

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

In the matter of an application for Restitution,
in the nature of *Restitutio-In-Integrum* under
and in terms of Article 138(1) of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

Court of Appeal

Case No: RII/0020/2022

HCCA Case No.

SP/HCCA/Rat/04/18(F)

DC Ratnapura

Case No: 17164/P

1. Babanige Appuhamy
No. 19, Mahinda Mawatha,
Batugedara, Ratnapura.

2. Babanige Maithripala
Old Road, Batugedara,
Ratnapura.
(Deceased)

3. Babanige Heenmenike
No. 66, Kandakaduwa,
Polonnaruwa.
(Deceased)

Plaintiffs

VS

1. Babanige Punchmenike,
Kospelawinna,
Ratnapura.

2. Babanige Nandawathie,
93/3, Modara Veediya,
Colombo 15.

3. Arandarage Don Surasena,

4. Arandarage Don Ranjith Dharmasiri

5. Arandarage Don Rasika Priyantha

**All of No. 19/A, Mahinda Mawatha,
Batugedara, Ratnapura.**

6. Dhammika Ranjani,
2/4, Dombagahamulla, Batugedara,
Ratnapura.

7. Ramani Sandamali,
No. 140/A, Ganegoda,
Ratnapura.

Defendants

AND

3. Arandarage Don Surasena,

4. Arandarage Don Ranjith Dharmasiri

5. Arandarage Don Rasika Priyantha

**All of No. 19/A, Mahinda Mawatha,
Batugedara, Ratnapura.**

6. Dhammika Ranjani,
2/4, Dombagahamulla, Batugedara,
Ratnapura.

7. Ramani Sandamali,
No. 140/A, Ganegoda,
Ratnapura.

3rd to 7th Defendant-Appellants

Vs.

1. Babanige Appuhamy
No. 19, Mahinda Mawatha,
Batugedara, Ratnapura.
(Deceased)

1A. Kapila Mangala Batugedara
181/7, De Seram Mawatha,
Weliwita Road, Malambe

2. Babanige Maithripala,
Old Road, Batugedara,
Ratnapura.

(Deceased)

2A. Peramunu Arachchilage Padma Shriyani,
No. 53, Pathalwatta, Watareka,
Pus Hena, Meegoda.

3. Babanige Heenmenike,
No. 66, Kandakaduwa,
Polonnaruwa.

(Deceased)

3A. M.L. Gamini
No. 66, Kandakaduwa,
Polonnaruwa

Plaintiff-Respondents

1. Babanige Punchmenike,
Kospelawinna,
Ratnapura.

2. Babanige Nandawathie
93/3, Modara Veediya,
Colombo 15

1st and 2nd Defendant-Respondents

AND NOW

1a. Kapila Mangala Batugedara,
181/7, De Seram Mawatha,
Weliwita Road, Malambe

**Substituted-1st Plaintiff-
Respondent-Petitioner**

Vs.

3. Arandarage Don Surasena,

4. Arandarage Don Ranjith Dharmasiri

5. Arandarage Don Rasika Priyantha

**All of No. 19/A, Mahinda Mawatha,
Batugedara, Ratnapura**

6. Dhammika Ranjani,
2/4, Dombagahamulla, Batugedara,
Ratnapura.

7. Ramani Sandamali,
No. 140/A, Ganegoda,
Ratnapura.

3rd to 7th Defendant-Appellant-Respondents

2. Babanige Maithripala
Old Road, Batugedara,
Ratnapura.

(Deceased)

2A. Peramunu Arachchilage Padma Shriyani,
No. 53, Pathalwatta, Watareka,
Pus Hena, Meegoda

3. Babanige Heenmenike
No. 66, Kandakaduwa,
Polonnaruwa

(Deceased)

3A. M.L. Gamini,
No. 66 Kandakaduwa,
Polonnaruwa.

**Substituted Plaintiff-Respondent-
Respondents**

Before : R. Gurusinghe, J.
&
Dr. S. Premachandra J.

Counsel : Kumar Dunusinghe with Punyajith Dunusinghe
Instructed by Manori Herath
for the 1st Respondent-Petitioner

Anuruddha Dharmaratne with Sahiru Jayasinghe
Instructed by Saroja Galagedarage
for the 4th to 7th Defendant-Appellant-Respondents

Supported on : 16-03-2026

Decided on : 03-06-2026

ORDER

R. Gurusinghe, J.

The Substituted-1st plaintiff-respondent-petitioner has filed the present application, seeking, *inter alia*, the following reliefs.

