

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

**Court of Appeal Contempt of
Court Case No.
CA/COC/37/2024**

*In the matter of an application of Contempt
of Court in terms of Article 105(3) of the
Constitution of the Democratic Socialist
Republic of Sri Lanka read with Sections
3(1)(a), 3(1)(b) and 2(a) of the Contempt of a
Court, Tribunal, or Institution Act No. 8 of
2024.*

Court of Appeal Case No.
CA RII 46/2024

Ceynor Foundation Limited

DC Colombo Case No.
DRE (S) 37/2023

No. 90 (335), D.R. Wijewardena Mawatha,
Colombo 10.

PLAINTIFF

Vs.

Orient Pearl Hotels Limited

No. 42, Barnes Place, Colombo 07.

DEFENDANT

AND BETWEEN

Orient Pearl Hotels Limited

No. 42, Barnes Place, Colombo 07.

DEFENDANT – PETITIONER

Vs.

Ceynor Foundation Limited

No. 90 (335), D.R. Wijewardena Mawatha,
Colombo 10.

PLAINTIFF – RESPONDENT

AND NOW BETWEEN

Orient Pearl Hotels Limited

No. 42, Barnes Place, Colombo 07.

**DEFENDANT – PETITIONER –
COMPLAINANT**

Vs.

Ceynor Foundation Limited

No. 90 (335), D.R. Wijewardena Mawatha,
Colombo 10.

PLAINTIFF – RESPONDENT – ACCUSED

1. Amila Ranmandala

Chairman / Managing Director
Ceynor Foundation Limited

2. M.A. Karunaratne
Director, Ceynor Foundation Limited

3. Dr. K. Vigneshwaran
Director, Ceynor Foundation Limited

4. E. Annalingam
Director, Ceynor Foundation Limited

5. M.J.R. Malawiarachchi
Director, Ceynor Foundation Limited

6. Nadeesh Neminda De Silva
Director, Ceynor Foundation Limited

7. Nuwan Jayawardena
Director, Ceynor Foundation Limited

8. M.M. Sarath Kumara
General Manager, Ceynor Foundation
Limited

9. Ms. S.T. Waduthanthri
Secretary, Ceynor Foundation Limited

10. A. Lahiru Harsha Alwis

Finance manager / Accountant, Ceynor
Foundation Limited

11. Aruna Indrajith

Union Officer, Ceynor Foundation Limited

12. K.M. Sulochani Dassanayake

Auditor, Ceynor Foundation Limited

13. Mrs. Manthika

HR Manager, Ceynor Foundation Limited

14. U.M.O. Jayasinghe

Staff, Ceynor Foundation Limited

15. T.V. Wickremarachchi

Staff, Ceynor Foundation Limited

16. K.I.N. Perera

Staff, Ceynor Foundation Limited

17. M.M. Nurul Azhma

Staff, Ceynor Foundation Limited

2nd to 17th above named all of No. 90 (335),

D.R. Wijewardena Mawatha, Colombo 10.

ACCUSED

18. Mr. Sanjeewa Kaluarachchi,
Attorney-At-Law,
No. 130/4, Kelanimulla,
Mulleriyawa New Town.

19. Registrar,
District Court of Colombo,
Colombo 12.

ADDED RESPONDENTS

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

Counsel : Upul Jayasuriya, P.C. with P. Radhakrishnan for
the Defendant – Petitioner – Complainant.

Nihal Jayawardene, P.C. with Radhya Herath for
the Respondents.

Indumini Randeny, S.C. for the 19th Added
Respondent

Written Submissions on : 24.11.2025 for the Plaintiff – Respondent –
Accused

Decided on : 10.12.2025

K. Priyantha Fernando, J.(CA)

By the Petition dated 6th September 2024 the Defendant-Petitioner-Complainant namely Orient Pearl Hotels Limited alleged that the 2nd to 17th Accused had violated a status quo order issued by this Court in *Restitutio in Intergrum* application bearing No. CA/RII/46/2024.

The Accused corporate, Ceynor Foundation Limited (Lessor), along with its Chairman, directors, general manager, and staff (the 1st to 17th Accused), were named as “Accused” in the application.

