

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

*In the matter of an Application for
Orders in the nature of Writs of
Certiorari, Prohibition and Mandamus
under Article 140 of the Constitution of
the Democratic Socialist Republic of Sri
Lanka.*

Ven. Kotapola Amarakiththi Thero,
Seruwila Buddhist Centre,
Shanthi Foundation,
Baudhaloka Mawatha,
Colombo 07.

CA (Writ) App. No. 731/2025

PETITIONER

Vs.

1. Ven. Aludeniya Subodhi Thero,
Seruwila Mangala Raja Maha Viharaya,
Seruwila.
2. Most Ven. Devinuwara Siri Sunanda
Mahanayake Thero of the Sri Lanka
Amarapura Maha Nikaya
Kalyaniwansha Sector,
Parama Vichithraramaya,
Devinuwara.
3. R.M.P. Rathnayake,

Commissioner General of Buddhist
Affairs,
Department of Buddhist Affairs,
No. 135, Sirimath Anagarika
Dharmapala Mawatha,
Colombo 07.

RESPONDENTS

Before: Dr. D. F. H. Gunawardhana, J.

Counsel:

Chandaka Jayasindere, P.C. with Chinthaka Fernando, Praveen Wijayasekara instructed by Continental Associates for the Petitioner.

Kuvera de Zoysa, P.C. with Sanjana de Zoysa for the intervenient Petitioners on the instructions of M.J.S. Fonseka.

Sanjeewa Jayawardene, P.C. with Rukshan Senadheera instructed by Athula de Silva for the 1st Respondent.

M.U.M. Ali Sabry, P.C. with Sanjeewa Dassanayake instructed by Nimal Rajapakshe for the 2nd Respondent.

Vikum de Abrew, A.S.G., P.C. with Peshan Gunaratne, S.C. for the 3rd Respondent.

Supported on: 25.11.2025

Order delivered on: 17.12.2025

Dr. D. F. H. Gunawardhana, J.

Order

Introduction

The Petitioner claims that he is the *de jure* Viharadhipathi of the Seruwila Mangala Raja Maha Vihara, situated in Trincomalee. He further asserts that he has succeeded to the Viharadhipathiship in law by virtue of his right as a pupil of late Munhenne Meththarama Thero. He alleges in the Petition that the 1st Respondent has been appointed as the *de facto* Viharadhipathi of the said temple by the 2nd Respondent. After the said appointment, it has been notified to the 3rd Respondent, who is the Commissioner of Buddhist Affairs. The Petitioner alleged that the 3rd Respondent has accepted the said appointment by document dated 05.05.2025, which is marked and annexed to the Petition as **Z1**. Therefore, the Petitioner's complaint to this Court is that such an acceptance is prejudicial to his rights, which he is going to assert and establish in two District Courts where there are several cases between the Petitioner and the 1st Respondent claiming the Viharadhipathiship of the said Temple. As such, the Petitioner's complaint is based on the substantive issue between the parties that is pending before the District Court; therefore, the 3rd Respondent should not have issued the letter marked as **Z1** in that form.

In those circumstances, the Petitioner is seeking to quash what is stated, and according to his Counsel's argument, crafted in the letter **Z1** (as he called it a "letter of acceptance").

This was supported before this Court on 25.11.2025, and the following contentions were advanced by the counsel; hence, this order.

Arguments

The first contention of Mr. Jayasundara is that when the substantive issue, namely who the Viharadhipathi is or to whom the Viharadhipathiship should go to, is before another forum between the Petitioner and the 3rd Respondent, the 3rd Respondent cannot take a decision as reflected in the letter marked Z1.

Mr. Jayasundara's second contention is that the manner in which Z1 is crafted is *ultra vires*; namely, when the 3rd Respondent admits that he is well aware of the pending cases and the issues between the parties regarding the Viharadhipathiship, he should not have accepted the recommendations made by the 2nd Respondent and crafted letter Z1 in such a manner. Since by Z1 the 3rd Respondent has accepted the 1st Respondent as the Viharadhipathi, it is *ultra vires*.

However, Mr. Sanjeeva Jayawardena P.C. on the other hand for the 1st Respondent argued that the Petitioner failed to produce the three documents referred to in Z1, which were produced by the other Respondents. In particular, the 2nd Respondent produced X17(a) and X17(b). The decision to appoint the 1st Respondent as the Viharadhipathi had already been taken by the 2nd Respondent in those letters. Therefore, without challenging them, the Petitioner cannot challenge Z1.

