

## **Page 1**

[Court Seal: District Court, Kalutara, 26 JUN 2012]

Case No.: D. 4221

### **In the District Court of Kalutara.**

Rajeeva Sampath Kumara Fernando  
Residence at: No. 58, Massala, Beruwala.  
Plaintiff  
**Versus**

Malavige Shirani De Silva  
Residence at: No. 24, 1/1, Kaduwela Road, Battaramulla.  
Defendant  
On this 19th day of February, 2004.

The above-named Plaintiff, through his attorney-at-law Ranjith Punchihewa, presents his amended plaint as follows:

1. The above-named Plaintiff resides in the village of Beruwala, which is within the jurisdiction of this court.
2. The Plaintiff and the Defendant were joined in the bond of matrimony on 25.01.2001 at the Colombo Marriage Registrar's Office. The marriage certificate bearing number 858, which certifies the marriage, is marked 'A' and is presented as a part of this plaint.
3. The Plaintiff states that after the said marriage, a date was set for the Defendant to be brought to the marital home later. Until then, the Defendant went to reside at her parents' house, and the Plaintiff went to reside at his parents' house.
4. The Plaintiff states that a wedding ceremony was held on 10.03.2001, and he brought the Defendant to the marital home. Thereafter, they rented a house in Battaramulla and lived in peace for about a year.

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5. The Plaintiff states that from the said marriage, there is a female child of about 9 months of age, and the Plaintiff states that the said child is in the custody of the Defendant.
6. The Plaintiff further states that he was a person who was married prior to this marriage

- and that he married this Defendant after obtaining a divorce from his first marriage.
7. The Plaintiff states that he has two female children from his first marriage, that they are in the custody of his first wife, and that he was granted permission to visit the said two female children by the Galkissa District Court in case No. 2955/00/D.
  8. The Plaintiff states that the Defendant frequently created disputes and arguments with the Plaintiff regarding his visiting and caring for those two children.
  9. The Plaintiff states that on or around 14.09.2002, when the Plaintiff informed the Defendant that he was going to visit his two children from his first marriage, she created an argument regarding it and told him not to come back to live with her and to go and live with his first wife, scolding him in an insulting manner.
  10. The Plaintiff states that the Defendant informed the Plaintiff that she was going to her parents' house.
  11. The Plaintiff states that on that day, when he returned home from work, the Defendant was not at home, and that he made a complaint regarding this to the Galkissa Police.
  12. The Plaintiff met the Defendant and requested her to resume married life again.
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... but the Defendant refused the said request. The Plaintiff states that his relatives attempted to bring about a reconciliation between the Plaintiff and the Defendant, but all those attempts were futile.

13. The Plaintiff states that there was a motor car worth about one hundred thousand rupees purchased by the Plaintiff, and that the Defendant has sold it and taken the money.
14. Based on the foregoing facts, a cause of action has arisen for the Plaintiff against the Defendant to obtain a decree of divorce annulling the bond of matrimony on the grounds of malicious desertion, as the Defendant maliciously deserted the Plaintiff on or around 14.09.2002.

Therefore, this Plaintiff prays from this Honourable Court:

- a) For a decree annulling the said bond of matrimony on the grounds of malicious desertion by the Defendant;
- b) For costs of the action and for any other relief that this Honourable Court shall seem meet.

Signed/-

Attorney-at-Law for the Plaintiff.

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## **Pages 4-6**

*[These pages appear to be a copy or an earlier draft of the same plaint detailed in pages 1-3, dated 29 December 2003. The content is identical.]*

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## **Page 7**

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**In the District Court of Kalutara.**

Rajeeva Sampath Kumara Fernando, Residence  
at No. 58, Massala, Beruwala.

Care of address: No. 36, Railway Station Road,  
Dehiwala.

Plaintiff

Case No: D 4221

**Versus**

Malavige Shirani De Silva, Residence  
at No. 3, 1/1, First Templers Mawatha,  
Templers Road, Galkissa.

Defendant

Shanika De Silva  
at No. 36, Railway Station Road,  
Dehiwala.

Co-Defendant

On this 10th day of November, 2004.

