

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

In the matter of an application for Revision
in terms of Article 138 of the Constitution
of the Democratic Socialist Republic of Sri
Lanka.

Court of Appeal Case No:
CPA/0025/25

Provincial High Court of
Gampaha Case No:
WP/PHC/WRIT 01/22

Lilanthi Kosala Percy Lawyer,

No. 350/5/2,
Kendaliyaddapaluwa,
Ganemulla.

PETITIONER

Vs.

1. A. D. P. I. Prasanna,

Commissioner of Local Government-
Western Province,
Department of Local Government (Western
Province),
No. 204, Denzel Kobbekaduwa Mawatha,
Battaramulla.

2. Ishara Jayasekara,

Assistant Commissioner of Local
Government (Gampaha District),
Office of Assistant Commissioner of Local
Government (Gampaha District),

Kachcheri Complex,
Gampaha.

3. Uthpala Amarakoon,

Provincial Director of Agriculture - Western
Province,
Provincial Department of Agriculture,
8th Floor, No. 204,
Provincial Council Complex,
Denzel Kobbekaduwa Mawatha,
Battaramulla.

4. M. D. S. A. Chandrasekara,

Deputy Director of Agriculture - Gampaha,
District Agriculture Extension Office,
Sri Bodhi Road,
Gampaha.

5. Mahara Pradeshiya Sabha,

Pahala Karagahamuna,
Kadawatha.

6. A. A. Sudeema Chandani,

Chairman,
Mahara Pradeshiya Sabha,
Pahala Karagahamuna,
Kadawatha.

7. D. A. Shriyani Ramyalatha,

Secretary,

Mahara Pradeshiya Sabha,
Pahala Karagahamuna,
Kadawatha.

- 8. Shanika Kishani Jayasinghe,**
No. 350/5,
Kendaliyaddapaluwa,
Ganemulla.

RESPONDENTS

AND NOW BETWEEN

Lilanthi Kosala Percy Lawyer,
No. 350/5/2,
Kendaliyaddapaluwa,
Ganemulla.

PETITIONER-PETITIONER

Vs.

- 1. A. D. P. I. Prasanna,**
Commissioner of Local Government -
Western Province,
Department of Local Government (Western
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No. 204, Denzel Kobbekaduwa Mawatha,
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Pahala Karagahamuna,
Kadawatha.

6. A. A. Sudeema Chandani,

Chairman,
Mahara Pradeshiya Sabha,

Pahala Karagahamuna,
Kadawatha.

6(a). Athula Kaluarachchi,

Chairman,
Mahara Pradeshiya Sabha,
Pahala Karagahamuna,
Kadawatha.

7. D. A. Shriyani Ramyalatha,

Secretary,
Mahara Pradeshiya Sabha,
Pahala Karagahamuna,
Kadawatha.

7(a). Manjula Samanthi,

Secretary,
Mahara Pradeshiya Sabha,
Pahala Karagahamuna,
Kadawatha.

8. Shanika Kishani Jayasinghe,

No. 350/5,
Kendaliyaddapaluwa,
Ganemulla.

RESPONDENTS-RESPONDENTS

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

Counsel : Geeth Karunaratne and Jagadeesha
Ranathunga for the Petitioner-Petitioner.

Dilantha Sampath instructed by N.
Wickremasinghe, SSA for the 1st-4th
Respondents.

Luwie Ganesathasan & H. Amanda for the
5th, 6 (A) & 7 (A) Respondents.

Erusha Kalidasa instructed by Anusha
Wickremasinghe for the 8th Respondent.

Argued on : 22.05.2026

Written Submissions
of the Petitioner-Petitioner
tendered on : 04.08.2026

Written Submissions
of the 5th, 6A and 7A
Respondents-Respondents
tendered on : 21.07.2026

Written Submissions
of the 1st to 4th and 8th
Respondents-Respondents
tendered on : Not tendered

Decided on : 16.10.2026

K. M. S. DISSANAYAKE, J.

Instant application in revision arises only from that part of the judgement dated 20.01.2025 (hereinafter called and referred to as “the HC Judgement”), made in the case bearing No. WP/PHC/WRIT/01/22, by the learned High Court Judge of the Western Province holden at Gampaha (hereinafter called and referred to as “the learned High Court Judge”) a certified copy of which has been annexed to the petition marked as ‘X1’, refusing to grant the Petitioner-Petitioner (hereinafter called and referred to as “the Petitioner”) a mandate in the nature of a writ of *mandamus* as prayed for in prayer ‘c’ of the petition of the Petitioner against the 5th, 6th and 7th Respondents-Respondents (hereinafter called and referred to as “the 5th, 6th and 7th Respondents”) directing all of them or any one or more of them to take steps under section 79 to 84 of the Pradeshiya Sabha Act No. 15 of 1987 as amended (hereinafter called and referred to as “the Pradeshiya Sabha Act”) for the removal of all the obstructions to the free flow of rain water caused due to the acts of the 8th Respondent-Respondent (hereinafter called and referred to as “the 8th Respondent”) including the gate and the concrete ramp built by her.

