

**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 and/or Prohibition and/or Mandamus under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**Hewagamage Dona Sunethra Malkanthi,**  
No.188/11, Pahala Hanwella,  
Hanwella.

**(APPLICANT-DECEASED)**

**Case No.CA/Writ/101/2026**

**(Debt Conciliation Board Case No.44849/DCB)**

1. **Wagure Gamamralalage Premasiri**
2. **Sodige Somawathi alias Hendrick Jayawathia alias Sodige Dona Jayawathi**
3. **Hewagamage Dona Manjula Dilrukshi**
4. **Hewagamage Dona Dammika Jayashanthi**

Of No.188/11, Pahala Hanwella,  
Hanwella.

**SUBSTITUTED-APPLICANTS**

**Vs.**

**Kankanamalage Pradeep Nilanga  
Ranasinghe,**  
No.277, Atigala,  
Hanwella.

**RESPONDENT-CREDITOR**

**AND NOW BETWEEN**

**Kankanamalage Pradeep Nilanga  
Ranasinghe,**  
No.277, Atigala,  
Hanwella.

**RESPONDENT-CREDITOR-PETITIONER**

**Vs.**

1. **W. Irangani Perera, (Hon. Chairperson)**
2. **W.C. Pushpamali, (Hon. Member)**
3. **Kusum Pathirana, (Hon. Member)**
4. **K. H. Premadasa, (Hon. Member)**
5. **K. P. Bandula Ranjith, (Hon. Member)**  
All are at Debt Conciliation Board,  
No.35A, Dr. N. M. Perera Mawatha,  
Colombo 08.
6. **Subashini Dayananda, (Secretary),**  
No.35A, Dr. N. M. Perera Mawatha,  
Colombo 08.
7. **Wagure Gamamralalage Premasiri,**  
No.188/11, Pahala Hanwella,  
Hanwella.
8. **Sodige Somawathi alias Hendrick  
Jayawathia alias Sodige Dona  
Jayawathi,**  
No.188/11, Pahala Hanwella,  
Hanwella.
9. **Hewagamage Dona Manjula Dilrukshi,**  
No.188/11, Pahala Hanwella,  
Hanwella.
10. **Hewagamage Dona Dammika  
Jayashanthi,**  
No.188/11, Pahala Hanwella,  
Hanwella.

**RESPONDENTS**

**Before:** **R. Gurusinghe J.**

**&**

**Dr. Sumudu Premachandra J.**

**Counsel:** Vijith Singh instructed by B. Pushpakumara for the Petitioner.

**Written Submissions:** By the Petitioner - Not filed.  
By the Respondents – Not filed.

**Supported On** : 23/03/2026.

**Order On** : 05/06/2026.

**Dr. Sumudu Premachandra J.**

1] The case challenges a decision marked "X" made by the Debt Conciliation Board, where the 1st through 5th Respondents serve as the Chairman and Board members, and the 6th Respondent serves as the Secretary.

2] The dispute stems from an action initiated before the Board in July 2018 by a now-deceased Applicant, whose Substituted Respondents are listed as the 7th through 10th Respondents. The primary issue concerns Deed No. 25358, dated 30/09/2016, which the Board ultimately ruled to be a mortgage rather than an absolute transfer, a determination the Petitioner contends is contrary to law and that the Board failed to properly evaluate the evidence presented during the inquiry.

3] The Petitioner highlights several key evidentiary submissions from the initial Board inquiry, which commenced on 22/10/2018. Annexed as part of the Petition is the entire case record marked as "A", the original Deed No. 25358 marked as "A1", and the Board's Journal entry at page 01 marked as "A2.

Additional documentation tracked in the lower proceedings includes the original application (P1), affidavits (P3–P5), a Grama Niladhari certificate (P10), and a valuation report (P11), alongside the Creditor Respondent's documents such as a police complaint (V3) and a lease agreement (V4). The Petitioner emphasizes that his written submissions, marked here as "A3", argued that the transferor acted as a tenant under the creditor, there was no agreement to retransfer the property, and no loan intention existed, yet these points were ignored when the Board issued its Final Order, marked as "X".

4] The Petitioner says that the Board's decision was unlawful, irrational, lacked transparency, and violated Natural Justice, the Petitioner seeks explicit legal reliefs from the Court of Appeal. Specifically, the Petitioner prays for a Writ of Certiorari to quash the Board's decision "X" dated 17/07/2025, and a Writ of Mandamus compelling the Board to dismiss the original application (bearing No. 44849) and declare Deed No. 25358 an absolute transfer.

