

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

In the matter of an application for mandates in the nature of *Writ of Certiorari*, *Writ of Mandamus* and *Writ of Prohibition* made under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

JANASHAKTHI FINANCE PLC,
No.338, T B Jayah Mawatha,
Colombo 10.

CA WRIT APPLICATION
NO. CA /WRT /0327 /2026

Formerly known as

ORIENT FINANCE PLC, formerly known as
Orient Financial Services Corporation Limited

Previously having registered office

No.100, Hyde Place Corner, Colombo 02.

Now having registered office

No.02, Deal Place, Colombo 03.

And

Having its place of business at

No. 61, Dharmapala Mawatha, Colombo 07.

Having had its place of business at No.46, 48,
Dr N.M. Perera Mawatha, Colombo 08.

PETITIONER

Vs.

1. Commissioner General of Motor Traffic,
Department of Motor Traffic,
Colombo 05.
2. O.S. Perera,
Deputy Commissioner,
Department of Motor Traffic,
Colombo 05.
3. Nalaka Jayasinghe,
Deputy Commissioner,
Department of Motor Traffic,
Colombo 05.
4. Kaduwela Holdings (Private) Limited,
No133/23,
Colombo Road,
Kaduwela,
Sri Lanka.
5. Don Chaminda Jayanath Katugampitiya,
No133/23,
Colombo Road,
Kaduwela,
Sri Lanka.
6. Umagiliya Vithanage Dulashini Anjana
Rajakaruna,
No133/23,
Colombo Road,
Kaduwela,
Sri Lanka.

7. Umagiliya Vithanage Ariyadasa Rajakaruna,
No.640/58,
Thunandahena Road,
Metro Park,
Korathota,
Kaduwela.
8. Power Hands Plantation Pvt Ltd,
67/24, Weliamuna Road, Hendala,
Wattala.
9. Bobugala Gedara Somapala,
B/5/2/1 NHS Flats,
Maligawatta, Colombo 10.
10. CO. Seego Holdings (PVT) LTD,
No.375/33/A, Kaluwagaha Janapadaya,
Gonapinuwala.
11. Power Hands Holdings (Pvt) Ltd,
65/1, Mahabage Road, Elapitiwala,
Ragama.
12. Subasinha Arachchige Nimali Kanchana,
Perera Jayathilaka,
No.131/5,
Sri Vajiragnana Mawatha,
Colombo 09.
13. M/S Sunil Auto Enterprises,
Kaluwagaha Janapadaya,
Gonapinuwala.
14. Hon. Attorney General,
The Attorney General's Department,
Hulftsdorp, Colombo 12.

RESPONDENTS

Before : Hon. Justice B. Sasi Mahendran

Hon. Justice Adithya Patabendige

Counsel : Wasantha Fernando, Thilini Hewavithanage for the Petitioner.

R. Aluwihare, SC for the 1st to 3rd and 14th Respondents.

Padmasiri Bandara for the 10th and 13th Respondents.

Supported On: 27.07.2026

Order On : 28.08.2026

ORDER

B. Sasi Mahendran, J.

The Petitioner seeks, *inter alia*, a ***Writ of Certiorari*** to quash the transfers effected by the 1st, 2nd and 3rd Respondents as evidenced by transfer papers dated 10th, 11th and 30th April 2025, marked “**P12A to P12I**”, and confirmed by “**P13**”, on the ground that they were unlawful, *ultra vires* and contrary to the Order dated 31st January 2025 marked “**P9**”. The Petitioner further seeks a ***Writ of Mandamus*** compelling the Respondents to comply with the said Order and restore the *status quo*, and ***Writs of Prohibition*** restraining them from taking any further action contrary to the said Order or prejudicial to the Petitioner’s interests.

The following facts are relevant to this application.

