

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

*In the matter of an application for mandates
in the nature of Writ of Mandamus in terms
of Article 140 of the Constitution of the
Democratic Socialist Republic of Sri Lanka.*

Application No. CA/WRT/0442/2024

Rev. Wattegama Dammawasa,
Mahanayaka Thero,
Udarata Amarapura Sasana Jothika
Parshawaya,
Peradeniya Sri Subod Rarama Maha
Viharaya,
Peradeniya.

PETITIONER

Vs.

R.M.P. Ratnayake,
Commissioner General of Buddhist Affairs,
Department of Buddhist Affairs,
No. 135, Dharmapala Mawatha,
Colombo 07.

RESPONDENT

AND NOW BETWEEN

1. Rev. Kiwulegedara Narada,
Anu Nayaka Thero,
Udarata Amarapura Maha Nikaya,
Sudarmaramaya,
Uthuwankanda Road, Thalawathugoda.
2. Rev. Nelumdande Wimalasara Thero,
Pradana Sanga Nayaka of Western Province,
Udarata Amarapura Maha Nikaya,
Wivekaramaya,
Gunathilaka Road, Wadduwa.
3. Rev. Dakunu Kabilie Wela Nanadaloa Thero,
Upa Pradana Sanga Nayaka of Western
Province,
Udarata Amarapura Maha Nikaya,

Siri Damminda Viharaya, Depanama,
Pannipitiya.

INTERVENIENT – PETITIONERS

Vs.

Rev. Wattegama Dammawasa,
Mahanayaka Thero,
Udarata Amarapura Sasana Jothika
Parshawaya,
Peradeniya Sri Subod Rarama Maha
Viharaya,
Peradeniya.

PETITIONER – RESPONDENT

R.M.P. Ratnayake,
Commissioner General of Buddhist Affairs,
Department of Buddhist Affairs,
No.135, Dharmapala Mawatha,
Colombo 07.

RESPONDENT – RESPONDENT

Before: Mayadunne Corea, J.
Mahen Gopallawa, J.

Counsel: Manohara de Silva, PC with Ms. Harithriya Kumarage instructed by Ms. Anusha Perusinghe for the Intervenant-Petitioner.
Lakshman Perera, PC with Irshika Ambalangodage instructed by Ms. Niluka Dissanayake for the Petitioner-Respondent.
Ms. Shemanthi Dunuwille, State Counsel for the Respondent-Respondent.

Written Submissions: Intervenant-Petitioner on 19.08.2026
Petitioner-Respondent on 30.08.2026

Decided on: 09.10.2026

Mahen Gopallawa, J.

Introduction

1st Intervenant Petitioner is the Anu Nayaka Thero of the "*Udarata Amarapura Maha Nikaya*," which is an accepted and/or enlisted chapter and/or Nikaya under the Sri Lanka Amarapura Maha Sanga Sabhawa. The 2nd and 3rd Intervenant Petitioners are respectively the Pradana Sanga Nayaka Thero and Upa Pradana Sanga Nayaka Thero of the Western Province of the said Nikaya/Chapter (hereinafter collectively referred to as "the Intervenant-Petitioners").

The Intervenant-Petitioners, by their intervention-petition dated 27.06.2025 have sought to intervene in the instant application in their individual capacity and on behalf of the "*Udarata Amarapura Maha Nikaya*," upon the basis that they are adversely affected by the several reliefs sought by the Petitioner-Respondent (hereinafter referred to as "the Petitioner") in the said application, and, as they are necessary parties. The Petitioner has objected to the intervention and filed his statement of objections dated 09.12.2025.

When the applications for intervention were taken up for inquiry on 17.06.2025, Counsel representing all parties moved Court to determine the issue of intervention on written submissions and such application was allowed. The learned State Counsel informed Court that the Respondent-Respondent (hereinafter referred to as "the Respondent") will not be objecting to the intervention. Accordingly, the Intervenant-Petitioners and the Petitioner have filed written submissions supporting and objecting to the intervention respectively.