The Complainant was the Lessee. The matter originated in the District Court of Colombo, bearing case number DRE (S) 37/2023, which was filed by the Plaintiff-Respondent-Accused on July 24, 2023, in terms of the Recovery of Possession of Premises Given on Lease Act No. 1 of 2023. The Plaintiff-Respondent-Accused prayed for a decree *nisi* and decree absolute for the ejection of the Defendant, along with Rs. 5,000/- as damages for each day of stay until vacant possession was handed over.

A decree *nisi* was made by the District Judge on August 2, 2023. The Defendant subsequently filed objections on August 31, 2023, along with Written Submissions on why the Order *nisi* should not be made absolute. However, by Order dated January 3, 2024, the learned judge made the decree *nisi* absolute without permitting the Defendant to show cause.

The Complainant stated that despite the Order making the decree absolute, the Plaintiff and Defendant had agreed out of court to enter into a fresh lease for a period of 25 years. For this new lease, the Defendant made a payment of Rs. 7.95 million as lease rental arrears and thereafter began making monthly payments,

which were accepted by the Plaintiff. During this period, a new Chairman of the Plaintiff Company was appointed.

The Complainant alleged that on or around March 2024, it was revealed that the newly appointed Chairman and officials were taking steps to execute the Writ against the Defendant, despite having entered into a fresh lease. The Complainant reiterated the new lease agreement to the Accused by letter dated March 31, 2024. As an act of caution, the Defendant then filed a Petition in the District Court in accordance with section 839 of the Civil Procedure Code (CPC) to stay the execution of the Writ. This application was supported but subsequently dismissed by the District Judge by Order dated April 4, 2024, as the court was of the view that it was not vested with such jurisdiction.

Following the dismissal of the Section 839 application, the Complainant filed an action of *Restitutio in Integrum* in the Court of Appeal (CA RII 46/2024), praying for an interim order staying the proceedings in the District Court matter. The application was supported *inter partes*, and an order dated April 5, 2024, was made to maintain the status quo until April 9, 2024.

Despite this Order, the Complainant stated that on Monday, April 8, 2024, the Accused Company and its staff, accompanied by the Registrar of the District Court and police officers, directed the Complainant to vacate the premises. CCTV recordings were presented as evidence of this event. The Complainant stated that, despite attempts to convey the existence of the Court of Appeal order, the Registrar refused to speak to the Complainant's attorney by phone for two hours and only vacated after receiving a call from an officer of the Appellate Court conveying that an order had been made. The Complainant further stated that the Accused was aware of the Order, having been notified to their lawyers when they appeared on April 5, 2024. This fact was informed to the Court of Appeal

on April 9, 2024. Following this, a stay order was made on April 10, 2024, subject to a payment of Rs. 13.65 million, which was made, and judgement in favour of the petitioner was subsequently made on May 10, 2024.

The Complainant prayed for the following reliefs: the issue of summons on the Plaintiff-Respondent-Accused and the 1st to 17th Accused; to charge the Accused parties for the offence of contempt of court; and to impose punishment on the said accused parties.

THE POSITION OF THE PLAINTIFF-RESPONDENT-ACCUSED:

The Accused submitted that the Complainant failed to establish a *prima facie* case, which the Court was required to confirm before issuing summons, according to the ratios laid down in **Media Image Limited vs Dissanayake** 2006 [3] SLR 215 and **Malini Gunaratne, Additional District Judge of Galle vs Abeysinghe** 1994 [3] SLR 196.

The underlying matter involved the recovery of leased property under the provisions of the Recovery of Possession of Premises Given on Lease Act No. 01 of 2023, following the lapse of the lease on July 3, 2018. The Accused had obtained a decree absolute on January 3, 2024. The RII application was filed after the dismissal of the Complainant's Section 839 application seeking to stop the execution of the Writ of Eviction.

The status quo order was issued on April 5, 2024, but the Accused contended that the Writ of Eviction remained un-impeached because the Order had not expressly stayed the execution, noting the Court's own minute: "Court does not expressly stay the execution because the word used is 'expressly' under 22(5)".

The Order was delivered late on April 5, 2024, the last court day before the vacation, and the Complainant's Petition conceded that "there was no mode of conveying the existence of the status quo Order of the Registrar".