At the conclusion of the hearing of the instant application in revision, the learned State Counsel appearing for the 1st to 4th Respondents-Respondents (hereinafter called and referred to as “the 1st to 4th Respondents”) submitted to Court that, the 1st to 4th Respondents will abide by any decision that may be made by this Court and therefore, not filing written submissions.

One of the principal grounds urged in the respective statement of objections filed by the 5th, 6A and 7A Respondents-Respondents (hereinafter called and referred to as “the 5th, 6A and 7A Respondents”) and the 8th Respondent, as well as in the submissions oral and written made by the respective Counsel in opposition to the instant application in revision at the hearing of the instant application in

revision being the non-existence of exceptional circumstances necessitating this Court for the invocation of the extra-ordinary revisionary jurisdiction vested in it in revision of that part of the HC Judgement refusing to grant a mandate in the writ of *mandamus*, as enumerated above, and the other being the availability of alternative remedy by way of a statutory right of appeal therefrom, from the HC Judgement.

Since, the two grounds so urged by the 5th to 8th Respondents in opposition to the instant application in revision appear to me to go to the root of the instant application in revision, I would propose to deal with both of them together in the first place.

It is not in dispute that, that part of the HC Judgement now, sought to be revised and set aside in the instant application in revision is one made by the learned High Court Judge in the exercise of the writ jurisdiction vested in him by Article 154P(4)(b) of the Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter called and referred to as “the Constitution”).

It is in this context, it would I think, be pertinent to examine Article 154P(6) of the Constitution which reads thus;

“(6) subject to the provisions of the Constitution and any law, any person aggrieved by a final order, judgement 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.”

It would also, be pertinent to examine section 9(b) of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990 as amended (hereinafter called and referred to as “the Act”) which reads thus;

“(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.”

It is also not in dispute that, that part of the HC Judgement sought to be revised and set-aside in the instant application in revision, is a judgement within the meaning of Article 154P(6) of the Constitution as well as section 9(b) of the Act.

A careful reading of Article 154P(6) of the Constitution and section 9(b) of the Act makes it abundantly, clear that, both of those provisions expressly, provide for a statutory right of appeal to this Court from the HC Judgement sought to be revised and set-aside in the instant application in revision.

However, it is significant to observe that, the Petitioner had not availed herself of the statutory right of appeal from the HC judgement to this Court as provided for by Article 154P(6) of the Constitution and section 9(b) of the Act nor had she given in her petition filed before this Court any reason whatsoever, as to why she did not avail herself of the statutory right of appeal so granted to her by both the Article 154P(6) of the Constitution and section 9(b) of the Act from the HC Judgement now, sought to be revised and set-aside in the instant application in revision.

In view of the principal grounds so urged by the 5th, 6A, 7A and 8th Respondents in opposition to the instant application in revision as enumerated above, the pertinent question that would then, arise for our consideration and determination would be whether this extra-ordinary method of rectification would be available in case where a statutory right of appeal is available from a judgement sought to be revised and set aside; and if so, under what circumstances;

It may now, be examined.

The extra-ordinary revisionary jurisdiction had been exclusively, vested with the Court of Appeal before the enactment of the 13th Amendment to the Constitution of the Democratic Socialist Republic of Sri Lanka. However, after the enactment of the 13th Amendment to the Constitution, the revisionary jurisdiction is now, vested with the High Court of the Province concurrently, with the Court of Appeal.

After an exhaustive analysis of all the authorities on the question of availability of this extra-ordinary method of rectification in case where statutory right of appeal would lay, it was held in **Rustom vs. Hapangama & Company (1978-79) 2 SLR 225**, that “the powers by way of revision conferred on the Appellate Court are wide and can be exercised whether an appeal has been taken against an order of the original Court or not. **However, such powers would be exercised only in exceptional circumstances where an appeal lay and as to what such exceptional circumstances are dependent on the facts of each case**”.