The Petitioner, being a duly licensed finance company, instituted several actions in the District Court of Colombo against the 4th Respondent as the principal borrower and the 5th and 6th Respondents as guarantors, in respect of vehicle-import pledge loan facilities granted to the 4th Respondent. The said actions were instituted under the Debt Recovery (Special Provisions) Act No. 2 of 1990, as amended (hereinafter referred to as the Act) under Case Nos. DDR 685/2017,

DDR 631/2017, DDR 675/2017, DDR 743/2017, and DDR 669/2017. The learned Additional District Judge, being satisfied that the debts were due and recoverable, issued Decrees Nisi, which were thereafter duly served on the Defendants and made absolute on various dates upon their failure to appear before the Court.

Thereafter, the Petitioner sought to execute the said decrees by way of writ under Section 13 of the said Act read with the relevant provisions of the Civil Procedure Code, for the seizure of the assets of the 4th and 5th Respondents. Subsequently, the Petitioner became aware that 12 vehicles had been imported in the name of the 4th Respondent and were being held at Sri Lanka Customs (hereinafter referred to as the 'Customs') pending clearance. By an Order dated 20th June 2024, marked "P4", the Additional District Judge directed the Registrar of the District Court to seize 11 of the said 12 vehicles which remained at Customs. However, the Registrar was informed by Customs that the seizure Order could not be executed within the Customs premises by reason of Section 109 of the Customs Ordinance, and consequently the seizure could not be effected.

Thereafter, the Petitioner wrote to the Ministry of Finance on 13th September 2024, marked "P6", seeking approval to take the vehicles into its custody for the purpose of executing the writs issued in the Petitioner's favour. The Department of Trade and Investment Policy subsequently forwarded the said request to Sri Lanka Customs by a letter dated 27th September 2024, marked "P7", requesting appropriate action in compliance with the Orders of the District Court. However, by letter dated 7th January 2025, the Petitioner was informed that Sri Lanka Customs had released the said vehicles. This release forms part of the circumstances giving rise to the Petitioner's complaint concerning the subsequent transfer of ownership of the vehicles.

The Petitioner states that, on or about 23rd January 2025, it filed a motion seeking an Order restraining the 1st, 2nd and 3rd Respondents from registering the 11 vehicles in the name of any person, including third parties. Upon considering the application, the Additional District Judge of Colombo issued an Order dated 31st January 2025, marked "P9", expressly prohibiting the Commissioner of the Department of Motor Traffic and his agents from registering the said vehicles in the names of any third parties.

The Petitioner states that the certified copies of the said Order were thereafter delivered to the Department of Motor Traffic by hand and by registered post on 17th February 2025, together

with a covering letter marked “**P10**” and the relevant postal receipt marked “**P10(i)**”. Accordingly, the 1st, 2nd and 3rd Respondents were duly informed of the Court Order restraining the registration and transfer of the said vehicles.

Thereafter, pursuant to an inquiry made by the Petitioner under the Right to Information Act No. 12 of 2016, the Petitioner was informed by Sri Lanka Customs, by letter dated 13th June 2025, marked “**P11**”, that the vehicles had been handed over to the 4th Respondent. The Petitioner subsequently inquired from the Department of Motor Traffic on 25th June 2025 regarding the status of the vehicles and was informed that 9 of the 11 vehicles had already been registered in the names of third parties. The relevant transfer documents are marked “**P12A** to **P12I**”, while a letter submitted by the 5th and 6th Respondents to the Department of Motor Traffic is marked “**P13**”.

The Petitioner alleges that, despite having been duly notified of the Order **P9**, the 1st, 2nd and 3rd Respondents proceeded to transfer the vehicles to the 8th to 13th Respondents in direct violation of the said Order.

Being aggrieved by the aforementioned actions, the Petitioner has invoked the writ jurisdiction of this Court.

When the matter was supported, the learned State Counsel informed the Court that, due to an oversight, the 1st Respondent had registered the said vehicles in the names of third parties, who were subsequently named as the 8th to 13th Respondents.

The question before us is whether the Petitioner is entitled to a mandate in the nature of a *writ of certiorari* quashing the registration of the said vehicles, in circumstances where there was an Order, **P9**, made by the learned Additional District Judge restraining the registration of the said vehicles.

It is not disputed that the learned District Judge had issued an Order directing the 1st Respondent not to register any of the vehicles specified in the said Order marked **P9**. The said Order constituted a clear direction to the 1st Respondent in respect of the registration of those vehicles.

