

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

In the matter of an application under and in terms of Article 105 (3) of the constitution of the Democratic Socialist Republic of Sri Lanka, read with section 6(3) of the Contempt of a Court, Tribunal or Institution Act, No. 8 of 2024.

C.A. (Contempt) Application No :
COC 37/25

Anuradhapura High Court Case No:
NCP/PHC/ANP/RV/65/2023

Anuradhapura Magistrate Court Case
No: **84041**

1. Rathnayaka Arachchilage Priyankara Pradeep
Rathnayaka
Kaluvila North,
5 Ela,
Hidogama.
2. Hapuarachchilage Rupika Umayanganee
Kaluvila North,
5 Ela,
Hidogama.

COMPLAINANTS

Vs.

1. Rathnayaka Mudiyanseelage Gamini Nissanka
Rathnayaka
No. 168/09/04,
Brandia Watte,
Wellampitiya.
2. Rathnayaka Arachchilage Pradeep Lakshman
Rathnayaka
Kaluvila North,

5 Ela,
Hidogama.

RESPONDENTS

Before : **Hon. Rohantha Abeysuriya PC, J.(P/CA)**
: **Hon. K. Priyantha Fernando, J. (CA)**

Counsel : Pramod Perera with Hiruni De Almeida instructed by
Thushari Jayawardena for the Complainants.

Dilan Kuragodage for the 1st and 2nd Respondents.

Written Submissions on : 26.06.2026 for the 2nd Respondent.
01.07.2026 for the Complainants.

Supported on : 05.03.2026

Decided on : 27.07.2026

K. Priyantha Fernando, J. (CA)

1. The instant matter was filed in relation to the alleged acts of contempt committed by the 1st and 2nd Respondents against both the Primary Court and the High Court of Anuradhapura. The Complainants being husband and wife were occupying the premises in dispute since on or about 28.04.2017 based on an agreement to purchase. The premises was then purchased and title was transferred via Transfer Deed. Additionally, the Complainants contended that they have been cultivating the land continuously since the date occupation began.
2. The Complainants submitted that on or around 19.01.2023 the 1st and 2nd Respondents forcibly entered into the premises and threatened the 1st Complainant and their labourers, following

which they forcibly re-entered and dispossessed the Complainants on 23.02.2023. The Complainants then filed a case (no. 84041) in the Magistrate's Court of Anuradhapura in which Order was delivered directing that the Complainants be restored with possession of the said property. The Respondents then preferred a Revision application in the High Court of Anuradhapura which was subsequently dismissed. The Complainants contended that the Respondents **then under the pretext of an appeal and purported Deeds of Declaration and Transfer refused to follow the Order and Judgment delivered in the Primary Court of Anuradhapura.**

3. The Respondents argued that they own a larger land, within which the Complainant's land is situated in and have been in such possession for over 30 years. Moreover, the Respondents stated that following the Order delivered in the Magistrate Court and dismissal of the Revision Application filed by the Respondents, an appeal bearing No. CA/PHC/0057/2025 was filed by them in this Court but has not yet been listed for hearing.
4. The Complainants, as legal argumentation put forth that the Respondents have committed contemptuous acts against both the Magistrate and High Court and that the Court being vested with jurisdiction under Article 105(3) of the Constitution and the Contempt of a Court, Tribunal or Institution Act No. 08 of 2024 is the most suitable forum for this application.
5. The primary argument of the Complainants is that it would be **impossible to institute contempt proceedings in either the Primary Court or High Court of Anuradhapura as both the case briefs are currently in this Court due to the appeal preferred** by the Respondents. The Complainants contend that upon transfer of the case record, there is a divesture of jurisdiction. In order to support this argument, the Complainants relied on the cases of *The King v Samarawira* (1917) 19 NLR 433 and *Re R. C. O. De la Motte* (1959) 61 NLR 121.
6. Furthermore, the Complainants contended that since the contemptuous acts are against several courts, the most efficient method of determination would be to have the Court of Appeal adjudicate this matter so as to avoid multiplicity of proceedings.
7. In response to the arguments made by the Complainants, the Respondents stated that this contempt application is not maintainable before this Court as the contemptuous acts have been

committed against the lower courts (Magistrate and High Court) and not the Court of Appeal). In support of the argument the Respondents cited the cases of Upul Jayasuriya v Senarath Pathirannahelage Ratna Prabath Senanayake CA/COC/0006/2021 decided on 21.03.2023 and Metthananda v Kushan Fernando [2006] 1 Sri L. R. 290.

