

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

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

Gamlath Arachchilage Nishantha
Wijemanna
Public Health Inspector,
Manakkulama.

Complainant

**Court of Appeal Case No:
CPA/33/2026**

Vs.

**High Court (Chilaw) Case No:
HCA 06/2024**

**Magistrates Court Chilaw
Case No. 6831/18/PHI**

1. Rajapaksha Arachchige Deepa
Nilanthi
No. 338,
Thambagalla West,
Kakkapalliya.
2. Puttalam Salt Limited
Kulpitiya Road,
Palavi,
Puttalam.
3. Sarath Keerthirathna
No. 301,
Kirindiwela Road,
Radawana.

4. Mahagoda Withanage
Jinawarasiri
Dharmawardhana
No. 301,
Senanayake Avenue,
Nawala.
5. Ravindranath Liyanage
No. 07A,
Somadevi Place,
Colombo 05.
6. Ganegama Vidana
Pathiranage Ganaka
Amarasinghe,
No. 12/A,
Weera Mawatha,
Kottawa,
Pannipitiya.
7. Thennakoon
Mudiyanselage Ruwan
Bandara Thennakoon
Thekkawaththa Road,
Thennekumbura,
Kandy.
8. Herath Mudiyanselage
Ranasinghe Bodhimulla,
Anukkane.
9. Maduwe Arachchilage
Sarath Wickramasinghe
No. 24/A,
Temple Road,
Hatton.

Accused

And now

2. Puttalam Salt Limited
Kulpitiya Road,
Palavi,
Puttalam.
3. Sarath Keerthirathna
No. 301,
Kirindiwela Road,
Radawana.
4. Mahagoda Withanage
Jinawarasiri
Dharmawardhana,
No. 301,
Senanayake Avenue,
Nawala.
5. Ravindranath Liyanage
No. 07A,
Somadevi Place,
Colombo 05.
6. Ganegama Vidana
Pathiranage Ganaka
Amarasinghe,
No. 12/A,
Weera Mawatha,
Kottawa,
Pannipitiya.
7. Thennakoon
Mudiyanselage Ruwan
Bandara Thennakoon,
Thekkawaththa Road,
Thennekumbura,
Kandy.
8. Herath Mudiyanselage
Ranasinghe Bodhimulla,
Anukkane.

9. Maduwe Arachchilage
Sarath Wickramasinghe
No. 24/A,
Temple Road,
Hatton.

Accused-Appellants

Vs.

1. Gamlath Arachchilage Nishantha
Wijemanna
Public Health Inspector,
Manakkulama.

Complainant-Respondent

2. The Hon. Attorney General
Attorney General's Department,
Colombo 12.

Respondent

And now between

2. Puttalam Salt Limited
Klpitiya Road,
Palavi,
Puttalam.
3. Sarath Keerthirathna
No. 301,
Kirindiwela Road,
Radawana.
4. Mahagoda Withanage
Jinawarasiri
Dharmawardhana
No. 301,
Senanayake Avenue,
Nawala.

5. Ravindranath Liyanage
No. 07A,
Somadevi Place,
Colombo 05.

6. Ganegama Vidana
Pathiranage Ganaka
Amarasinghe,
No. 12/A,
Weera Mawatha,
Kottawa,
Pannipitiya.

7. Thennakoon
Mudiyanselage Ruwan
Bandara Thennakoon
Thekkawaththa Road,
Thennekumbura,
Kandy.

8. Herath Mudiyanselage
Ranasinghe Bodhimulla,
Anukkane.

9. Maduwe Arachchilage
Sarath Wickramasinghe
No. 24/A,
Temple Road,
Hatton.

Accused-Appellants-Petitioners

Vs.

1. Gamlath Arachchilage Nishantha
Wijemanna
Public Health Inspector,
Manakkulama.

Complainant-Respondent-Respondent

2. The Hon. Attorney General
Attorney General's Department,
Colombo 12.

Respondent-Respondent

**Before : Hon. Justice Amal Ranaraja
Hon. Justice Dr. Sumudu Premachandra**

**Counsel : A.S.M. Perera, PC with Priyashani Tharaki for the
Accused-Appellant-Petitioner**

Support on : 08/07/2026

Order on : 31/07/2026

ORDER

AMAL RANARAJA, J.

1. The second accused appellant-petitioner (hereinafter referred to as the petitioner) together with another person has been named as an accused in *Chilaw* Magistrates Court Case No. 6831/18/PHI. When the petitioner and the other accused have appeared before Court, the learned Magistrate have framed charges against them. The first accused has pleaded guilty to the charges and upon that plea, he has been convicted.
2. The petitioner has made a statement that did not amount to an unqualified admission of guilt. The learned magistrate has thereafter

proceeded to try the petitioner. At the conclusion of the trial, the learned magistrate has convicted the petitioner of the third charge and acquitted it of the second charge.