The Fiscal's Report detailed that upon arriving on April 8, 2024, the property "අප යන විට එම ස්ථානය පාලු ස්වභාවයක් ගත් අතර, එහි ව්‍යාපාරික කටයුතු නවතා ඇති බවට දක්නට ලැබුණි" (When we went, the place had a deserted appearance, and it was observed that the business activities there had stopped). The Fiscal only received formal notification to recall the execution after inquiring with the Court of Appeal Additional Registrar, who confirmed the order was to maintain "පවතින තත්වයෙන් ඒ ආකාරයෙන්ම පවත්වා ගෙන යන ලෙසට" (the existing situation in the same way), following information received from the Complainant's Manager. Once notified of the Order, the Accused immediately ceased activity and peacefully dispersed.

The Accused argued they lacked the requisite *mens rea* for contempt, noting that contempt was a criminal offence requiring proof "beyond reasonable doubt," as held in **Re Bramblewale Ltd** [1969] EWCA Civ J0721-3. Citing **Perkier Foods Ltd v Halo & Mr Tague** [2019] EWHC 3462 (QB), which approved the dicta in **Masri v Consolidated Contractors Ltd** [2011] EWHC 1024 (Comm), the submissions stressed that establishing contempt required proof of knowledge of the terms of the order and the facts that made the conduct a breach.

The Accused submitted that their good faith was evident from the Fiscal's observation that they immediately ceased the execution attempt upon receiving notification. The Accused finally submitted that the Court must act with great circumspection in unclear cases, as emphasized in **Debabrata Bandopadhyay v The State of West Bengal** [AIR 1969 SC 189], and that the lack of formal communication and the subsequent compliance by the Accused demonstrated a

lack of *mens rea*, leading to the conclusion that no Contempt of Court had occurred.

CONCLUSION:

It is **common ground** that decree nisi has been issued in favour of the Plaintiff-Respondent-Accused (hereinafter will be referred to as Plaintiff) and thereafter it was made absolute by Order dated 3rd January 2024; when the Plaintiff did attempt to cause execution, the Complainant preferred an application under Section 839 of the Civil Procedure Code, seeking to stop the execution of the Writ; this application was dismissed and it is against this dismissal that the *Restitutio in Integrum* (RII) application was filed.

It is also common ground that RII application has been preferred the day after the dismissal of the 839 application and had been supported at 2.15 p.m. Upon the conclusion of the submissions from both parties at 3.15 p.m., this Court had issued an order “to maintain the *status quo*”.

It is necessary to ascertain what the “*status quo*” is at the time of making such order. At the time the said *status quo* order was made, the Plaintiff had been issued with an Order to evict the Complainant from the subject premises. The said Order had not been set aside or expressly stayed at the time of the issuance of the status quo order. This is evident from the said status quo order itself at page 4 of the Brief marked as ‘P-8a’ where it has been stated:

“To consider the question, Court reserves its order until 09.04.2024 and Court does not expressly stay the execution because the word used is ‘expressly’ under 22(5)”

Hence, it is apparent that at the time the said status quo order was issued, there was no express staying of the Writ as contemplated in Section 22 of the Recovery of Possession of Premises Given on Lease Act No. 01 of 2023.

The crucial question is whether the said order has been formally communicated to the Accused through the proper process of Court. It is undisputed that the Order had been delivered at 3.15 p.m. in the evening, on the 5th of April 2024 which was the last day of Court prior to the commencement of the Court vacation in April 2024. The difficulties encountered in the formal communication of the Order is elaborated by the Petitioner at para 14 of the Petition as follows: “14) the Complainant states that since the said actions of the Accused was sudden, unexpected and to the dismay of the Directors of the Complainant were thrust to face unforeseen hardships, inasmuch it was April 2024 Court vacations and the Complainant’s Lawyers were also on vacation, and the Registrar was unwilling to talk to Lawyers over the telephone and as such there was no mode of conveying the existence of the status quo Order of the Registrar which had been suppressed from the Registrar by the Accused”.

The only communication that seems to have been made by the Petitioner is the sending of an e-mail by the Counsel for the Party named as Plaintiff-Respondent-Accused. However, this e-mail has been sent on a Saturday where the office of the Party referred to as the Plaintiff-Respondent-Accused is closed. It is only reasonable in such circumstances for the e-mail to be accessed on a Monday which is the next immediate working day if the Party named as 1st Accused arrived at his office. It was contended by the Learned President’s Counsel for the Accused that the presence of the 1st Accused is not a mandatory occurrence since the said party is a Non-Executive Director who is not required to report for duty on all dates or at a given time.