EVALUATION OF FACTS AND LAW:

8. It is apparent that the present contempt application is directed at alleged contempt of lower court orders, not a contempt of an order of the Court of Appeal. The jurisdiction of the Court of Appeal under Article 105(3) of the Constitution is wide, which empowers the Court of Appeal to punish for contempt of itself, and also, in appropriate circumstances, for contempt of other courts, tribunals, or institutions.

“The Supreme Court of the Republic of Sri Lanka shall each be a superior court of record and shall have all the powers of such court including the power to punish for contempt of itself, whether committed in the court itself or elsewhere, with imprisonment or fine or both as the court may deem fit. The power of the Court of Appeal shall include the power to punish for contempt of any other court, tribunal, or institution referred to in paragraph (1)(c) of this Article, whether committed in the presence of such court or elsewhere: Provided that the preceding provision of this Article shall not prejudice or affect the rights now or hereafter vested by any law in such other court, tribunal or institution to punish for contempt of itself”.

9. The Article 105(3) is not an automatic license for every contempt complaint to be filed in the Court of Appeal regardless of the forum whose authority is directly in issue. The constitutional provision itself expressly preserves the rights vested by law in other courts to punish contempt of themselves. This position is reinforced by the Contempt of a Court, Tribunal or Institution Act No. 8 of 2024.
10. Section 11 of the Act expressly contemplates that where a Court of First Instance takes cognizance of contempt committed against. Or in disrespect of, its authority, that court shall hear and determine the matter.

“11. (1) Where a Court of First Instance takes cognizance of contempt of court committed against, or in disrespect of the authority of, such Court of First Instance, such Court of First Instance shall, subject to the provisions of subsection (2) and (3), hear and determine such matter in accordance with the procedure set out in Chapter LXV of the Civil Procedure Code”.

11. Similarly, Section 55 of the Judicature Act provides Magistrates’ Courts, Small Claims Courts, and District Courts jurisdiction to punish contempt committed in their presence or in the course of their proceedings. Said provision further reflects the intention of the legislature that where there is contempt arising from lower-court proceedings, it shall be dealt with by the said court for the purpose of maintaining proper authority and efficiency.

“55. (1) Every District Court, Small Claims Court and Magistrates’ Court shall, for the purpose of maintaining its proper authority and efficiency, have a special jurisdiction to take cognizance of, and to punish with the penalties in that behalf as hereinafter provided, every offence of contempt of court committed in the presence of the court itself and all offences which are committed in the course of any act or proceeding in the said courts respectively, and which are declared by any law for the time being in force to be punishable as contempt of court.

(2) The following sentences of fine or imprisonment as the case may be, may be imposed on conviction for contempt by the following courts respectively, namely-

(a) By a District Court fine not exceeding two thousand five hundred rupees or imprisonment;

(b) By the Small Claims Court and the Magistrates’ Court fine exceeding one thousand five hundred rupees or imprisonment either simple or rigorous for a period not exceeding eighteen months.”

12. In similar fashion, Section 18 of the Judicature Act provides High Court, the jurisdiction to punish contempt committed against or in disrespect of its authority.

“18. The High Court shall have power and authority to take cognizance of and try in a summary manner any offence of contempt committed against or in disrespect of its authority, and on conviction to commit the offender to jail for a period not exceeding

five years. Such imprisonment shall be simple or rigorous as the court shall direct and the offender may, in addition thereto, or in lieu thereof, in the discretion of the court be sentenced to pay a fine not exceeding five thousand rupees”.

13. Since the entirety of the contempt pleaded by the Complainants relates to orders of the Primary Court of Anuradhapura and the High Court of the North central Province holden in Anuradhapura, the contempt proceedings can be instituted either before the said Primary Court of Anuradhapura or the High Court of the North Central Province holden in Anuradhapura.
14. Furthermore, the question of whether contempt has occurred cannot be detached from the factual history of the proceedings after the delivery of the order by the Learned Magistrate, i.e. purported possession by the Complainant, obtaining of the stay order from the High Court by the Respondents, purported repossession by the respondents thereafter, proceedings after the delivery of the order by the Learned High Court Judge and the identity of the land possessed by the respondents.
15. The Complainants’ themselves revealed in their Petition that the Respondents have preferred an appeal to this Court (different division) bearing no. CA(PHC) 57/2025 which has not been listed.
16. **The Complainants have argued that,**

(1) Where contempt is alleged in respect of several subordinate courts, the institution of separate contempt proceedings in each of those courts would give rise to a serious risk of inconsistent determination; each court would assess the same underlying conduct independently and could arrive at different conclusions on question of fact; this would be inimical to the coherent administration of justice and to the principle of equal treatment before the law.