Factual Background to the Substantive Application

In the petition filed before this Court, the Petitioner has identified himself as the Maha Nayaka Thero of the *Udarata Amarapura Sasana Jothika Parshawaya* and has impugned the failure and/or refusal and/or willful omission on the part of the Respondent, who is the Commissioner General of Buddhist Affairs, to duly register Upasampada and Samanera Declarations recommended for registration by the Petitioner. In summary the argument presented by the Petitioner is that, despite the Petitioner having complied with the provisions of section 41(1) and 41(2) of the Buddhist Temporalities Ordinance, No. 19 of 1931 (as amended) (hereinafter referred to as the "BTO" or "the Ordinance"), the Respondent is obliged to register such declarations in terms of section 41(3) of the said Ordinance. As such, the Petitioner contends that the conduct of the Respondent is ultra vires the powers vested in him under the said section 41(3) of the BTO.

Accordingly, the Petitioner has prayed for the following substantive relief in the petition;

- ii. *Issue a mandate in the nature of a Writ of Mandamus, compelling the Respondent to register the names of any of the Upasampada Bikkus and/or Samaneras of the Udarata Amarapura Sasana Jothika Parshawaya, in the respective registers meant for their registration, whenever such registration is requested by the Petitioner following*

due procedure, as provided in Section 41(3) of the Buddhist Temporalities Ordinance;

...

Consequent to notice being issued by this Court, the Respondent has filed a statement of objections dated 18.02.2025, objecting to the aforementioned relief sought by the Petitioner and seeking a dismissal of the application. The Petitioner filed his counter-objections on 10.03.2025 and the application was set down for argument. The application for intervention has been made whilst the substantive application has been pending for argument.

Whilst I do not intend to pre-judge the merits or otherwise of the case presented by the Petitioner in the substantive application herein; I wish to only refer to the statutory framework set out in section 41 of the BTO within which it has been presented. Such reference is necessary for purpose of determining the merits or otherwise of the intervention application.

Section 41 of the BTO, under the marginal note “*Register of bhikkhus*” provides as follows in sub-sections (1) to (5) thereof;

41. (1) (a) In respect of every person who is a bhikkhu at the date of the commencement of this Ordinance-

(i) if he is an upasampada bhikkhu he shall himself procure copies of form A in the Schedule and enter therein the details regarding himself for which space is there provided ; and

(ii) if he is a samanera the viharadhipati in whose temple he is resident shall procure copies of form B in the Schedule and enter therein the details regarding such samanera for which space is there provided.

(b) Within three months of the said date or in the case of an upasampada bhikkhu or a samanera who is then absent from Sri Lanka within three months of his return to Sri Lanka, the said upasampada bhikkhu and viharadhipati shall forward their respective forms in duplicate to the Commissioner of Buddhist Affairs.

2(a) In respect of every person who becomes a bhikkhu after the commencement of this Ordinance-

(i) if he becomes an upasampada bhikkhu he shall procure from the Commissioner of Buddhist Affairs copies of form A in the Schedule and enter therein the details regarding himself for which space is there provided; and

(ii) if he becomes a samanera the robing tutor shall procure copies of form B in the Schedule and enter therein the details regarding such samanera for which space is there provided.

(b) Within one month of such ordination or robing, as the case may be, the said upasampada bhikkhu and robing tutor shall forward their respective forms in duplicate to the Commissioner of Buddhist Affairs.

(3) The Commissioner of Buddhist Affairs shall on receiving the said forms in duplicate retain one copy of each for his own use and forward the other to the Mahanayaka Thera or Nayaka Thera of the nikaya mentioned therein, and it shall be the duty of both the Commissioner of Buddhist Affairs and the said Mahanayaka Thera or Nayaka Thera to file their respective copies of such forms and make registers thereof.

(4) Such registers of upasampada bhikkhus shall be distinct from such registers of samaneras, they shall be made into bound volumes of which the papers shall be numbered consecutively and they shall each be provided with an index.

(5) The Mahanayaka Thera or Nayaka Thera of every nikaya shall from time to time make all such corrections, additions or alterations in his registers as may be necessary to keep up to date his registers of upasampada bhikkhus and samaneras of his nikaya and the relevant details regarding them; and whenever he makes any such modification in his registers he shall forthwith convey that fact to the Commissioner of Buddhist Affairs who shall similarly modify the registers he is required to keep by this section.