The next argument is that the appointment was done by the 2nd Respondent on the recommendation of the 'Chaithiyawardana Samithiya' of the Mangala Raja Maha Viharaya of Seruwila in accordance with the rules contained in X9, which is the Constitution. Therefore, Z1 is only a ministerial act, and the relevant documents are marked X16(1). Since X16(1) and X16(2) are already challenged in the District Court, the Petitioner's attack here is only a collateral, and without quashing those letters, the Petitioner cannot seek to quash only Z1.

Mr. Sabry P.C., Counsel for the 2nd Respondent, while associating himself with the submissions advanced by Mr. Jayawardena, contended that the District Court can inquire into every aspect of

this case. He further submitted that the 3rd Respondent has merely performed a ministerial act, which is reflected in Z1, and he relied on Justice Arjuna Obeysekera's judgment in *Sadda Vidda Rajayapakse Palanga Pathira Ambakumarage Ranjana Leo Sylvester Alphonsu v Secretary General of Parliament*.¹

Finally, Mr. De Abrew, P.C., arguing for the 3rd Respondent, submitted that the 3rd Respondent has not taken any decision using his discretion. Therefore, the 'Electricity Commissioner' principles do not apply to the case in hand, and as such, no writ lies against the 3rd Respondent. He submitted that this Application must be dismissed *in limine*. He further argued that the decision was taken by the 2nd Respondent on the recommendations of the Chaithiyawardana Samithiya as reflected in X14(i) and X14(iii), and that the 3rd Respondent, acting solely under a statutory duty to register what is sent to him as the law requires, performed only a ministerial act.

In reply, Mr. Jayasundara referred to the three letters referred to in Z1, briefed by the other Respondents as X17(a), X17(b), or X14(i) to (iii), asserted that the letters were not copied to the Petitioner. Therefore, the Petitioner was unaware of these facts. He argued that the issue lies in the third paragraph of X17(a), where the 2nd Respondent instructs the 3rd Respondent to recognize the 1st Respondent as the Viharadhipathi, and that complying with the said request and issuing Z1 is *ultra vires*.

Factual matrix

In this Application, the Petitioner claims that he is the *de jure* Viharadhipathi of Seruwila Mangala Raja Maha Vihara, which is situated in the Seruwila area in the District of Trincomalee in the

¹ [CA(Writ) Application No. 52/2021] CA Minute 05.04.2021.

Eastern Province. He challenges the appointment of the Viharadhipathi of the 1st Respondent to this Application.

When the said appointment is notified to the 3rd Respondent by the 2nd Respondent, he has acknowledged it by document dated 05.05.2025 and marked as Z1 annexed to the Petition, but subject to the final decisions of the pending court cases. Accordingly, the Petitioner challenges the said document Z1 on the basis that he has no authority or power to accept the 1st Respondent as the Viharadhipathi of the Mangala Raja Maha Vihara of Seruwila. He challenges so, on the basis that the 3rd Respondent had accepted the 1st Respondent as the Viharadhipathi on the intimation of the 2nd Respondent, who is the Maha Nayaka of the Kalyanawansa Chapter of the Amarapura Nikaya.

On the other hand, it is argued for and on behalf of the 2nd Respondent that this Court does not have jurisdiction to decide the issue since the said appointment was not made by the 2nd or 3rd Respondent, but by the Chaithiyawardana Samithiya of the said Temple; without citing the Chaithiyawardana Samithiya or its members as necessary parties, the Petitioner cannot maintain this Application. Now I will consider this first, since it has been raised as a preliminary objection.

Secondly, along with the said preliminary issue, I will also consider whether this Court has jurisdiction to hear and determine this matter, since it was argued for and on behalf of all the Respondents that the substantive question whether the Petitioner can claim the Viharadhipathiship or whether the appointment of the 1st Respondent as the Viharadhipathi is legal is in issue in several matters pending in the two District Courts in this regard. As such, I will consider whether this Court can exercise its writ jurisdiction conferred upon it by Article 140 of the Constitution.

It is the argument advanced for and on behalf of the 2nd Respondent that the 1st Respondent has been appointed by the Chaithiyawardana Samithiya of the Mangala Raja Maha Vihara according to the Constitution of the Kalyanawansa Chapter of the Amarapura Nikaya.