It should be noted that the 1st Respondent was not named as a party to the proceedings before the District Court in Case Nos. DDR 685/2017, DDR 631/2017, DDR 675/2017, DDR

743/2017 and DDR 669/2017. Although the 1st Respondent was expressly directed by P9 not to register the vehicles, he was not a party to the proceedings in which that Order was made.

Counsel appearing for the 1st Respondent informed the Court that the said vehicles had been mistakenly registered. The question that therefore arises is whether, in the circumstances, the failure to comply with the direction of the District Court entitles the Petitioner to invoke the writ jurisdiction of this Court and seek a *Writ of Certiorari*.

I am mindful that the Order marked “P9” contains a direction to the 1st Respondent to give effect to and enforce the said decree, notwithstanding that the 1st Respondent was not a party to the proceedings before the District Court. If the 1st Respondent failed to comply with said directions, there is a remedy available under Section 14(2) of the said Act, as amended, which reads as follows:

“(2) Any person resisting the Fiscal while executing a writ under this Act shall be deemed to be guilty of contempt of Court and shall be liable to the penalties prescribed for contempt of court by the Judicature Act, No. 2 of 1978 and the Civil Procedure Code (Chapter 101) unless he proves that the property sought to be seized belonged to a person other than the judgment debtor”

If the 1st Respondent has failed to comply with or carry out the Order or directions issued by the District Court, the Petitioner has an express remedy in law by way of contempt proceedings against the 1st Respondent under Contempt of Court Tribunal or Institution Act No 08 of 2024. The said Act specifically provides for the jurisdiction and procedure in respect of contempt committed against a Court of First Instance, including the District Court.

Our Courts have consistently held that, where an effective alternative remedy is available in law, they are reluctant to invoke the writ jurisdiction of this Court.

At this juncture, I am mindful of the following judgments.

The above dicta was followed by K. Sripavan, J. (as he was then) in **Office Equipment Ltd Vs Urban Development Authority**, in CA Appeal CA Writ/ CA/ 1062/2000, decided on 05.09.2003, held that;

“ In view of the authorities cited above, I hold that the Petitioner’s claim cannot be suitably decided in a Writ application. Furthermore, prerogative writs will not issue where there are adequate, convenient and effective remedies available to determine the

rights of parties. granted where the Petitioner has another adequate and specific legal remedy in the District Court competent to afford relief upon the same subject matter.”

In the case of ***Ishak v Laxman Perera, Director General of Customs and others*, [2003] 3 SLR at page 18 at 22, Her Ladyship Thilakawardane, J. held that,**

“Another matter that has been urged by the respondents in this case is that as a specific remedy has been set out in Section 154 of the Customs Ordinance that this would exclude the invocation of the writ jurisdiction as an alternative remedy was available in law.

"Where there is an alternative procedure which will provide the applicant with a satisfactory remedy the Courts will usually insist on an applicant exhausting that remedy before seeking judicial review. In doing so the Court is coming to a discretionary decision." "Where there is a choice of another separate process outside the Courts, a true question for the exercise of discretion exists. For the Court to require the alternative procedure to be exhausted prior to resorting to judicial review is in accord with judicial review being properly regarded as being a remedy of last resort. It is important that the process should not be clogged with unnecessary cases, which are perfectly capable of being dealt with in another tribunal. It can also be the situation that Parliament, by establishing an alternative procedure, indicated either expressly or by implication that it intends that procedure to be used. In exercising its discretion the Court will attach importance to the indication of Parliament's intention"

Applying the provisions of Section 154 of the Customs Ordinance it is clear that there is an existent remedy provided in terms of the aforesaid section in the District Court of competent civil jurisdiction. This was followed in several cases: (Fernando v Dharmasiri, Gunasekera v Weerakoon, Rodrigo v The Municipal Council, Galle and Samarakoon v Tikiribanda). In other words where there was an alternative remedy that was adequate for the adjudication of the matter that was being challenged by the aggrieved party except under exceptional circumstances this Court would not invoke the writ jurisdiction of the Court. This is all the more important in this case in the circumstances that the petitioner himself has claimed that he has already invoked the jurisdiction of the District Court of Colombo in case No. 27132/MR and that such is on

the identical facts that has been canvassed before that Court of competent civil jurisdiction.”