[emphasis is mine]

Court in **Rustom vs. Hapangama & Co (Supra)** further observed in the following manner; “The trend of authority clearly, indicates that where the revisionary powers of the Court of Appeal are invoked, the practice has been that these powers will be exercised if there is an alternative remedy available, only if the existence of special circumstances are urged necessitating the indulgence of this Court to exercise its powers in revision.”

It was further observed by Court in the decision in **Rustom Vs. Hapangama & Company(Supra)** that, “This Court has the power to act in revision even though the appeal is available, in appropriate cases. The question which has now to be decided is whether the instant case is an appropriate case in which we should exercise our discretionary powers of revision. In his petition and affidavit the petitioner has not set out the reasons for his seeking this method of rectification of the order rather than the ordinary method of appeal. Nor has he set out any exceptional circumstances as to why we should grant him the indulgence of

exercising our revisionary powers when he could have appealed against the order with leave”.

It was held by Court in **Dharmaratne and Another Vs. Palm Paradise Cabanas Ltd and Others 2003 (3) SLR 24** at page 30 that “Thus, the existence of exceptional circumstances is the process by which the Court selects the cases in respect of which this extra-ordinary method of rectification should be adopted. If such a selection process is not there, revisionary jurisdiction of this Court will become a gateway for every litigant to make a second appeal in the grab of a revision application or to make an appeal in situations where the legislature has not given right of appeal. The practice of Court to insist on the existence of exceptional circumstances for the exercise of revisionary powers has taken deep root in our law and has got hardened into a rule which should not be lightly disturbed. The words used by the legislature do not indicate that it ever intended to interfere with this ‘rule of practice’.”

It was held in **Urban Development Authority vs. Ceylon Entertainments Ltd. and another reported in 2002 [B.L.R]** at page 66 that “the petitioner who invokes the revisionary jurisdiction of this Court should expressly set out the exceptional circumstances and an express pleading to that effect is a *sine quo non*, for this Court to consider the relief claimed by the petitioner. In the absence of an express plea, this Court would be precluded from considering the relief claimed in the application”.

In **Perera v. Muthalib 45 NLR 412** it was held that, “I would invite attention to the observations made by Wood-Renton J. in the King v. Nordeen. He said; I do not think that that power (i.e. , revisionary power) is at all limited to those cases in which either no appeal lies or for some reason or other an appeal has not been taken”, but he went on to add that this power would be exercised only when a strong case is made out “amounting to a positive miscarriage of justice in regard to either the law, or the judge’s appreciation of the facts. In the case I am dealing with I should have felt compelled to give relief solely on the ground that what

may well be said to be a failure of justice has been brought to the notice of this Court, and technical rules must make way for the granting of redress in such a case. There has been a violation of the fundamental rule of judicial procedure that a person sought to be affected by an order shall first be heard. But, in this instance there is yet another ground upon which this application for revision ought to be exercised and that is that the petitioner had no knowledge of the order made against him till the time for preferring an appeal had elapsed.”

In the case in **Attorney-General v. Podi Singho 51 NLR 385** it was held that, “even though the revisionary powers should not be exercised in cases when there is an appeal and was not taken, the revisionary powers should be exercised only in exceptional circumstances such as (a) miscarriage of justice (b) where a strong case for interference by the Supreme Court is made out or (c) where the applicant was unaware of the order.” Court also observes that “the Supreme Court in exercising its powers of revision is not hampered by technical rules of pleading and procedure.”

In **Bank of Ceylon vs Kaleel and others 2004 [1] SLR 284**, at page 287 it was stated that, “In the circumstances this Court will not interfere by way of revision when the law has given the plaintiff an alternate remedy and when the plaintiff has not shown the existence of exceptional circumstances warranting the exercise of revisionary jurisdiction. In any event, for this Court to exercise revisionary jurisdiction the order challenged must have occasioned a failure of justice and be manifestly erroneous which go beyond an error or defect or irregularity that an ordinary person would instantly react to it. In other words the order complained of is of such a nature which would have shocked the conscience of Court.”

In **Thilagaratnam Vs. E.A.P. Edirisingha 1982 [1] SLR, P56**, it was observed that “though the Appellate Courts' powers to act in revision were wide and would be exercised whether an appeal has been taken against the order of the original court or not, such powers would be exercised only in exceptional circumstances.

There were no exceptional circumstances in this case to justify the exercise of the Court's powers of revision.”