Thus, it is seen that on Monday (08.04.2024) neither the Party named as the 1st Accused nor the Registrar/Fiscal of the District Court were aware of the existence of the *Status Quo* Order of this Court.

The manner in which it was brought to the attention of the parties and events that preceded it have been detailed by the Report of the Fiscal which has been produced by the Accused as well as the Registrar of the District Court. The Fiscal Report has made it clear that the formal communication of the *Status Quo* Order had only taken place once the Fiscal of the District Court had inquired on the same, upon receiving information to such effect from the Manager of the Complainant at the subject premises.

It is pertinent to note that it is revealed by the Fiscal that once the Accused was notified of the said Order, they peacefully disbursed without causing any disturbance or disruption at the premises. This reflects the *bona fides* of the Parties named as Accused, that they have sought to execute the Writ of Eviction in good faith, unaware of any order having a different effect.

The Fiscal's report shows that the Accused have attempted to execute the Writ on the premise that there was no adverse order against them, preventing them from causing such execution. Once they were notified of the same, they have immediately ceased from engaging any further activity therewith. This conduct prompts this Court to entertain the belief that the Accused have acted in good faith.

Necessity of proving *mens rea* on the part of the Accused in a contempt charge is exemplified in following case law:

1. **Re Bramblewale Ltd.** (1969) EWCA Civ J0721-3, by Lord Denning MR, “A Contempt of Court is an offence of a criminal character. A man may be sent to prison for it. It must be satisfactorily proved...beyond reasonable doubt”.

2. **Perkier Foods Ltd v Halo & Mr Tague** (2019) EWHC 3462 (QB) - describing the *mens rea* required to establish Contempt of Court, Court cited with approval the following dicta in **Masri v Consolidated Contractors Ltd** (2011) EWHC 1024 (Comm) -

“In order to establish that someone is in contempt it is necessary to show that; (i) that he knew of the terms of the order; (ii) that he acted (or failed to act) in a manner which involved a breach of the order; and that (iii) that he knew of the facts which made his conduct a breach....”

3. **Sectoguard plc v Dienne plc** (2009) EWHC 2693 (Ch), Briggs J. held as follows:

“...The mental element required of a contemnor is not that he either intends to breach or knows that he is breaching the court order or undertaking, but only that he intended the act or omission in question, and knew the facts which made it a breach of the order”

The above pronouncements demonstrate that a clear intention on the part of the contemnor must be established, beyond reasonable doubt, to prove that an offence of contempt of court has been committed. In the instant matter, none of the ingredients envisaged in the 2nd case above are seen in the conduct of any of the Accused.

Moreover, the Court requires to consider all attendant circumstances in which the alleged contempt act taken place. In this matter, the Court must give due regard to the peculiar circumstances in which the said Order was made, the lack

of formal communication and the conduct of the Accused upon being duly informed of the Order.

This has been emphasized in the case of **Debabrata Bandopadhy v The State of West Bengal**-AIR 1969 SC 189, as follows:

“A question whether there is contempt of court or not is a serious one. The court is both accuser as well as the Judge of the accusation. It behooves the Court to act with as great circumspection as possible making all allowances for errors of judgment and difficulties arising from inveterate practices in courts and tribunals. It is only when a clear case of contumacious conduct not explaining otherwise, arises that the contemnor must be punished...To take action in an unclear case is to make the law of contempt do duty for other measure and is not to be encouraged”

The above dicta is of perfect application in the instant matter due to the following reasons:

- The nature of the Status Quo at the time of the issuance of the said Order is ambiguous, disputed and is subject to interpretation;
- The formal communication of the said Order through the proper channels had not taken place until the alleged contemptuous incident took place;
- Once communication did take place, the Accused readily obliged thus displaying a lack of *mens rea* to act in contempt.

Section 9(3) of the Contempt of Court Act No. 08 of 2024 necessitates that the Court must form an opinion that there is a prima facie case of contempt. In order to form such opinion, this Court acted in accordance with the Rules of Natural Justice by giving a hearing to the all parties noticed.

In totality, it is the considered view of this Court that the facts and circumstances in the instant case does not fulfil the threshold contemplated in Section 2 and 3 of the Contempt of Court Act No. 8 of 2024 and therefore, the contempt of court application should be dismissed. Accordingly, the Application is dismissed.

The parties should bear their own costs.

Judge of the Court of Appeal

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

I agree.

President of the Court of Appeal