It is quite pertinent to mention at this juncture that, as admitted by all the parties, the said Mangala Maha Vihara of Seruwila had been abandoned and remained in dilapidated or ruined condition until Ven. Dhambagasyaya Sumedankara Thero revived it in the 1920s, well assisted by the said Chaithiyawardana Samithiya of which the devotees are its main components. After the demise of said Dhambagasyaya Sumedankara Thero, Ven. Seruwila Saranahiththi Thero became the Viharadhipathi. However, Saranahiththi Thero during his lifetime had appointed Munhenne Meththarame Thero as the Viharadhipathi.

Later, after the demise of Saranahiththi Thero and Munhenne Thero as well, according to the said Constitution, Aludeniye Subodhi Thero, the 1st Respondent, has been appointed as the Viharadhipathi. The said appointment was notified according to the said Constitution by the 2nd Respondent to the 3rd Respondent, who as the Commissioner of Buddhist Affairs, has to enter it in the register. Accordingly, on intimation of the said appointment, the 3rd Respondent has acknowledged the said appointment by **Z1**, which reads thus;

“01. උක්ත කරුණ සම්භන්ධයෙන් ඔබ වහන්සේ විසින් මා වෙත යොමු කර ඇති 2024.07.12, 2024.08.05, 2024.12.05 දිනැති ලිපි හා බැඳේ.

02. එකී ලිපි මගින් දන්වා ඇති පරිදි ත්‍රිකුණාමලය දිස්ත්‍රික්කයේ සේරුවිල ප්‍රාදේශීය ලේකම් කොට්ඨාසයේ සේරුවිල මංගල රජ මහා විහාරස්ථානයේ විහාරාධිපති වශයෙන් පත්කොට තිබූ පූජ්‍ය කොටපල අමරකිත්ති ස්වාමීන් වහන්සේගේ විහාරාධිපති ධුරය අවලංගු කර පූජ්‍ය අළු දෙණියේ සුබෝධි ස්වාමීන් වහන්සේ විහාරාධිපති ධුරයට පත් කිරීම පිළිගත් බව ගෞරව පූර්වකව දන්වා සිටිමි.

03. නවද, මෙම පත් කිරීම පිළිගැනීම මේ සම්බන්ධයෙන් පවතින නඩුවලට අගතියක් නොවිය යුතු බවද ගෞරව පූර්වකව දන්වා සිටිමි.”

Accordingly, if one reads between the above provided lines, it is clear that this is merely an acknowledgement of the said appointment.

However, the Petitioner challenges the same on the basis as mentioned above, that if such ‘acknowledgement’ as it is worded as ‘acceptance’ of the 1st Respondent as the Viharadhipathi, it may prejudice the rights of the Petitioner in his plea before the District Courts of Colombo and Muttur, where the Petitioner has challenged the Viharadhipathiship of the 1st Respondent in several cases, where the 1st Respondent has obtained certain restraining order against the Petitioner, restraining him from interfering with the affairs of the Viharadhipathi of the Mangala Maha Raja Vihara of Seruwila.

Therefore, it is very clear as argued for and on behalf of the 2nd Respondent, that the substantive issue on who should succeed as the Viharadhipathi on the demise of Munhenne Meththarame Thero, is a question before the District Courts in several cases. Such a substantive issue can only be decided by the District Court of competent jurisdiction, where evidence can be adduced in that behalf and considered by the Court to decide such a matter. Thus, it is my view that this Court cannot make any order on whether the appointment of the 1st Respondent is correct or not.

Necessary parties

The first question that has arisen for my consideration is whether **Z1** can be construed as an acceptance by the 3rd Respondent of the appointment of the 1st Respondent as the Viharadhipathi.

As on the Petitioner’s own showing and ably argued by Mr. Jayasundara, the 3rd Respondent cannot make any appointment or accept or reject any appointment. His only duty according to the

Statute, namely the Buddhist Temporalities Ordinance, No. 19 of 1931 (as amended), is to register the name of the person so selected as the Viharadhipathi once such an appointment is made or succeeds after the demise of a particular Viharadhipathi, or falls vacant due to some other reason at a particular time. In this case, according to the Constitution of the Kalyanawansa Chapter of the Amarapura Nikaya, which governs the appointment of the Viharadhipathi of the Mangala Raja Maha Vihara of Seruwila, the appointment is solely the duty of the Chaithiyawardana Samithiya, which is a fact that all the parties have admitted; in fact, Mr. Jayasundara in the course of his submissions, also conceded this. Therefore, as the Chaithiyawardana Samithiya has the sole power to appoint the Viharadhipathi after the demise of the former Viharadhipathi, or when there is a vacancy of the Viharadhipathiship; and if somebody challenges such an appointment, the Chaithiyawardana Samithiya or its members have to be cited as Respondents to such application.