The above judgments were subsequently considered in the following judgments.

Dialog Telecom PLC V. Sarath Jayathilake, CA/WRT/464/2008, Decided on 06th May 2016, His Lordship L.T.B.Dehideniya, J. held that,

“The Petitioner submits that this Court is vested with the writ jurisdiction under Article 140 of the Constitution and it is not ousted by the Customs Ordinance. The respondent do not argue that the writ jurisdiction of this Court is ousted by section 154, but since there is an alternative remedy provided by the same statute, and that remedy is by way of an action in a competent Court of Law, and the writ jurisdiction being a discretionary remedy of Court, a writ does not lie.”

All Ceylon Buddhist Congress and Another v. Mohamed Sheriff Mohamed Samsudeen and Others, CA/WRT/ 1206/25, Decided on 03rd February 2026, His Lordship N. R. Abeysuriya, PC, J. (P/CA), held that,

“Judicial review is an extraordinary remedy and is not intended to supplant ordinary legal processes provided by statute. It is well settled that where the law provides an equally effective alternative remedy, a party is required to exhaust such remedy before invoking the writ jurisdiction of this Court.

Judicial review must therefore be regarded as a remedy of last resort, to be exercised sparingly and only in circumstances where no adequate alternative remedy exists or where exceptional circumstances warrant immediate intervention. In the instant matters, it is evident that the Petitioners have failed to avail themselves of the statutory remedy of revision, by which they could have challenged both the institution of proceedings and the subsequent orders of remand. The availability of such a remedy is neither illusory nor ineffective. On the contrary, revision constitutes a well-recognized and effective mechanism for correcting jurisdictional error, illegality, or procedural impropriety at an early stage of proceedings.”

In the instant case, the Petitioner has an alternative remedy under Section 14(2) of the said Act and the Contempt of Court, Tribunal or Institution Act, by way of contempt proceedings against

the 1st Respondent. Therefore, I hold that, since the Petitioner has an effective alternative remedy available in law, this Court declines to exercise its writ jurisdiction.

I am also mindful that the said vehicles have already been registered in the names of the 8th to 13th Respondents, and that there is no evidence before the Court to establish that the 1st Respondent acted *mala fide*, unlawfully, or in excess of his lawful authority in effecting such registrations. In fact, the Petitioner itself admitted in the Petition that the vehicles were lawfully released by Sri Lankan customs to the 4th Respondent. Thereafter, the 4th Respondent sold the vehicles to the 8th to 13th Respondents.

Since the 8th to 13th Respondents were in possession of the said vehicles, the 1st Respondent proceeded to register the said vehicles pursuant to the powers conferred under Section 2 of the Motor Traffic Act.

The said Section 2 of the Motor Traffic Act reads as follows,

“2. (1) No person shall possess or use a motor vehicle unless' that vehicle registered, and the person for the time being entitled to the possession of the vehicle is registered as the owner thereof, in accordance with the provisions of this Part.”

There is no evidence before the Court to establish that the 1st Respondent conspired with the 8th to 13th Respondents to effect the registration of the said vehicles.

It is pertinent to refer to the following passage from *Wade and Forsyth, Administrative Law*, 11th ed. (2014), at p. 596, under the heading “Discretion and its Consequences”:

“The most active remedies of administrative law-declaration, injunction, the quashing order (certiorari), the prohibiting order (prohibition), the mandatory order (mandamus) - are discretionary and the court may therefore withhold them if it thinks fit. In other words, the court may find some act to be unlawful but may nevertheless decline to intervene.” [emphasis added]

Accordingly, I decline to issue the *Writ of Certiorari* sought by the Petitioner. Consequently, the reliefs sought by way of *Mandamus* and *Prohibition* also cannot be granted.

The application is therefore dismissed. I make no Order as to costs.

JUDGE OF THE COURT OF APPEAL

Adithya Patabendige, J.

I AGREE.

JUDGE OF THE COURT OF APPEAL