(2) The Court of Appeal, hearing the matter as a single consolidated proceeding under section 10 of the Contempt Act, is empowered to assess the totality of the conduct alleged, the cumulative effect of that conduct upon the administration of justice, and the appropriate response. Section 10(1)(c) of the Contempt of a Court, Tribunal or Institution Act permits any person to move the Court of Appeal by affidavit in respect

of contempt of a court of first instance, and this procedure is singularly suited to the consolidation of contempt allegations involving multiple courts.

(3) The present case is materially different from circumstances where contempt is alleged in relation to a single subordinate court before which related proceedings remain pending and active. In such circumstances, this Court has recognized, applying the proviso to Article 105(3) and Section 55(1) of the Judicature Act, that the court of first instance actively seized of the matter is better placed to deal with the contempt and that pragmatic and institutional considerations militates against the Court of Appeal being inundated with matters that can be properly addressed, as was in the case of Muthukuda Arachchilage Don Suranga Diruk v. Rajawasala Liyana Mohottalage Harini Amali Cabral Wijethunga (CA/COC/19/2023 decided on 23.09.2025); Mary Jean Varma v. Dr. Chrisantha Nicholas Anthony Nonis and Others (CA/COC/11/2016 decided on 24.01.2017) and Mettaananda v. Kushan Fernando [2006] 1 Sri L. R. 290.

(4) The undesirability of a multiplicity of proceedings in circumstances such as these was implicitly recognised in Re Garumunige Tilakaratne [1991] 1 Sri L. R. 134, where Amarasinghe J stated that the jurisdiction to punish for contempt ought to be exercised “*with the greatest reluctance and the greatest anxiety*” and that it is “*a power to be exercised not as the first resort, but as the last resort*”. It would be a singularly inefficient and disproportionate exercise of the contempt power to subject a party to multiple separate proceedings in multiple courts in respect of what is, on the facts, a unified course of alleged conduct.

17. Until and unless the appeal is being heard in another division of this Court, the question of deciding whether any contempt occurred regarding orders made by the courts below cannot be considered. The contempt jurisdiction is vested in the Court of Appeal but exercised for administrative convenience by this division (Court No. 301).
18. On the other hand, if the respondents succeeded in their appeal, their possession in the subject matter becomes legal and it can have a rippling effect over the fact of whether there was willful disobedience of court orders below.

19. Secondly, after the appeal was being heard, the case record will be sent to the Court below which is the High Court of the North-Central Province holden in Anuradhapura first and it will be then reverted back to the Magistrates Court thereafter. Then, the whole case record will be available in the Court where it all began, viz., Magistrates' Court of Anuradhapura.
20. Be that as it may, I proceed to analyse the facts and circumstances as to whether any prima facie contempt has occurred or rather the respondents (Gamini Nissanka Ratnayaka and Pradeep Lakshman Rathnayaka) has violated any order of the Primary/Magistrates Court of Anuradhapura as alleged by the complainants namely Priyankara Pradeep Ratnayaka and Rupika Umayanganee.
21. Gamini Nissanka Ratnayaka (1st Respondent) has instituted Case No. 00052/SP/21 on **31st December 2021** against six defendants including Priyankara Pradeep Ratnayaka and Rupika Umayanganee (two complainants).
22. The 2nd Complainant-Rupika Umayangani has instituted case No. 0023/L/22 on **13th May 2022** against five defendants including 1st and 2nd Respondents. Importantly, by the same plaint, she has sought an enjoining order preventing 1st and 3rd defendants (1st and 2nd Respondents) from entering into the 2 acres described in the schedule-Lot No. 05 of Plan No. 1028 dated 30.061990 which is also described in (a later survey) as Lot No. 01 of Plan No. 02330 dated 07.11.2021.
23. The 2nd Complainant Rupika Umayangani has made the complaint dated **09.05.2022** (vide P8 in 23/L/22) to Hidogama Police stating that Pradeep Lakshman has entered in to the land and clearing. According to the proceedings dated **13th May 2022** in Case No. 00023/L/2022, the learned District Judge has issued an enjoining order only against the 3rd defendant - Pradeep Lakshman Ratnayake - (2nd Respondent) preventing entering to the land and destroying the cultivation. According to the B report No. 296/2023 dated **05.02.2023** filed by the OIC Hidogama in the Additional Magistrates Court, it is stated that Gamini Nissanka and Pradeep Lakshman Ratnayaka has forcibly entered to the land belonged to Rupika Umayangani at 11 a.m. **on 19th January 2023**. It is stated their acts amounts to offences under Sections 433 and 486 of the Penal Code. Moreover, as per the proceedings dated **05.02.2023** in B/296/2023, both suspects namely Pradeep Lakshman Ratnayaka and Gamini Nissanka Ratnayaka have been granted certified bail of Rs. 100,000/- each.