3. The petitioner together with its directors, being aggrieved by the petitioner's conviction have preferred an appeal (HCA 18/23) to the High Court in *Chilaw*. By judgement dated June 10th, 2024, the learned High Court Judge has affirmed the conviction and dismissed the appeal. The petitioner and its directors being aggrieved by the judgement of the learned High Court Judge dated June 10th, 2024, have preferred the present revisional application before this Court.
4. In preferring the instant application to this court, the petitioner, together with its directors, have sought to invoke the revisionary jurisdiction granted to it in terms of Article 138 of the Constitution.
5. Hence, the question before this court is whether the revisionary jurisdiction of this Court can be invoked in respect of a judgement of a provincial High Court made, in the exercise of its appellate jurisdiction vested in it under Article 154P (3)(b) of the Constitution.
6. The Thirteenth Amendment to the Constitution of Sri Lanka introduced Article 154P. It has mandated the establishment of a High Court of the Province for each of the country's nine provinces. These provincial High Courts exercise both original criminal jurisdiction and appellate/revisionary jurisdiction over lower Courts and tribunals.
7. The Parliament has empowered these Courts to review convictions, sentences, and orders entered by Magistrates Courts, primary Courts, labour tribunals and Agrarian Services Commissioners tribunals, operating within the province. The provincial High Courts have also been given authority to issue orders in the nature of habeas corpus,

mandamus, quo warranto, certiorari and prohibition, for matters arising within their province.

8. Article 154P (1), (3), (4) and (6) of the Constitution provides as follows;

154P.

(1) There shall be a High Court for each Province with effect from the date on which this Chapter comes into force. Each such High Court shall be designated as the High Court of the relevant Province.

(3) Every such High Court shall –

(a) exercise according to law, the original criminal jurisdiction of the High Court of Sri Lanka in respect of offences committed within the Province;

(b) notwithstanding anything in Article 138 and subject to any law, exercise, appellate and revisionary jurisdiction in respect of convictions, sentences and orders entered or imposed by Magistrates Courts and Primary Courts within the Province;

(c) exercise such other jurisdiction and powers as Parliament may, by law, provide.

(4) Every such High Court shall have jurisdiction to issue, according to law –

(a) orders in the nature of habeas corpus, in respect of persons illegally detained within the Province; and

(b) order in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto against any person exercising, within the Province, any power under –

(i) any law; or

(ii) any statutes made by the Provincial Council established for that Province, in respect of any matter set out in the Provincial Council List

(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.

9. Thereafter, the High Court of the Provinces (Special Provisions) Act No. 19 of 1990 has been enacted to make provision regarding the procedure to be followed and the right of appeal to and from the High Court established under Article 154P of the Constitution.

10. Sections 5 and 9 of the Act provides as follows;

5. The Provisions of written law applicable to appeals to the Court of Appeal, from convictions, sentences or orders entered or imposed by a Magistrate's Court, and to applications made to the Court of Appeal for revision of any such conviction, sentence or order shall, mutatis mutandis, apply to appeals to the High Court established by Article 154P of the Constitution for a Province, from convictions, sentences or orders entered or imposed by Magistrate's Courts, Primary Courts and Labour Tribunals within that Province and from orders made under section 5 or section 9 of the Agrarian Services Act, No. 58 of 1979, in respect of land situated within that Province and to applications made to such High Court, for revision of any such conviction, sentence or order.

9. Subject to the provisions of this Act or any other law, any person aggrieved by-

(a) a final order, judgment, decree or sentence of a High Court established by Article 154P of the Constitution in the exercise of the appellate jurisdiction vested in it by paragraph (3) (b) of Article 154P of the Constitution or section 3 of this Act or any other law, in any matter or proceeding whether civil or criminal which involves a substantial question of law, may appeal therefrom to the Supreme Court if the High Court grants leave to appeal to the Supreme Court ex mero motu or at the instance of any aggrieved party to such matter or proceedings :

Provided that the Supreme Court may, in its discretion, grant special leave to appeal to the Supreme Court from any final or interlocutory order, judgment, decree or sentence made by such High Court, in the exercise of the appellate jurisdiction vested in it by paragraph (3) (b) of Article 154P of the Constitution or section 3 of this Act, or any other law where such High Court has refused to grant leave to appeal to the Supreme Court, or where in the opinion of the Supreme Court, the case or matter is fit for review by the Supreme Court:

Provided further that the Supreme Court shall grant leave to appeal in every matter or proceeding in which it is satisfied that the question to be decided is of public or general importance; and

(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.

11. The Superior Courts of Sri Lanka have repeatedly addressed the relationship between Article 154P of the Constitution and the High Court of the Provinces (Special Provisions) Act, when resolving disputes concerning forum and jurisdiction. In doing so the Courts have considered how constitutional provisions on provincial judicial powers interact with the statutory framework establishing and defining the jurisdiction of the provincial High Courts. The resulting case law clarifies which is the proper forum for particular categories of proceedings and the circumstances in which jurisdiction may be exercised or excluded.

