revision to this Court notwithstanding the aforesaid appeal appears to be, to obtain an interim order based on the sole premise that the said appeal is likely to take considerable time to dispose of, and the Petitioner would otherwise, suffer grave and irreparable injustice if the status quo of the matter to be altered pending the determination of the appeal. In response, I would think it pertinent to recall the very words of Samarakoon CJ, in **Ranasinghe Vs. Ceylon State Mortgage Bank-1981-[1]-SLR-121 at Page 127**,

> "I know of no law in Sri Lanka which states that the expeditious disposal of a case should guide a litigant in deciding the form in which and the Court in which his action should be filed. Nor does the law state that such considerations should guide a court in deciding whether it is to entertain an action or not. If prudence be the guide, then no doubt such

considerations will hold sway. The law does not however lay down such a condition."

In view of the foregoing, I would dismiss the instant application in revision *in-limine* with costs.

JUDGE OF THE COURT OF APPEAL

D. THOTAWATTA, J.

I agree.

JUDGE OF THE COURT OF APPEAL