24. The Information Report under Section 66(1) of the Primary Court Procedure Act No. 44 of 1979 has been filed on **12th April 2023** in the Magistrates Court of Anuradhapura by 1st Party Applicants (Priyankara Pradeep Ratnayaka and Rupika Umayangani) against 2nd Party (Gamini Nissanka and Pradeep Lakshman-two respondents)
25. By the **order dated 20th September 2023**, the Learned Magistrate has ordered the 1st Party to be placed on possession of **Lot No. 06 of Plan No. 1028** and ordered the 2nd party not to obstruct said possession. It is observed at page 2 of the order that it is seen from the Affidavit filed with the 1st Information that the **2nd Part has entered the land on 19th of January 2023**.
26. According to the report relating to the execution of decree, 1st Party has been placed on possession on **26th September 2023**. However, it is also reported that the 2nd respondent of the 2nd Party was not at the House at that time.
27. According to the proceedings dated **2nd November 2023** of case No. Revision 65/2023 before the High Court No. 3 of Anuradhapura, the Learned High Court Judge has granted a stay order staying the proceedings of MC case No. 84041. It was alleged by the Complainants that the Respondents exploited the said interim order dated 02.11.2023 and dispossessed them. Following which, by the order/judgment dated **27.08.2024**, the revision application has been dismissed.
28. It was alleged by the Complainants that although on several occasions they demanded possession following the judgment dated 27.09.2024 in the High Court, the Respondents refused to comply. They claim this act is a willful disobedience and blatant disregard of the order dated 20.09.2023 and the judgment dated 27.08.2024.
29. When carefully perused the order dated 20th September 2023, it is apparent that there is dispute regarding **identification of the subject matter or the land**. In Narissa Gamaethige Wijesinghe vs. Narissa Gamaethige Kirimudiyanse and Another CA/PHC/0034/2009 decided on 15.05.2019, it was held as follows:

“In David Appuhamy vs. Yassasi Thero - 1987(1) SLR 253 it was held that, although the material was not available to the learned Magistrate at the time he made the order

complained of, on the affidavits filed, it should have been clear that the crux of the dispute between the parties was whether the corpus was Benwalathalawa or Palupansalwatte. It was therefore incumbent on the Magistrate to have determined the identity of the land was the subject matter of the dispute. In light of above, it is understood that it is necessary for a Magistrate to consider the available evidence when there is a question as to the identity of the land. It is well settled law this has to be done on the documents submitted by both parties including plans of the deeds.”

30. It is also pertinent to note that the High Court of the Province has granted a stay order on 2nd November 2024. In any event, after the revision application was dismissed on 27.08.2024, there is no evidence adduced as to any stay order issued by the Court of Appeal. Then, the Complainants were at liberty to invoke the jurisdiction of the Section 73 of the Primary Court Procedure Act No. 44 of 1979 (Penalty for contravention of or failure to comply with order) before come to this Couty for well over one year. Section 73 of the Act reads as follows:

73. Any person who acts in contravention of or fails to comply with an order made under this Part shall be guilty of an offence and shall on conviction by a Judge of the Primary Court be liable to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

31. Furthermore, after the order delivered by the Learned Magistrate on 20th September 2023, 1st Party (the complainants) has been placed on possession on **26th September 2023**. Thereafter, until 2nd November 2023 on which date the High Court granted the stay order, there has been sufficient time for the complainants to invoke jurisdiction of the Magistrate Court in terms of Section 73 of the Primary Court Procedure Act. However, they have not acted in such a way and not explained as to why they did not take steps under Section 73 for a period of more than one month before the Stay Order issued by the High Court on 02.11.2023. there was no room for alleged multiplicity of courts contention at such time since only the Magistrates Court order has been violated.

32. Moreover, after the Revision Application was dismissed on **27th August 2024**, then again there had been sufficient opportunity for the invocation of Section 73 under the Act before the Magistrate Court.