12. Against this backdrop the superior courts have held as follows;

In the case of *Sharif and Others vs. Wickramasuriya and Others* [2010] 1 SLR 255, Eric Basnayake J. has held,

"I am of the view that the jurisdiction enjoyed by the Court of Appeal through Article 138 remains intact. Through Article 138 one has the liberty to invoke the jurisdiction of the Court of Appeal or to resort to a Provincial High Court in terms of Article 154P (3) (b). If one chooses to go to the High Court, an appeal would lie to the Supreme Court with leave first obtained from the High Court (Section 9 of the Act 19 of 1990). If one invokes the jurisdiction of the Court of Appeal under Article 138 an appeal would lie from any final order or judgement of the Court of Appeal to the Supreme Court with leave of Court of Appeal first obtained (Article 128(1) of the Constitution). It is thus clear that both courts enjoy concurrent jurisdiction on matters referred to in Article 154P (3) (b). The jurisdiction enjoyed by the Court of Appeal had not been disturbed by Articles of the Constitution or by the Acts of Parliament."

13. In *Muththusamy Balaganeshn v. The Officer in Charge and Another*, SC/Sp/LA No. 79/2015, decided on 01.04.2016, Priyasath Dep, PC, J (as he was then) has held,

"When the Provincial High Court exercises appellate jurisdiction, it exercises appellate jurisdiction hitherto exclusively vested in the Court of Appeal. It exercises a parallel or concurrent jurisdiction with the Court of Appeal. The High Court when it exercises appellate jurisdiction it is not subordinate to the Court of Appeal. That is the basis for conferring jurisdiction on the Supreme Court under section 9 of the High Court of Provinces (Special Provisions) Act No. 19 of 1990 to hear appeals from the judgments of the High Court when it exercises appellate jurisdiction."

14. In *W.T.S. Nilantha Fernando v P.M.S. Nilanthi Perera SC/Appeal/65/2025*, decided on 10.10.2025, Samayawardhana, J, has held as follows;

In sum, under section 9(a) of Act No. 19 of 1990, where the Provincial High Court pronounces its final order, judgment, decree or sentence in the exercise of its appellate jurisdiction in terms of Article 154P(3)(b) of the Constitution, section 3 of Act No. 19 of 1990, or any other law, an appeal lies to the Supreme Court and not to the Court of Appeal. Conversely, under section 9(b) read with section 11(1) of Act No. 19 of 1990, where the Provincial High Court pronounces its final order, judgment or sentence in the exercise of its original jurisdiction in terms of Article 154P(3)(a), Article 154P(4) of the Constitution, or any other law, an appeal lies to the Court of Appeal and not to the Supreme Court.

As I have already observed, Article 154P(6), which provides that "subject to the provisions of the Constitution and any law, any person aggrieved by a final order, judgment or sentence of any such Court in the exercise of its jurisdiction under paragraphs (3)(b) or (3)(c) or (4), may appeal therefrom to the Court of Appeal in accordance with Article 138", must be construed in its proper context. The provision begins with

the phrase “subject to the provisions of the Constitution and any law” and concludes with the words “may appeal therefrom to the Court of Appeal in accordance with Article 138.” Both Articles 138 and 154P(6) are not entrenched provisions, and each is expressly conditioned to operate subject to the Constitution and to any law enacted by Parliament.

Conclusion

In my view, the reasoning in Gunawardane v. Muthukumarana [2020] 3 Sri LR 306 cannot be reconciled with the clear statutory scheme established by Acts Nos. 19 of 1990, 10 of 1996, and 54 of 2006, read in conjunction with Article 138 of the Constitution. The approach adopted by the Supreme Court in Merchant Bank of Sri Lanka Ltd v. Perera [2012] BLR 14 accords with both the constitutional framework and the legislative intent and, in my respectful view, ought to be preferred. I would further add that the dicta in Merchant Bank of Sri Lanka Ltd v. Perera applies not only to Provincial High Courts established under Act No. 10 of 1996, but equally to those established under Act No. 19 of 1990, as amended by Act No. 54 of 2006. Hence, I hold that the Court of Appeal has no jurisdiction, whether by way of final appeal, revision, or restitutio in integrum, to review the judgments or orders of the Provincial High Court, whether in the exercise of its appellate jurisdiction under Act No. 19 of 1990, as amended by Act No. 54 of 2006, or in the exercise of its original jurisdiction under Act No. 10 of 1996. Such jurisdiction is vested exclusively in the Supreme Court.

15. Hence, it is apparent that where a provincial High Court has delivered a judgement or made an order, while exercising its appellate jurisdiction, any party aggrieved by that order or judgement may appeal to the Supreme Court. The Court of Appeal has no jurisdiction to review such a judgement or order by way of revision. In simpler terms, this

principle sets out a clear route for “challenging decisions”. If the provincial High Court is acting as an appeal court (meaning it is hearing an appeal from a lower court) then its decision can be challenged only by an appeal to the Supreme Court.

The Court of Appeal cannot use its revisionary powers to recheck, rehear, or correct that particular decision.

16. In those circumstances, I dismiss the application without costs.

Application dismissed.

Judge of the Court of Appeal

DR. SUMUDU PREMACHANDRA, J.

I agree

Judge of the Court of Appeal