(6) Such registers kept by the Commissioner of Buddhist Affairs shall for the purposes of this Ordinance be prima facie evidence of the facts contained therein in all courts and for all purposes; and subject to the prescribed regulations, every such register may be searched and examined by any person claiming to be interested therein, and certified copies of or extracts from such registers may be obtained on payment of the prescribed fee. (emphasis added)

The Intervention Application

The Interventient-Petitioners contend that section 41(3) of the BTO requires both the Commissioner of Buddhist Affairs (hereinafter referred to as “the Commissioner General”) and the Mahanayaka Thero or Nayaka Thero of the Nikaya to maintain separate registers for upasampada bhikkhus and samanera and to file copies of the declarations relating to upasampada bhikkhus and samaneras, and, when such declaration forms are received in duplicate, the Commissioner is required to forward one copy to the Mahanayaka Thera or Nayaka Thera of the relevant Nikaya. It is further observed that in terms of section 41(5) of the Ordinance, it is the Mahanayaka Thero or Nayaka Thero of a particular Nikaya who is empowered and obliged to time make all such corrections, additions or alterations to keep the registers of upasampada bhikkhus and samaneras of his Nikaya updated and to inform the Commissioner General of same. Thus, the Ordinance requires registers maintained by both the Commissioner General and the Mahanayaka Thero or Nayaka Thero of the Nikaya to be identical.

In such circumstances, the Interventient-Petitioners argue that, if the Petitioner wishes to compel the registration of upasampada bhikkhus and samaneras, both the Commissioner General as well as the Mahanayaka Thero are necessary parties in such application. However, Petitioner had named the Commissioner General as the sole Respondent but had failed to cite the Mahanayaka Thero of the *Udarata Amarapura Maha Nikaya*, which the Interventient-Petitioners claim is the relevant Nikaya.

Tracing the ecclesiastical history of the *Amarapura Maha Sangha Sabawa*, which is one of the three main Nikayas ("Tri Nikaya"), the Intervenant-Petitioners have pointed out that a constitution for the Nikaya (IP-1) was adopted unanimously on 21.11.1992 by assembled Maha Nayaka Theros of 21 recognized and/or enlisted chapters of the Nikaya. The Mahanayaka Thero of the *Udarata Amarapura Maha Nikaya* at the time (Ven. Kandegedara Sumanawansa Maha Nayaka Thero) had been a signatory to the said constitution (IP-1) and *Udarata Amarapura Nikaya* is a member and one of the recognized chapters thereof, as per Article 3.02 of the constitution. The said Article 3.02 provided as follows;

3.02. ශ්‍රී ලංකා අමරපුර මහා සංඝ සභාවේ කතිකාවත හා ව්‍යවස්ථා සංග්‍රහය පිළිගත් බවට අදාළ නිකායයේ මහානායක මාහිමි අත්සන් තැබීමෙන් එම නිකායට සාමාජිකත්වය හිමි වේ.

However, the Intervenant-Petitioners submit that the *Udarata Amarapura Sasana Jothika Parshawaya*, of which the Petitioner claims to be the Mahanayaka Thero, is neither a recognized nor enlisted chapter under the aforementioned the *Sri Lanka Amarapura Maha Sanga Sabawa*. According to them, the *Udarata Amarapura Sasana Jothika Parshawaya* is only a "Provincial Sanga Council" functioning under the *Udarata Amarapura Maha Nikaya*, to which the Intervenant-Petitioners belong.

In this context, the Intervenant-Petitioners have also adverted to the fact the Petitioner has failed to provide any documentary evidence to establish that the *Udarata Amarapura Sasana Jothika Parshawaya* has been formed or constituted under the *Sri Lanka Amarapura Maha Sanga Sabawa*.

They further submit that the said the *Udarata Amarapura Sasana Jothika Parshawaya* also cannot obtain membership or recognition as a chapter of the *Amarapura Maha Sanga Sabawa* by virtue of Article 3.04 of the aforementioned constitution. Article No. 3.04 of the constitution (IP-1) reads as follows;

3.04. අමරපුර නමින් අළුතින් නිකාය බිහිවීම මෙම සංඝ සභාව අනුමත නොකරන බැවින්, අලුතින් බිහිවන නිකායයන්ට මෙම මහා සංඝ සභාවේ සාමාජිකත්වය හිමි නොවේ.