33. The Complainants in their Petition dated **06.11.2025** stated at paragraph 21 that to date, they have not been notified of any appeal. It is highly suspicious as to why the complainants waited for 14 months without invoking either jurisdiction, according to them, either contempt before the Magistrate Court or before the High Court. Clearly, there was and is only one remedy that lies for the Complainants, and that is to act according to Section 73 of the Primary Court Procedure Act. The contentions of multiplicity of jurisdiction and subsequent appeal all become untenable if they acted in terms of said provision statutorily provided by law.

34. Additionally, I find it pertinent to consider the question, “what is the most suitable forum for a contempt application to be filed in?” in response to the argument of the complainant that the Court of Appeal is the most suitable forum. This question is one which has arisen more frequently in the recent past. While it has certainly been discussed as early as 1983 in Merryl Perera v Abeysuriya and others [1983] 2 Sri L. R. 293, it has continued to resurface time and time again. The reason for this current phenomenon may be attributed primarily, to the enactment of the Contempt of a Court, Tribunal or Institution Act No. 8 of 2024. I find it pertinent, at this moment to answer this question of law and clarify the current judicial trend in relation to this most contemporary matter.

35. Firstly, I find it necessary to consider the law laid down in the case of Merryl Perera v Abeysuriya and so set out the previous position of the law. The order at page 296 reads as follows:

“Article 105(3) of the Constitution does not confer any discretion on the Court of Appeal. The Appellant had the right to make this application to the Court of Appeal and the Court being clothed by the Constitution to make the order prayed for had a duty to make the order if the facts were established to its satisfaction. It could not have refused to entertain the petition.”

36. Thus, it is evident that the former position of law was that the Court of Appeal possessed no discretion to dismiss an application of contempt filed before it merely because another court had parallel jurisdiction with the Court of Appeal to hear a matter, especially in the name of policy considerations.

37. Secondly, I wish to analyse the current position of the law in relation to the said issue. A departure from the former position was seen in Mary Jean Varma v Dr. Chrishantha Nicholas Anthony Nonis and others (CA/CC/11/2016 delivered on 24.01.2017) wherein Justice Padman Surasena (as His Lordship was then) analysed: the proviso to Article 105(3) of the Constitution and its application in light of Section 18 of the Judicature Act; the judicial economy and policy considerations at play if the Court of Appeal were vested with no discretion in determining which contempt cases filed before it are to be heard.

38. In relation to the proviso to Article 105(3) of the Constitution, the order reads as follows:

“The proviso found in Article 105 (3) clearly lays down that the power of the Court of Appeal to punish for contempt of any other court, tribunal or institution referred to in paragraph 1 (c), shall not prejudice or affect the rights now or hereafter vested by any law in such other court, tribunal or institution to punish for contempt of itself. Thus, it is clear that section 18 of the Judicature Act must operate independently. Therefore, the High Court shall have power and authority to take cognizance of and try in a summary manner any offence of contempt committed against or in disrespect of its authority.”

39. I wish to add to the analysis presented above by making reference to N. S. Bindra’s *Interpretation of Statutes* (10th Edn) at page 125. Bindra considered the importance of a proviso and its effect on the interpretation of the statute in question and the relevant portion reads as follows:

“(i) Proviso, Exception, Saving Clause

A proviso is something engrafted on a preceding enactment. The proviso follows the enacting part of a section and is in a way independent of it. Normally, it does not enlarge the section, and in most cases, it cuts down or make an exception from the ambit of the main provision. Provisos are often inserted to allay fears or misapprehension.

(i) Proviso

A proviso is a proviso to the section. The correct way to understand a proviso is to read it in the context and not in isolation. It assumes the tenor and colour of the substantive enactment. The proper function of a proviso is to except and deal with a case which would otherwise fall within the general language of the main enactment, and its effect is confined to that case. While rulings and textbooks have assigned many functions for proviso, the court has to use its discretion having regard to the text and context of a statute”

40. It is clear that in Article 105(3) the proviso, “*Provided that the preceding provisions of this Article shall not prejudice or affect the rights now or hereafter vested by any law in such other court, tribunal or institution to punish for contempt of itself*” acts as an exception to the general language of the Constitution which laid down that the “power of the Court of Appeal shall include the power to punish for contempt of any other court, tribunal or institution” by additionally ensuring that the power conferred (now or hereafter) upon any other court, tribunal or institution to punish for contempt of itself would remain unincumbered. The most recently enacted legislative framework (the Contempt of a Court, Tribunal or Institution Act No. 8 of 2024) doing just that, laid out that the Supreme Court, Court of Appeal and all other Courts of first instance have **concurrent jurisdiction** to punish for contempt (where contempt of a court of first instance has been committed). However, concurrent jurisdiction does not mean that a litigant is able to file a case in the court of his choosing.