The above-named Defendant, appearing through her Attorney-at-Law Indrani Saluwadana, presents her answer and states the following:

1. The Defendant vehemently denies every averment in all paragraphs of the Plaintiff's plaint, except for those averments which are hereinafter expressly admitted in this answer.
  2. Denying the matters stated in paragraph one of the plaint, this Defendant states...
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...that the Plaintiff was at no point a resident of Beruwala, that he continuously resided at No. 56, Sri Dhammarama Road, Ratmalana, and that he is currently living with a woman named Shanika De Silva, the Co-Defendant, at No. 36, Railway Station Road, Dehiwala.

3. As this Defendant is also seeking a divorce in her answer in this case, she does not raise an objection regarding the jurisdiction of this court.
  4. This Defendant admits the facts relating to the marriage on 25.01.2001 mentioned in paragraph two of the said plaint.
  5. This Defendant admits the matters stated in paragraphs 3 and 4 of the said plaint.
  6. Admitting the matters stated in paragraph 5 of the said plaint, this Defendant states that she has a daughter, Sara Kiyani Shenaya Fernando, born to the Plaintiff on 05.02.2003, and that she is in the custody of this Defendant.
  7. Answering paragraph 6 of the said plaint, this Defendant states that the Plaintiff was previously married to the above-named Co-Defendant, and that the Plaintiff, on or around 14.09.2002, resumed living with the said Co-Defendant as husband and wife, and since the said date, he has been living openly in adultery with the Co-Defendant at No. 36, Railway Station Road, Dehiwala.
  8. Answering paragraph 7 of the said plaint, this Defendant states that the Plaintiff is currently living with his first wife, the Co-Defendant, and the two children from that first marriage at the Co-Defendant's address.
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12. This Defendant states that the Plaintiff is not a fit and proper person to have legal and physical custody of the aforementioned daughter, Sara Kiyani Shenaya Fernando, who is currently 1½ years old. Therefore, a cause of action has arisen for this Defendant to obtain legal and physical custody of the said child and to receive a monthly maintenance sum of Rs. 7,500/- from the Plaintiff for the said child.

### **Cause of action against the Co-Defendant:**

13. The above-named Co-Defendant, while knowing full well that the marriage between the Plaintiff and this Defendant subsists, has been living openly in adultery with the Plaintiff as stated above, completely destroying the marriage between this Defendant and the Plaintiff. On that basis, the Co-Defendant has knowingly caused damages to this Defendant, and this Defendant values the damages caused to her by the Co-Defendant

at one million rupees (Rs. 1,000,000/-).

14. Under the above circumstances, a cause of action has arisen for this Defendant to claim damages of one million rupees (Rs. 1,000,000/-) from the Co-Defendant.

This Defendant values the cross-claims and other reliefs in this answer at two million rupees (Rs. 2,000,000/-).

Therefore, this Defendant prays:

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- a) That the Plaintiff's case be dismissed;
- b) For a decree of divorce annulling the marriage between the Plaintiff and this Defendant on the grounds of adultery committed by the Plaintiff and the Co-Defendant;  
And/Or,
- c) For a decree of divorce annulling the marriage between the Plaintiff and this Defendant on the grounds of malicious desertion by the Plaintiff;
- d) That a sum of one million rupees (Rs. 1,000,000/-) be recovered from the Plaintiff as permanent alimony for this Defendant;
- e) That the legal and physical custody of the daughter born of the marriage in the caption, Sara Kiyani Shenaya Fernando, be granted to this Defendant;
- f) For an order directing the Plaintiff to pay Rs. 7,500/- per month for the maintenance of the aforesaid daughter, Sara Kiyani Shenaya Fernando;
- g) That summons be issued on the above Co-Defendant together with this answer;
- h) That a sum of one million rupees (Rs. 1,000,000/-) be recovered from the Co-Defendant as damages caused by the Co-Defendant to this Defendant;
- i) For costs of the action, and
- j) For such other relief as the Court shall seem meet.

Signed/-

Attorney-at-Law for the Defendant.

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## **Pages 11-12**

[Court Seal: District Court, Kalutara, 26 JUN 2012]

## **Affidavit**

In the District Court of Kalutara.

[Parties' names and addresses listed as on Page 7]

I, Malavige Shirani De Silva, residing at No. 3, 1/1, First Templers Mawatha, Templers Road, Galkissa, being a Roman Catholic, do solemnly, sincerely and truly declare and affirm as follows:

1. I am the deponent abovenamed.
2. I am the Defendant in this case.
3. I state that the Plaintiff in this case, Rajeeva Sampath Kumara Fernando, is living in adultery with a woman named Shanika De Silva at No. 36, Railway Station Road, Dehiwala.
4. Therefore, I state that it is necessary to add the said Shanika De Silva as a Co-Defendant in this case.