According to the Intervenant-Petitioners, the Commissioner General of Department of Buddhist Affairs is not empowered to recognize new chapters and/or Nikayas and can only register a declaration if it has been signed by the Maha Nayaka Thero of the recognized Nikaya.

Referring to the Petitioner's *Upasampada Declaration* (R3) filed with the objections of the Respondent, the Intervenant-Petitioners have also pointed out that the Petitioner himself had obtained higher ordination (upasampada) from the *Udarata Amarapura Maha Nikaya*. Thus, they contend that the Petitioner himself belongs to *Udarata Amarapura Maha Nikaya* and not to the *Udarata Amarapura Sasana Jothika Parshawaya*.

It is evident from the foregoing that the Intervenant-Petitioners have directly challenged the status of the *Udarata Amarapura Sasana Jothika Parshawaya* as a distinct chapter or Nikaya under the *Sri Lanka Amarapura Maha Sanga Sabawa* as well as the entitlement of the Petitioner to represent himself as the Mahanayaka Thero of a Nikaya and to submit upasampada and

samanera declarations for registration to the Respondent. In other words, the Intervenant-Petitioners have assailed the *locus standi* of the Petitioner to have and maintain the substantive application and to obtain the relief prayed therein.

Therefore, the position of the Intervenant Petitioners is that they possess “sufficient interest” to be heard and are “necessary parties” for the proper and final adjudication of the instant application.

Objections of the Petitioner to the Intervention Application

The objections raised by the Petitioner to the application for intervention, as contained in the statement of objections to the intervention and written submissions, could be summarized as follows.

Responding to the constitution of the *Amarapura Maha Sangha Sabawa* (IP-1), the Petitioner has pointed out that the said constitution is outdated and has submitted the amended constitution currently in effect with his objections marked P-01/P-05.¹ The said amended constitution is dated 08.06.2018, *inter alia*, refers to the 1992 constitution and seeks to make certain amendments thereto. However, a perusal of the said amended constitution (P-01/P-05), discloses that the aforementioned Articles 3.02 and 3.04 of the 1992 Constitution remains unamended and intact. Furthermore, the said amended constitution also contains a list of the 22 chapters having membership of the *Sri Lanka Amarapura Maha Sanga Sabawa*, and whilst the *Udarata Amarapura Chapter* (item 7) to which the Intervenant-Petitioners belong is included in the said list, the Petitioner’s *Udarata Amarapura Sasana Jothika Parshawaya* is not included therein. Thus, the said amended constitution appears to confirm the structure of the *Amarapura Maha Sangha Sabawa* and the status of the Intervenant-Petitioners therein, as well as the Petitioner’s knowledge of such matters.

The Petitioner has also taken up the position that the *Udarata Amarapura Sasana Jothika Parshawaya* is an independent parshawaya (sect) which “has not recognized and subscribed to the whimsical Constitution of the *Udarata Amarapura Maha Nikaya* or the *Sri Lanka Amarapura Maha Sangha Sabawa*.”² Whilst I do not intend to pre-judge matters or to enter into an ecclesiastical debate, such position taken up by the Petitioner nevertheless raises several fundamental issues; firstly, whether a “parshawaya” (sect) can have an existence independent of a “Nikaya”; secondly, whether, in such circumstances, the Petitioner is entitled to use any association to the “Amarapura” Nikaya or to represent himself as a “Mahanayaka Thero;” and thirdly and perhaps most importantly, how such circumstances impact the obligations of the Commissioner General of Buddhist Affairs under section 41(3) of the BTO; Since the Petitioner and the Intervenant-Petitioners have taken divergent positions on such matters, I am of the view that the participation of the Intervenant-Petitioners would assist the Court to arrive at an informed decision on the factual position in this application.

¹ It is noted that, whilst pages 21-24 and the back cover page of the said document is marked P-01, the cover page and pages 1-20 are marked P-05.

² vide paragraph 8(c) of the Petitioner’s statement of objections to the intervention application.

