

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

In the matter of an Application for Revision
Under Article 138 of the Constitution.

Court of Appeal Case No:
CA/MIS/0002/26

High Court of Provinces
Appeal No:
Case No: 11/2025

D.C. Tangalle Case No:
SPL 328/20

Anke Schaffranek,

Peacock Garden, Unakuruwa,
Tangalle.

PLAINTIFF

-Vs-

Juwana Hennadige Dayasena,

Unakuruwa,
Tangalle.

DEFENDANT

In the matter of An Application under
Sec.55 of Judicature Act and Sec.792 read
with Sec.793 And 800 and other relevant
sections of Civil Procedure Code.

Juwana Hennadige Dayasena,

Unakuruwa,
Tangalle.

DEFENDANT-PETITIONER

-Vs-

Anke Schaffranek,

Peacock Garden,

Unakuruwa,

Tangalle.

PLAINTIFF-RESPONDENT

AND

Juwana Hennadige Dayasena,

Unakuruwa,

tangalle.

DEFENDANT-PETITIONER-APPELLANT

-Vs-

Anke Schaffranek,

Peacock Garden, Unakuruwa,

Tangalle.

PLAINTIFF-RESPONDENT-RESPONDENT

AND

Juwana Hennadige Dayasena,

Unakuruwa,

Tangalle.

DEFENDANT-PETITIONER-APPELLANT-
PETITIONER

-Vs-

Anke Schaffranek,
Peacock Garden, Unakuruwa,
Tangalle.

PLAINTIFF-RESPONDENT-
RESPONDENT-RESPONDENT

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

Counsel : Jacob Joseph for the Defendant-Petitioner-
Appellant-Petitioner.

J. M. Wijebandara with Dimithri Pandiwita
instructed by Randitha Jayasinghe for the
Plaintiff-Respondent-Respondent-
Respondent.

Written Submissions
of the Defendant-Petitioner-
Appellant-Petitioner
tendered on

: Not tendered.

Written Submissions
of the Plaintiff-Respondent
-Respondent-Respondent

tendered on : 03.09.2026

Decided on : 16.10.2026

K. M. S. DISSANAYAKE, J.

When this matter came on before us on 26.06.2026 for inquiry into the jurisdictional objections raised in her statement of objections by the Plaintiff-Respondent-Respondent-Respondent (hereinafter called and referred to as “the Respondent”) with regard to the maintainability of the instant application in revision on the premise that, instant application in revision is not properly, constituted for; the affidavit filed in support of the averments in the petition is bad in law for the reasons stated in paragraph 1.1 A, B, C, D and E of the statement of objections; and that the order sought to be revised and set aside in the instant application in revision is appealable under section 798 of the Civil Procedure Code and therefore, the Defendant-Petitioner-Appellant-Petitioner (hereinafter called and referred to as “the Petitioner”) has no right to invoke the extra-ordinary revisionary jurisdiction of this Court vested in it under Article 138 of the Constitution and as such the instant application in revision ought to be dismissed *in-limine* for want of jurisdiction; it was brought to the notice of this Court that, the Petitioner too, in his statement of counter objections had raised a preliminary objection to the statement of objections of the Respondent on the premise that, affidavit filed along with it in support of the averments contained therein, is bad in law for the reasons stated in paragraph 2 of the statement of counter objections and therefore, the statement of objections of the Respondent be dismissed *in-limine*. Hence, the matter was set down for order on the preliminary objections so raised by the respective parties for today.

However, upon careful perusal of the respective preliminary objections so raised by the Respondent as well as the Petitioner, we are of the view that the preliminary objections so raised by the respective parties can easily, conveniently, and expediently, be dealt with the substantive matter of the instant application in revision and therefore, it would in our opinion, be pertinent and advisable to deal with the respective preliminary objections together with the substantive matter of the instant application in revision on its merits and the matter is thus, set down for hearing into the substantive matter together with the respective preliminary objections so raised by the respective parties for; pleadings are now, completed.

Hence, the Registrar of this Court is directed to list this matter for argument in due course.

JUDGE OF THE COURT OF APPEAL

D. THOTAWATTA, J.

I agree.

JUDGE OF THE COURT OF APPEAL