The aforesaid deponent, having read over and understood the contents of this affidavit, affirmed to the truth thereof and placed her signature hereto in my presence at Kalutara on this 10th day of November 2004.

Signed/-

Deponent

Before me,

Signed/-

Commissioner for Oaths.

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## **Pages 12-14**

[Court Seal: District Court, Kalutara, 26 JUN 2012]

In the District Court of Kalutara.

[Parties' names and addresses listed]

On this 30th day of March 2005.

The above-named Plaintiff, through his attorney-at-law Ranjan Punchihewa, presents his replication as follows:

1. The Plaintiff denies and does not admit all the matters stated in the Defendant's answer, except for the matters specifically admitted hereunder.
2. This Plaintiff does not admit the matters stated in paragraph 2 of the answer, and in response thereto, this Plaintiff states that the Plaintiff resides at the address mentioned in the plaint.
3. The Plaintiff admits only that he was previously married to the Co-Defendant and denies

- and does not admit the other matters stated in paragraphs 6 and 7.
4. Responding to paragraph 9 of the answer, this Plaintiff states that the Defendant created arguments regarding his visiting the two children of his first marriage, and that on 14.09.2002, the Defendant stated that she would not come to live with the Plaintiff, and that when the Plaintiff went to work, the Defendant had left the marital home on that day.
  5. This Plaintiff vehemently denies the allegation of adultery mentioned in paragraph 7 of the answer.
  6. Since the Defendant maliciously deserted the Plaintiff as stated in the plaint, the Plaintiff states that no cause of action has arisen for the Defendant to obtain a permanent alimony of Rs. 1,000,000/- from the Plaintiff as a cross-claim, as mentioned in paragraph 10 of the answer.
  7. Responding to paragraph 11 of the answer, this Plaintiff states that it was not the Plaintiff but the Defendant who left the marital home on 14.09.2004 without any just or reasonable cause, and that a cause of action has arisen for the Plaintiff to obtain a divorce from the Defendant on the grounds of the Defendant's malicious desertion.

Therefore, this Plaintiff prays from this Honourable Court:

- a) That the cross-claim stated in the Defendant's answer be dismissed;
- b) That all the reliefs mentioned in the plaint be granted;
- c) For costs of the action and for any other relief that this Honourable Court shall seem meet.

Signed/-

Attorney-at-Law for the Plaintiff.

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## Pages 14-15

[Court Seal: District Court, Kalutara, 26 JUN 2012]

In the District Court of Kalutara.

[Parties' names and addresses listed]

On this 30th day of March 2005.

The Answer of the 2nd Defendant above-named, presented by her attorney-at-law Mr. Ranjan Punchihewa, states as follows:

1. This Defendant does not admit any of the matters disclosed in the answer of the 1st Defendant, except for the matters admitted in this answer.
2. Denying the matters stated in paragraph 2 of the 1st Defendant's answer, this Defendant states that she has no connection of any kind with the Plaintiff in the case and that she did not live together with the Plaintiff.
3. Denying the matters stated in paragraph 6 of the 1st Defendant's answer, this Defendant

states that the Plaintiff does not reside at the 2nd Defendant's house and that she does not live with the Plaintiff as husband and wife in adultery.

4. The 1st Defendant has made the 2nd Defendant a party to this case without any reasonable cause, and the 2nd Defendant is not bound to pay any damages to the 1st Defendant as claimed in the 1st Defendant's answer.
5. This Defendant claims damages of one million rupees (Rs. 1,000,000/-) for the defamation caused to the 2nd Defendant by the 1st Defendant in her answer, and states that a cause of action has arisen for this Defendant to claim such damages against the 1st Defendant for having been added to this case.

Therefore, the 2nd Defendant respectfully prays from this court:

- a) That the 2nd Defendant be discharged from this case;
- b) For an order that the 1st Defendant pay a sum of one million rupees (Rs. 1,000,000/-) as compensation for the mental distress, shame, and suffering caused to her by being baselessly added to this case;
- c) For the costs of this application and for such other and further relief as this Honourable Court may grant.

Signed/-

Attorney-at-Law for the 2nd Defendant.