It is pertinent to note that, whilst the Petitioner claims that he and the *Udarata Amarapura Sasana Jothika Parshawaya* are not “a break away or splinter group” but has been an independent sect for over 100 years, the Petitioner himself has admitted that he had received higher ordination under a robing tutor of the *Udarata Amarapura Maha Nikaya*.³ The Intervenant-Petitioners have contested such fact as a deliberate misrepresentation, pointing out the fact that the Petitioner had failed to produce even a upasampada declaration from such sect that even goes back at least 30 years.

The Petitioner has also sought to object to the intervention application upon the basis that the issue raised in the substantive application has already been conclusively determined by this Court in CA Writ Application No. 300/2020, wherein in its judgment dated 29.11.2023 (P10), the Court held that the Commissioner-General possesses no discretion in respect of registration of upasampada and samanera declarations. He submits that the instant application has been instituted to seek the implementation of the said judgment (P10) and in furtherance thereof. The Petitioner has stated that a document marked R1 written by the Mahanayaka Thero of the *Udarata Amarapura Nikaya* to the Commissioner General of Buddhist Affairs claiming that the *Sasana Jothika Parshawaya* (the petitioners) were a part of the *Udarata Amarapura Nikaya* was not accepted by the Court in the said judgment. Thus, the Petitioner claims that the rights as between the Petitioners and the Intervenant-Petitioners have already been determined in such judgment and the matter is *res judicata* between parties. He further alleges that the intervention application is an indirect mechanism to reopen matters which have already been adjudicated by this Court in the aforementioned application, which is also futile.

The Petitioner submits that the judgment in the aforementioned CA Writ Application No. 300/2020 operates as *res judicata* between parties in view of section 207 of the Civil Procedure Code (CPC). As submitted by the Petitioner, the roots of the doctrine of *res judicata* can be traced to Roman Law and are founded upon the two maxims *nemo debet bis vexari pro una et eadem causa* to the effect that “no person ought to be harassed twice on the same matter” and *interest rei publicae ut sit finis litium* to the effect that “it is in the interest of the State that there should be an end to litigation.”

Whilst it is doubtful that a plea of *res judicata* may even be taken by the Petitioner against the Respondent, I am of the view that such a plea cannot be taken against the Intervenant-Petitioners since they were neither parties to CA Writ Application No. 300/2000 nor were they represented in interest. I am of the view that the objections based on *estoppel* and *laches* raised against the Intervenant-Petitioners by the Petitioner based on the said judgment too are misconceived for the same reason.

Legal Parameters for Intervention in Writ Applications

The authorities cited and relied upon by the parties in their written submissions reflect the divergence in the approaches adopted by the Superior Courts in dealing with interventions in writ applications. The two discernible approaches have been identified as the “strict approach” and “lenient approach” by His Lordship Sampath Wijeratne, J. in **Lakshman**

³ Ibi.

Nanayakkara v. Land Reform Commission and another,⁴ wherein the leading authorities on both approaches have been meticulously identified and analyzed.

I also had occasion to consider such issue in **Ven. Thiniyawala Palitha Thero v. Secretary, Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government and others**⁵ and I have expressed my view in the following terms;

*Upon consideration of the aforementioned decisions, I am of the view that neither the absence of specific Rules of Court permitting intervention nor the apprehension of “floodgates being opened” can be considered any longer as immutable barriers that preclude this Court from considering the application for intervention made by the Intervenant-Petitioners. I am further in agreement with the view expressed in **Lakshman Nanayakkara’s case (supra)** that allowing interventions is a matter of fact in each case, and that, if the Intervenant-Petitioners are able to demonstrate that they have “sufficient interest” in the outcome of the writ application, their intervention should be permitted.*⁶

I continue to hold the view expressed in the above case on the issue of intervention in writ applications.

In the instant case, it is re-iterated that the Intervenant-Petitioners have directly challenged the status of the *Udarata Amarapura Sasana Jothika Parshawaya* as a distinct chapter or Nikaya under the *Sri Lanka Amarapura Maha Sanga Sabawa* as well as the entitlement of the Petitioner to represent himself as the Mahanayaka Thero of a Nikaya and to submit upasampada and samanera declarations for registration to the Respondent or in other words, the *locus standi* of the Petitioner to have and maintain the substantive application and to obtain the relief prayed therein. Thus, I am of the view that, if the relief sought by the Petitioner in the instant application is granted without affording an opportunity for the Intervenant-Petitioners to be heard, their rights and those of the *Sri Lanka Amarapura Maha Sanga Sabawa* which they represent would be directly and adversely affected.