In **Caderamanpulle Vs. Ceylon Paper Sacks Ltd 2001 [3] SLR, P112**, it was held that “no exceptional circumstances are disclosed why his application for revisionary relief should be entertained after the lapse of nearly two years. The existence of exceptional circumstances is a pre-condition for the exercise of the powers of revision.”

The Supreme Court, in the case of **Rasheed Ali Vs. Mohamed Ali 1981 [1] SLR, P262**, 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..... The fact that a Judge's order is merely wrong is not a sufficient ground for exercising the powers of revision.”

The Supreme Court in **AG. Vs. Najimudeen-SC Appeal No. 62/2016-SC Minute of 13-03-2020** observed that, “the Defendant has had an alternative remedy available. In the instant case, what the Provincial High Court was called upon to exercise was its revisionary jurisdiction. The Defendant has not been successful in convincing Court that the grounds he had urged have any exceptional character which is sufficient to move Court to exercise its discretionary revisionary power. Thus, this Court has no reason to disagree with the conclusion of the Provincial High Court that there are no exceptional circumstances to invoke the revisionary jurisdiction of the Court. In these circumstances and for the foregoing reasons, the appeal is dismissed without costs.”

In **Geethani Nilushika Vs. Waruni Harshika-SC Appeal No. 93/2017-SC Minute of 18.06.2021** Court observed that; “Revision is a discretionary remedy. A party cannot invoke this extraordinary jurisdiction of the Appellate Court as of right. When a right of appeal is available against a Judgment or an Order, a party seeking to come before Court by way of revision shall explain in the petition why he did not exercise his right of appeal. In the revision application filed before the High Court there was no such explanation at all.”

In the case of **Seylan bank Vs. Thangaveil 2004 [2] SLR, 101** wherein Court held that, “no revision lies. The petitioner has not resorted to his statutory right of appeal with leave of court. He has not set out in his petition for revision any exceptional circumstances.”

See also; **Hotel Galaxy (Pvt) Ltd Vs. Mercantile Hotels Management Ltd. 1978 (1) SLR 05, Janita Vs. Abeysekara (Sri skantha Law Report Vol iv Page 22), Thilagaratnam Vs. Edirisinghe 1982 (1) SLR 56, Wijesinghe vs. Thamaratnam CA 120/80-CAM 14.10.1986, Ameen vs. Rasheed 38 NLR 288, Attorney General vs. Gunawardena [1996] 2 SLR 149, M. M. P. Fernando vs. S. M. Podi Menika and Others CA(PHC)APN 113/2010-CAM 02.12.2013 and Perera vs. Silva (1908) 4 ACR 79.**

In the light of the principle laid down by Court in the aforesaid decisions, an Appellate Court can exercise its extra-ordinary revisionary jurisdiction conferred on the Appellate Court **only and only, in exceptional circumstances, where an alternative remedy lay.** [emphasis is mine]

In view of the fact that, a statutory right of appeal would lie from the High Court Judgement sought to be revised and set aside in the instant application in revision as provided for by Article 154P(6) of the Constitution and section 9(a) of the Act, the pivotal question that would next, arise for our consideration and determination is whether the petition of the Petitioner filed before this Court along with the instant application in revision, has disclosed exceptional circumstances, warranting exercise of this extra-ordinary method of rectification

to revise and set aside the High Court Judgement for; in such instance, this Court can exercise its extra-ordinary revisionary jurisdiction conferred on it **only and only, in exceptional circumstances?** [emphasis is mine]

It may now, be examined.

The Petitioner in paragraph 58 of the petition plead that, the grounds and/or circumstances, set out in paragraph 58(a) to (e) thereof, would constitute exceptional circumstances warranting the exercise of its extra-ordinary revisionary jurisdiction of this Court vested in it by Article 138 of the Constitution in revision of that part of the HC Judgement as enumerated above, and they may be re-produced as follows;

“

- a) The learned High Court Judge has erred in law in dismissing prayer "C" to the Petition dated 30.12.2021 as the failure to remove the said obstructions caused due to the acts of the 8th Respondent is contrary to the public duty conferred on the 5th Respondent by the Pradeshiya Sabha Act No. 15 of 1987;
- b) The learned High Court Judge erred in law in dismissing prayer "C" to the Petition as the 5th Respondent is responsible for taking steps under Section 81 of the Pradeshiya Sabha Act No. 15 of 1987 to ensure the free flow of rainwater and it has the authority to take steps to remove any building erected over public drain, sewer, culvert, gutter or water course under and in terms of Section 84 of the said Act;
- c) The learned High Court Judge erred in law in dismissing prayer "C" to the Petition on the basis that there is an alternative remedy to the Petitioner through District Court action;

