

**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 of the Constitution
of the Democratic Socialist Republic of Sri
Lanka.

Court of Appeal

Case No: RII/0088/2024

DC Kegalle

Case No: 6605/Land

Halwathurage Chandrika Kumari,
No. 98, Ekiriyagoda Road,
Kegalla

Plaintiff

VS

1. Special Commissioner
Urban Council of Kegalla
(Now the Municipal Council of
Kegalla)
Main Street, Kegalla.
2. Sheela Ranaweera
(Ranaweera Archchillage Sheela
(Ranaweera)
No. 61, Dharmapala Mawatha,
Kegalla

Defendants

AND NOW BETWEEN

Halwathurage Chandrika Kumari
No. 98, Ekiriyagoda Road,
Kegalla
(Employed in Israel but now in Sri Lanka at
The time of instituting this application)

Plaintiff-Petitioner

Vs.

1. Special Commissioner
Urban Council of Kegalla
(Now the Municipal Council of
Kegalla)
Main Street, Kegalla.
2. Sheela Ranaweera
(Ranaweera Archchillage Sheela
(Ranaweera)
No. 61, Dharmapala Mawatha,
Kegalla

Defendant-Respondents

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

Counsel : Moditha T.B. Ekanayake
for the Plaintiff-Petitioner

Supported on: 27-11-2025

Decided on : 17-12-2025

ORDER

R. Gurusinghe, J.

The petitioner filed this *Restitutio-in-Integrum* application and pleaded the reliefs *inter alia* as follows:

- c. *Exercising the power of Restitution or Revision, reverse the judgment of DC Kegalle Case No. 6605/L dated 30-08-2013 based on the following main facts.*

- i. *It is prima facie appears that after “Polabima Kada” shop No. 9 was demolished before the opening of the “P.B. Balasuriya Shopping Complex of Kegalle” and in its place the 1st defendant respondent has allocated the shop No. 12 of the P.B. Balasuriya Shopping Complex to the plaintiff-petitioner, who is the lawful successor and heir of Halwaturage Somasiri, and*
- ii. *The facts enumerated in paragraphs C (i) of the prayer above were never subjected to any adjudication or to a judicial notice in the District Court of Kegalle, Case No. 6605/L and therefore the conclusion of the Learned Trial Judge does not suffice to meet the ends of justice and furthermore, it was truly against the legitimate expectations of the plaintiff-petitioner.*
- d. *Declare that the corpus of the DC Kegalle Case 6605/L was not destroyed and it was only re-constructed by the owner on the same land and therefore, the new shop no. 12 assigned to the plaintiff-petitioner by the 1st defendant-respondent above named and therefore it should not be detrimental to the lawful rights of the plaintiff-petitioner to maintain a claim which is her legitimate expectations.*
- e. *Declare that the plaintiff above named is the true successor and heir of the lawful lessee Halwaturage Somasiri of the Shop No. 9 of demolished “Polabima Kada” which was located in front of the Kegalle fair site and also the Shop No.12 of the reconstructed new building in the same premises which is known and named as “P.B. Balasuriya, Shopping Complex”, Kegalle.*

The plaintiff-petitioner's position is that her father, Halwaturage Somasiri, was the lessee of Shop No. 9 of “Polabima Kada”, which belongs to the Urban Council, Kegalle. After the death of the petitioner's father, she is entitled to be succeeded as the lessee of Shop No. 9. The petitioner filed an action before the District Court of Kegalle, Case No 6605 seeking a declaration that she is entitled to Shop No 9 of “Polabima Kada” as the annual lessee of Kegalle UC (the 1st defendant) and to evict the 2nd defendant-respondent from the possession of it. While the action was pending before the District Court, shops at the “Polabima Kada” site were demolished.

The 2nd defendant respondent filed an answer stating that she was the legally married wife of the deceased Halwaturage Somasiri at the time of his demise, and she was running that shop as a lessee of UC Kegalle.

In this application, the petitioner's claim is that the UC Kegalle had decided to give Shop No. 12 of *Balasuriya Shopping Complex* to the lessee of demolished Shop No. 9 at "*Polabima Kada*" and therefore, the Learned District Judge should not have dismissed the petitioner's action on the basis that the subject matter of the action no longer exists.

The Learned District Judge dismissed the petitioner's action after answering the issues framed by both parties. The Learned District Judge decided that the 2nd defendant was the legally married wife of the deceased Somasiri at the time of his death, and the 2nd defendant was running the Shop No. 9 at "*Polabima Kada*". At the time of the judgment, the subject matter of the action, that is, Shop No. 9 of "*Polabima Kada*", was not in existence. Therefore, Learned District Judge dismissed the claim of the petitioner as well as the 2nd defendant-respondent. Further, no evidence was produced before the District Judge to the effect that, in lieu of Shop No. 9 of the demolished shops, Shop No. 12 of the new complex was allocated to the lessee of Shop No. 9.

The decision to assign Shop No. 12 of the "*Balasuriya Shopping Complex*" to the 2nd defendant was made by the 1st defendant on the basis that the 2nd defendant was the legally married wife of the deceased Somasiri. The petitioner filed a Writ application before the Provincial High Court of Kegalle challenging that decision. The Provincial High Court dismissed the petitioner's application. The petitioner filed an appeal No. CA(PHC)42/2019 in the Court of Appeal against the decision of the Provincial High Court. On 15-05-2023, the Court of Appeal dismissed the appeal. The Court of Appeal further decided that the 1st defendant has the discretion to assign Shop No. 12 to the 2nd defendant as she was the wife of the deceased Somasiri.

After the judgment of the District Court in Case No. 6605/L, the petitioner appealed to the Civil Appellate High Court of the Sabaragamuwa Province. The Civil Appellate High Court dismissed that appeal.

The Supreme Court in the case of SC/APPEAL/65/2025 decided on 10.10.2025 held among other things 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.

The petitioner's action before the District Court was based on the annual lease agreement that her deceased father had with the Urban Council of Kegalle. Even if the petitioner had a right to succeed as the heir of the deceased, that right ends at the end of the lease period. Furthermore, the lease agreement between the 2nd defendant and the 1st defendant for Shop No. 12 of Balasuriya Complex is a completely new agreement. Therefore, the decision of the Learned District Judge to dismiss the petitioner's action is correct.

For the reasons stated above, Court refuses to issue formal notice on the respondents.

Application is dismissed.

Judge of the Court of Appeal.

Dr. S. Premachandra J.
I agree.

Judge of the Court of Appeal.