In their written submissions, the Intervenant-Petitioners have adverted to the decision of this Court in **Rev. Beligalle Jinawansa Maha Nahimi and others v. Commissioner General of Buddhist Affairs**,⁷ wherein a writ of *Mandamus* was sought to direct the Commissioner General of Buddhist Affairs to register declarations submitted under section 41 of the BTO by the Nikaya/Chapter by the name *Amarapura Siri Saddammawansa Dheerananda Sanga Sabawa*, the Court observed as follows (per Shiran Gooneratne, J.);

The Respondent by letter dated 07/11/2013, marked R4, has informed the Petitioners concerns to the Mahanayake Thero of the Amarapura Sanga Sabawa and sought counsel

⁴ CA Writ Application No. 444/2020, decided on 28.06.2023.

⁵ CA Writ Application No. 604/2024, decided on 26.09.2025.

⁶ vide p 13.

⁷ CA Writ Application No. 67/2015, decided on 04.12.2017. The Special Leave to Appeal Application No.SC/SPL/LA/198/2018, which was filed in respect of the said judgment of Court of Appeal was dismissed by the Supreme Court.

regarding the application to register a new chapter in the name of the said Sanga Sabawa. Thereafter, by letter dated 12/11/2013, marked R5, the Mahanayake Thero of the Amarapura Maha Sanga Sabawa, for reasons stated, informed the Petitioner, that it would not be appropriate to grant the registration sought by the said Sanga Sabawa. Accordingly, the Respondent has communicated the said decision by the impugned letter marked P5, to the Petitioners. It is observed that the decision not to grant the Sanga Sabawa of the required registration as a chapter/ Nikaya was made in consideration of the observations submitted by the Mahanayake Thero of the Amarapura Maha Sanga Sabawa.

In the circumstances, the question arises, as a party affected by the outcome of this writ application, shouldn't the Maha Nayake Thero of the Amarapura Nikaya made a Respondent to the Petition. The Respondent in his statement of objections has made reference to the Petitioners of directly violating the rights of the Sri Lanka Amarapura Sanga Sabawa, and the Petitioners failure to produce vital material documents to establish their claim for registration in terms of clause 5.00 of the Amended Constitution produced marked, R2.

In the case of **Wijeratne Vs. Ven. Dr. Paragoda Wimalawansa Thero and others**, (2011) 2 SLR 258, the Supreme Court considered the effect of necessary parties to an application, where the court held, that;

"those who would be affected by the outcome o/the writ application should be made respondents to the application"

As noted earlier, the said Sanga Sabawa, by letter dated 09/10/2013, marked R3, has made an application to be registered as a new chapter which is formed within and submits to the authority of the Amarapura Maha Sanga Sabawa. For reasons stated in letter dated 12/11/2013, marked R5, the said declarations have been rejected to be registered by the said Amarapura Maha Sanga Sabawa, a party which is not before court. ***In the circumstances, the Amarapura Maha Sanga Sabawa is a necessary party and should be made a Respondent to this Petition, failure to do so, is fatal to the validity of this Petition.***

In the circumstances, the Petition is dismissed without costs. (emphasis added)

It is observed that the factual circumstances and the legal issue determined in the aforementioned case are strikingly similar, if not identical, to the instant application, and, as such, I intend to be guided by the reasoning in the above case. It is also observed that the aforementioned judgment has not been considered in the judgment of this Court in CA Writ Application No. 300/2020 (P10).

Conclusion and Orders of Court

For the reasons set out above, I hold that the Intervenant Petitioners have been successful in establishing that they have “sufficient interest” to intervene in the instant application. Thus, I allow the intervention application made by the 1st to 3rd Intervenant-Petitioners and direct the Petitioner-Respondent to add them as 2nd to 4th Respondents to the instant application. I further direct the Petitioner-Respondent to issue formal notices on them within 02 weeks of the date hereof. The notice returnable date will be fixed in open Court. No costs.

Application for Intervention is allowed.

Judge of the Court of Appeal

Mayadunne Corea J.

I agree.

Judge of the Court of Appeal