41. In Mary Jean it was laid down that, in light of the concurrent jurisdiction between the High Court and the Court of Appeal, the Petitioners ought to have shown special reasons as to why the Court of Appeal alone should adjudicate the matter. It reads as follows:

“The petitioner has not adduced any acceptable reason as to why it is the Court of Appeal and the Court of Appeal alone which should deal with this case. There is absolutely no bar for the Petitioner to file this case in the very High Court before which the very case is pending. Indeed, it would be the learned High Court Judge who is already possessed of the facts and circumstances of this case and who has access to all the material adduced in this case, who would undoubtedly be the best judge to deal with this case.

This court has taken a similar view in the case of Metthananda Vs. Kushan Fernando⁴ in which a similar objection was upheld by this court. This court dismissed that application and directed the Petitioner to institute that action in the District Court where the alleged subject matter of the complaint was said to have been occurred.”

42. Additionally, I find it most appropriate to look to the judicial precedents delivered in the Supreme Court of the Philippines relating to matters of Concurrent Jurisdiction and the hierarchy of Courts. The judgment delivered in the case of The Liga Ng Mga Barangay National Vs. The City Mayor of Manila, Hon. Jose Atienza, Jr., And the City Council of Manila G.R. No. 154599, January 21, 2004 reads as follows:

“We have held that this Court’s original jurisdiction to issue a writ of certiorari (as well as of prohibition, mandamus, quo warranto, habeas corpus and injunction) is not exclusive, but is concurrent with the Regional Trial Courts and the Court of Appeals in certain cases. As aptly stated in People v. Cuaresma:

*This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefore will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard of that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. **A direct invocation of the Supreme Court’s original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition.** This is [an] established policy. It is a policy necessary to prevent inordinate demands upon the Court’s time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court’s docket.”*

43. Our Courts have held similarly and for the same policy considerations. The Court of Appeal functions primarily as a writ Court, and in the event that it was not allowed to dismiss an

application for contempt of court for the reason that there is a more suitable court to hear the matter would possibly hinder it to hear and devote its attention to its original and exclusive jurisdiction i.e. writ applications.

44. However, that is not to say that the Court precludes itself from hearing contempt of court applications, but that it ought to require a reason or justification for invoking the jurisdiction of this court as opposed to the trial or court of first instance (or High Court in appeal cases). This leads to a necessary discussion on the Doctrine of Transcendental Importance and the doctrine of hierarchy, both of which have been elaborated upon in Filipino judicial dicta. For instance, in the case of St. Mary Crusade Foundation v Riel G.R. No. 176508, January 12, 2015 the Supreme Court of the Philippines held as follows:

*“Although the Court has concurrent jurisdiction with the Court of Appeals in issuing the writ of certiorari, direct resort is allowed only when there are special, extraordinary or compelling reasons that justify the same. **The Court enforces the observance of the hierarchy of courts in order to free itself from unnecessary, frivolous and impertinent cases and thus afford time for it to deal with the more fundamental and more essential tasks that the Constitution has assigned to it.**²³ There being no special, important or compelling reason, the petitioner thereby violated the observance of the hierarchy of courts, warranting the dismissal of the petition for certiorari.”*(the emphasis was added)

CONCLUSION:

45. To reiterate, the Complainants behaviour in waiting for 14 months without invoking either jurisdiction, (contempt before the Magistrate Court or before the High Court) is highly suspicious conduct and as such, I am of the view that the remedy most suitable to the Complainant is to act in accordance with Section 73 of the Primary Court Procedure Act. The contentions of multiplicity of jurisdiction and subsequent appeal all become untenable if they acted in terms of said provision statutorily provided by law. Even now, if there is no stay order issued by the Court of Appeal staying the operation of the order dated 20.09.2023, they are at liberty to invoke jurisdiction in terms of Section 73 of the Primary Court Procedure Act.

46. Under, these circumstances, I am of the view that there is no *prima facie* case of contempt against the Respondents. Thus, this application is dismissed.

Judge of the Court of Appeal

Hon. Rohantha Abeysuriya PC, J.(P/CA)

I agree.

President of the Court of Appeal