- d) The learned High Court Judge has failed to consider that the District Court does not have the jurisdiction to issue mandates in the nature of writ of mandamus compelling the 5th to 7th Respondents to take steps under s79 to s84 of the Pradeshiya Sabha Act No 15 of 1987 for the removal of obstructions to the free flow of rain water;
- e) The learned High Court Judge has failed to consider that the District Court does not have the jurisdiction to issue mandates in the nature of writ of mandamus compelling the 5th to 7th Respondents to execute their own decisions produced marked P-16, P-30 and P-34.”

However, upon a careful perusal of the circumstances so averred by the Petitioner in paragraph 58 (a) to (e) of her petition, it clearly, appears that, all of the circumstances so stated therein, may, simply, constitute nothing more than the grounds of appeal that may be fit to be urged in a statutory appeal from the that part of the HC Judgement for; none of the circumstances so averred shows that, that part of the HC Judgement sought to be revised and set aside in the instant application in revision as enumerated above, is palpably wrong; is patently, erroneous; is contrary to law; is *ex facie* wrong; is manifestly, unjust; causes serious prejudice to the Petitioner; causes a serious miscarriage of justice which Petitioner verily believe that, shock the conscience of this Court.

Hence, it clearly, appears that, the petition of the Petitioner does not disclose any exceptional circumstances, warranting this Court to exercise the extraordinary revisionary jurisdiction vested in this Court in revision of that part of the HC Judgement as enumerated above.

In the circumstances, I would hold that, the instant application in revision is not entitled to succeed both in fact and law as rightly, contended by the respective Counsel for the 5th, 6A, 7A and 8th Respondents.

Hence, I would hold that, the instant application in revision ought to be dismissed for want of exceptional circumstances in view of the availability of a statutory right of appeal therefrom, as enumerated above, and as rightly, contended by the respective Counsel for the 5th, 6A, 7A and 8th Respondents.

There is a further reason to which I think I should direct my judicial mind before I part with this judgement and It may now, be examined.

Upon a careful scrutiny of the HC Judgement in its totality, it becomes abundantly, clear that, learned High Court Judge had carefully, directed his judicial mind to the facts and the law governing an application for a mandate in the nature of a writ of *mandamus*, in the light of the action admittedly, instituted by the Petitioner and another against the 8th Respondent in the District Court seeking identical relief as prayed for in prayer ‘c’ of her petition filed in the High Court especially, in conjunction of the fact that, the major facts relating to the application for a mandate in the nature of a writ of *mandamus*, as prayed for in prayer ‘c’ of the petition of the Petitioner, are in dispute and that, such disputed facts can effectively, and finally, be resolved and determined by the District Court in the action initiated before it by the Petitioner against the 8th Respondent (*Vide*-paragraphs 5,6, 7 and 12 of the HC Judgement).

In the circumstances, the HC Judgement cannot in any manner, be categorized and/or regarded as being one that is palpably wrong; is patently, erroneous; is contrary to law; is *ex facie* wrong; is manifestly, unjust; causes serious prejudice to the Petitioner; causes a serious miscarriage of justice which Petitioner verily believe that, shock the conscience of this Court warranting this Court the exercise of the extra-ordinary revisionary jurisdiction vested in it in revision of that part of the HC Judgement as enumerate above.

I would therefore, hold that, the petition of the Petitioner have not in any manner, disclosed any exceptional circumstances warranting this Court to exercise the extra-ordinary revisionary jurisdiction vested in it in revision of that part of the

High Court Judgement as enumerated above, particularly, in view of the availability of an alternative remedy by way of a statutory right of appeal therefrom, to this Court, as enumerated above.

I would thus, hold that the grounds so urged by the respective Counsel in opposition to the instant application in revision, are entitled to succeed both in fact and law and as such they should be upheld.

In view of the foregoing, I would hold that, the instant application in revision is not entitled to succeed, both in fact and law and as such, it ought to be dismissed *in-limine* as rightly, contended by the respective Counsel for the 5th to 8th Respondents.

In the result, I would dismiss the instant application in revision with costs

JUDGE OF THE COURT OF APPEAL

D. THOTAWATTA, J.

I agree.

JUDGE OF THE COURT OF APPEAL