In this Application, the Petitioner has failed to do so; thus, this is a fatal mistake that I must first mention. Therefore, one of the preliminary objections raised by the 2nd Respondent is quite attractive.

Secondly, I must consider whether this Court has the jurisdiction to determine this issue.

Substantive issue

Admittedly by all the parties, the substantive issue of the Viharadhipathiship of the 1st Respondent is challenged before two District Courts; and the parties are at variance on the issues based on evidence. Thus, who is the Viharadhipathi, is a question of fact, as the 1st and 2nd Respondents claimed that the 1st Respondent has been appointed as Viharadhipathi in accordance with the rules, and the Petitioner claims that he is the *de jure* Viharadhipathi. However, the Petitioner's claim was not accepted by the Nikaya and there is no appointment as such by Chaithiyawardana Samithiya.

Therefore, it has to be gone into by a District Court in a properly conducted trial with the evidence adduced by the parties.

Ministerial act

However, after such an appointment, according to the said Constitution of the Chapter, the Mahanayaka Thero has to notify the 3rd Respondent of such an appointment, which he has done. What is worded in Z1 is not an acceptance by the 3rd Respondent; it is on an acknowledgement of what has taken place, and in fact, the 3rd Respondent has acknowledged the said appointment, subject to the decision of the pending District Court cases. Therefore, there is no final decision of the 3rd Respondent on either to accept or reject it, as clearly argued by the parties, since he has only acknowledged as the person who carries out only a ministerial or clerical duties of a decision-making body that has already taken a decision at a different level, in a different venue, and in a different capacity. Thus, at the first place, the 1st Respondent has no capacity to take such a decision, or make an acceptance even in the form of such a decision; he has only acknowledged what has taken place and the decision of the Chaithiyawardana Samithiya, which was notified to him by the 2nd Respondent.

Therefore, it is my view that the letter Z1 is just a ministerial act of the 3rd Respondent, which does not have any bearing on any case nor prejudice any parties, including the Petitioner, nor cause any bias in favour of the 1st Respondent or any party in the pending cases.

Since I have decided above that there is substantive matter to be determined by the District Court, and only the District Court have the jurisdiction to go into such matters after considering the evidence, it is also my view that this Court cannot go into the matter on whether the decision made by the Chaithiyawardana Samithiya and acknowledged by the 3rd Respondent is correct or not.

Arrogation of jurisdiction

In addition to that, I wish to say that since the substantive issue is before the District Court, particularly the actions in Colombo, the District Court has the jurisdiction over this matter. If this Court assumes or arrogates or usurps the jurisdiction of the District Court, it will amount to the violation of the judicial power of the people, namely the parties whose judicial power is exercised by the District Court which is empowered to exercise the jurisdiction on the said substantive issue by the Judicature Act and Article 111H read with Articles 3 and 4 of the Constitution. Therefore, such usurpation of the judicial power of the people is something which this Court cannot do, vide my judgment, *Kaluthota Investments and Leasing (Pvt) Ltd. v. Ginthota Sarukkali Patebendige and Others* [2025]².

Acquiescence

The Petitioner in this case is the Respondent in the Writ Application bearing No. CA (Writ) 279/2017 which was instituted by the 1st Respondent in this Court, compelling the 3rd Respondent to acknowledge the 1st Respondent to this Application to be the duly appointed Viharadhipathi and register his name as the Viharadhipathi. However, before the final determination of the case, the 3rd Respondent in the same application has issued the very same letter marked as **Z1**.

Thereafter, the Petitioner in that said case, has filed a motion and moved the Court to permit him to withdraw the said application in view of the letter, **Z1** issued by the 3rd Respondent. On the day the motion was supported, the Counsel appeared for and on behalf of the present Petitioner (the 3rd Respondent in the said application) has not objected to the said motion; had it been objected, it would have been different. Therefore, the Petitioner's conduct amounts acquiescence to that extent

² [CA (WRT) Application No. 834/2024] CA Minutes 20.11.2025

as far as acknowledgement on the part of the 3rd Respondent of the appointment of the 1st Respondent as the Viharadhipathi of Seruwila Mangala Raja Maha Vihara is concerned. Therefore, it is very clear that **Z1** has been issued subjected to those pending cases in the District Court. As such, that is another ground for me to refuse to entertain this Application.

As such, the issuance of formal notice in this Application is refused, and this Application is dismissed *in limine*.

JUDGE OF THE COURT OF APPEAL