5] Therefore, the Petitioner prays that this Court be pleased to;

- a) Issue Notice on the Respondents of this application;
- b) To issue a Writ of Certiorari quashing the decision marked "X" dated 17/07/2025 delivered by the 1<sup>st</sup> to 5<sup>th</sup> Respondents;
- c) To issue a Writ of Mandamus compelling the 1<sup>st</sup> to 5<sup>th</sup> Respondents to
  - i) Dismiss the application bearing No.44849.
  - ii) Declare Deed bearing No.25358 dated 30/09/2016, attested by E.M. Dharmasena Illuppitiya, Notary Public, is an absolute transfer.
- d) Grant an Interim Relief by staying all further proceedings in the said application bearing No. 44849 in the Debt Conciliation Board till the final determination of this application by Your Lordships' Court;
- e) Grant costs;

f) Grant such other and further reliefs as Your Lordships' Court shall seem meet.

6] The Petitioner in this matter seeks a Writ of Certiorari quashing the decision marked "X" dated 17/07/2025 delivered by the 1st to 5th Respondents; that is, the Debt Conciliation Board, and issue a Writ of Mandamus compelling the 1<sup>st</sup> to 5<sup>th</sup> Respondents to dismiss the application bearing No.44849. Further, declare Deed bearing No.25358 dated 30/09/2016, attested by E.M. Dharmasena Illuppitiya, Notary Public, is an absolute transfer.

7] When the matter was supported, learned counsel for the Petitioner contends that the impugned X is contrary to law and as the Respondents failed to properly evaluate the evidence presented during the inquiry. It is clear that on the face of it, the impugned Deed bearing No. 25358 is an outright transfer.

8] Under Section 21 A (3) (2) of the Debt Conciliation (Amendment) Act No. 29 of 1999, the burden is to prove that the Deed of Transfer is subjected to constructive trust on the transferor. Section reads thus:

*"The burden of adducing evidence to show that a transfer of immovable property is in reality a mortgage shall be on the transferor."*

9] Thus, the Debt Conciliation Board has to decide whether the impugned Deed No. 25358 is a transfer or a mortgage after leading evidence. This Court has no Jurisdiction to go into the merits of the case as a trial court.

10] Thus, the case in hand is purely to decide whether the impugned Deed is subject to a trust or not. To exclude a trust, the attendant circumstances are to be considered, where, under the Writ jurisdiction, it cannot be done summarily.

Matters in Debt Conciliation Boards are related to loans and debts mainly, and it is hard to consider the truth without evidence.

11] The Petitioner says that the impugned Deed is an outright transfer; the 7<sup>th</sup> to 10<sup>th</sup> Respondents contended it is a mortgage. Therefore, facts are disputed. In **Public Interest Law Foundation v. Central Environmental Authority** CA WRIT, 527/2015, decided on 24/02/2020, His Lordship Mahinda Samayawardhena J. held that when the facts are disputed, a writ cannot lie. His Lordship Noted;

*“This Court in the exercise of writ jurisdiction cannot decide on administrative decisions where the facts involved are in dispute. Simply stated, when major facts are in dispute writ will not lie.....This Court cannot decide whether the Petitioner or the Respondents are correct on this issue. That is outside the purview of this Court. When this main ground upon which the Petitioner’s whole case is based is in dispute, can this case be maintained? I think not.”* [ Emphasis is added]

12] Further, in **W.D. Dharmasiri Karunaratne and other, vs Debt Conciliation Board of Colombo and others**, S.C. Appeal No. 100/2013, DECIDED ON: 03/02/2016, EVA WANASUNDERA, PC.J. has held the burden of the Debt Conciliation Board as;

*It is quite obvious that the Board has to weigh the question at hand on the weighing balance of “reasonableness”. The string that binds the provisions in each Section is nothing but reasonableness. The Board has full power to even reason out their faults and revise its own orders.*

13] On careful perusal, we see that the Respondent Board had carefully considered and evaluated the evidence and made the conclusion. The Petitioner did not satisfy this court that the Board, in making the impugned Order, acted contrary to any mandatory provisions of law or had ignored the Principles of Natural Justice. This is a discretionary remedy that should be invoked with

utmost consideration. I do not think that the Petitioner has passed the thresholds.

13] Thus, Formal Notices on the Respondents are refused. The application is dismissed. No Costs.

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE J.

I agree

JUDGE OF THE COURT OF APPEAL