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## Pages 16-18

District Court - Kalutara

Case No: D. 4221

Before his Honour, District Judge P. Wijesinghe.

Date: 03.06.2005

For the Plaintiff: Mr. Ranjan Punchihewa, Attorney-at-Law.

For the 1st Defendant: Mr. Sundararathna, Attorney-at-Law, on the instructions of Ms. Indrani Saluwadana, Attorney-at-Law.

For the 2nd Defendant: Mr. Ranjan Punchihewa, Attorney-at-Law.

At this stage, the Plaintiff and the 1st Defendant express their willingness to settle this case on the following terms and conditions:

### The terms of settlement are:

1. The Plaintiff agrees to pay a monthly maintenance of Rs. 7,500/- for the daughter born to the 1st Defendant from this marriage, namely Sara Kiyani Shenaya Fernando, commencing from January 2006, to be credited to the account bearing number 010215001930 at Nations Trust Bank, Battaramulla branch.
2. The Plaintiff agrees to pay the 1st Defendant a sum of one million rupees as permanent

alimony, and a sum of Rs. 50,000/- towards the damages claimed by the 1st Defendant against the Co-Defendant, making a total sum of one million and fifty thousand rupees (Rs. 1,050,000/-).

3. The 1st Defendant agrees to the discharge of the 2nd Defendant, the Co-Defendant in this case, from the case after the Plaintiff pays all the agreed-upon sums.
4. The Plaintiff agrees to pay the aforementioned sum of one million rupees on or before 31.12.2006, and the remaining sum of fifty thousand rupees on or before 30.06.2006.
5. If the Plaintiff credits the full amount to the 1st Defendant's aforesaid Nations Trust Bank, Battaramulla branch account No. 010215001930 as agreed, the 1st Defendant agrees to make the Decree Nisi entered in this case absolute.
6. The parties agree that the Decree Nisi entered in this case shall not be made absolute until the said sums are paid by the Plaintiff.
7. The Plaintiff agrees to grant the physical and legal custody of the child born of this marriage, Sara Kiyani Shenaya Fernando, to the 1st Defendant.
8. The 1st Defendant agrees to grant the Plaintiff access to the aforesaid child, Sara Kiyani Shenaya Fernando, on the last Sunday of every month from 2:00 p.m. to 6:00 p.m. at St. Anne's Church, Galkissa. The Plaintiff agrees to bring the child and hand her over at the said location.
9. The parties further agree that if the Plaintiff defaults or fails to pay the agreed sum of one million and fifty thousand rupees (Rs. 1,050,000/-), the 1st Defendant shall have the right to obtain a writ of execution to recover the said sum, or alternatively, to have the said order enforced through the Magistrate's Court under section 624(1) of the Civil Procedure Code.
10. The parties agree that in such an event, the Decree Nisi entered in this case shall not be made absolute until the said sum is fully recovered.

Accordingly, as the 1st Defendant has also prayed for a divorce in her answer, the Defendant states that her examination is requested. The Plaintiff does not object. Accordingly, I proceed to examine the 1st Defendant's case.

Signed/-  
District Judge

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## Pages 18-24

### [Summary of Examination of the 1st Defendant, Malavige Shirani De Silva]

- The 1st Defendant, Malavige Shirani De Silva, Secretary at Mobitel, is called to the stand and sworn in.
- She confirms she is the 1st Defendant and was married to the Plaintiff on 25.01.2001 at Pamankada. The marriage certificate No. 858 is marked 'V1'.

- She confirms they held a wedding ceremony on 10.03.2001, after which they lived in a rented house in Battaramulla.
- She confirms they have a child from the marriage named Sara Kiyani Shenaya Fernando.
- She states that after some time, problems arose between them, and despite her requests to resolve the issues and continue the marriage, the Plaintiff was unable to do so.
- She states she left the marital home on 14.09.2002 due to the issues.
- She affirms that she, through her parents, invited the Plaintiff to reconcile, but he refused. She claims his actions constitute malicious desertion, giving rise to a cause of action for divorce.
- She requests legal and physical custody of their child.
- She confirms her agreement to all the settlement terms, including the payment of Rs. 1,050,000/-, the monthly maintenance of Rs. 7,500/-, the child access arrangement, the bank account for payment, and the conditions for making the Decree Nisi absolute and discharging the Co-Defendant.
- She confirms her right to execute the order for payment if the Plaintiff defaults.
- She prays for a divorce based on the Plaintiff's malicious desertion and for the financial settlement as agreed. She does not ask for costs.
- The Plaintiff has no cross-examination.