- “b) acting in revision and/or restitutio in integrum to certify the judgment dated 26-11-2020 of the Judge of the High Court of the Civil Appeal bearing case no. SP/HCCA/Rat/04/2018(F).
- c) make an order to resume the trial *de novo* before the District Court of Ratnapura.”

The 4th to 7th Respondents raised the following two preliminary objections with regard to the maintainability of the present application instituted by the petitioner.

1. Whether the substituted 1st plaintiff-Respondent-Petitioner can maintain this application for revision and/or *restitutio in integrum* to set aside the judgment dated 26.11.2020, of the Honourable High Court Judges of the High Court of Civil Appeals holden in Rathnapura bearing Appeal No. SP/HCCA/RAT/4/2018(f), in view of the *ratione decidendi* in the judgment of the Supreme Court in appeal No. SC Appeal 65/2025 decided on 10.10.2025.

2. In any event, can the substituted 1st plaintiff-Respondent-Petitioner maintain a revision and/or *restitutio in integrum* application seeking the relief prayed for in prayer “c” to their petition dated 25.10.2022?

The 1st to 3rd plaintiffs instituted a partition action in the District Court of Ratnapura seeking the partition of the land more fully described in the Schedule to the Plaint. The 4th to 7th defendant-respondents contended that they had acquired prescriptive title to an extent of 22.5 perches out of the said land sought to be partitioned.

Upon conclusion of the trial, the learned District Judge of Ratnapura, by judgment dated 31-10-2017, ordered the partition of the land described in the schedule to the plaint. Being aggrieved by the said judgment, the 3rd to 7th defendants preferred an appeal to the Provincial High Court (Civil Appellate) of the Sabaragamuwa Province holden at Rathnapura.

The Learned Judges of the High Court, by judgment dated 26-11-2020, set aside both the judgment and the decree of the District Court. By the said judgment, the prescriptive claim advanced by the 3rd to 7th defendants was also dismissed. The Judgment of the High Court further states that the appeal was dismissed.

If the Substituted-1st plaintiff-respondent-petitioner was aggrieved by the said judgment of the Civil Appellate High Court, he was entitled to invoke his right of appeal to the Supreme Court in terms of Section 5C of the High Court of the Provinces (Special Provinces) Act No. 19 of 1990, as amended by Act No. 54 of 2006.

Section 5C is as follows:

5C.

- (1) An appeal shall lie directly to the Supreme Court from any judgment, decree or order pronounced or entered by a High Court established by Article 154P of the Constitution in the exercise of its jurisdiction granted by section 5A of this Act, with leave of the Supreme Court first had and obtained. The leave requested for shall be granted by the Supreme Court, where in its opinion the matter involves a substantial question of law or is a matter fit for review by such Court.
- (2) The Supreme Court may exercise all or any of the powers granted to it by paragraph (2) of Article 127 of the Constitution, in regard to

any appeal made to the Supreme Court under subsection (1) of this section.

The jurisdiction conferred on the High Court by Section 5A of the High Court of the Provinces (Special Provisions) Act, as amended by Act No. 54 of 2006, is parallel and concurrent with that of the Court of Appeal. Therefore, the decisions of the High Court, in the exercise of its Jurisdiction under Section 5A of the said Act, are not amenable to review by this Court. This position has been affirmed by the Supreme Court in its judgment in SC/Appeal/65/2025, delivered on 10-10-2025.

SC/Appeal No. 65/2025 and CA/RII/15/2022, W.T.S. Nilantha Fernando Vs. P.M.S. Nilanthi Perera decided on 10-10-2025, the Supreme Court stated *inter alia* “a party dissatisfied with a judgment of the Provincial High Court cannot create a third tier of appellate scrutiny by describing the route as revision or *restitutio in integrum*.” Further, the Supreme Court decided as follows:

“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.”

For the above reasons, the 1st preliminary objection raised by the respondents is upheld. Accordingly, the petitioner’s application for revision and *Restitutio in integrum* is dismissed. However, in the circumstances of this case, we make no order for costs.

Judge of the Court of Appeal.

Dr. S. Premachandra J.
I agree.

Judge of the Court of Appeal.