### **Judgment**

Taking into consideration the evidence submitted by the 1st Defendant, the written documents, and the permanent alimony of one million fifty thousand rupees (Rs. 1,050,000/-) which the Plaintiff has agreed to pay to the Defendant, I hereby annul, dissolve, and set aside the marriage subsisting between the Defendant and the Plaintiff by way of divorce on the grounds of the Plaintiff's malicious desertion.

Further, I grant custody of the child, Sara Kiyani Shenaya Fernando, who is in the care of the Defendant, to the 1st Defendant.

As agreed by the parties, the 1st Defendant must allow the Plaintiff to spend time with the child at St. Anne's Church, Galkissa, on the last Sunday of every month between 2:00 p.m. and 6:00 p.m.

In addition to the agreed permanent alimony of one million fifty thousand rupees (Rs. 1,050,000/-), the Plaintiff must pay monthly maintenance of Rs. 7,500/- for the child, Sara Kiyani Shenaya Fernando, from 01.01.2006.

This Decree Nisi shall not be made absolute until the agreed sum of Rs. 1,050,000/- has been paid.

Enter Decree Nisi accordingly. Further, as agreed, upon the payment of the sum of one million fifty thousand rupees (Rs. 1,050,000/-) by the Plaintiff, the Co-Defendant shall be discharged

from these proceedings.

Signed/-  
(P. Wijesinghe)  
District Judge - Kalutara.

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[Court Seal: District Court, Kalutara, 26 JUN 2012]

I certify that this is a true copy of the complete case record of case No. D. 4221 of the District Court of Kalutara.

Typed and checked by: M  
Date: 26 JUN 2012  
Signed/-  
Registrar.  
District Court,  
Kalutara.

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## Pages 26-30

**[This section contains a subsequent petition filed in 2015 within the same case, where the Defendant seeks to enforce the payment order from the 2005 settlement. The Plaintiff responds by claiming they had reconciled.]**

[Title Page of the Plaintiff-Respondent's Objections]  
[Case and party details listed, now styled as Defendant-Petitioner vs. Plaintiff-Respondent and Co-Defendant-Respondent]

**[Affidavit of Rajeeva Sampath Kumara, the Plaintiff-Respondent, dated 08 September 2015]**

I, Rajeeva Sampath Kumara, of No. 58 Massala, Beruwala, and currently of No. 36 Railway Station Road, Dehiwala, being a Roman Catholic, do solemnly, sincerely and truly declare and affirm as follows:

1. I am the Plaintiff-Respondent in the above-numbered case.
2. I deny each and every averment contained in the petition and the corresponding affidavit

of the Defendant-Petitioner, jointly and/or severally, except for the matters hereinafter specifically admitted.

3. I admit paragraphs 1 and 2 of the Defendant-Petitioner's petition and the corresponding paragraphs of the affidavit.
4. I deny paragraph 3 of the petition and the corresponding paragraph of the affidavit.
5. Answering paragraph 4 of the petition and the corresponding paragraph, I admit only the receipt of the said letter of demand and deny all other averments contained in the said paragraphs.
6. I vehemently deny paragraph 5 of the petition and the corresponding paragraph of the affidavit.
7. Without prejudice to the foregoing averments, I wish to emphasize the following facts:
  - (a) That, in accordance with the Decree Nisi dated 03.06.2005, I have continuously paid a sum of Rs. 7,500/- or more to my daughter, Sara Kiyani Shenaya Fernando.
  - (b) That after the entry of the Decree Nisi on 03.06.2005, the Defendant-Petitioner and I had discussions to resume our marital relationship.
  - (c) That as a result of those discussions, the marital relationship was resumed, and I subsequently left for Doha, Qatar in the year 2005. I later returned intermittently and lived with the Defendant as husband and wife in the same house, leading a married life. Subsequently, in the year 2006, I went to Bahrain and brought over the Defendant-Petitioner and our daughter.
  - (d) That while resuming the marriage, the Defendant-Petitioner lived with me and the child in the same house in Bahrain.
  - (e) That I intervened and found a job for the Defendant-Petitioner.
  - (f) That during the period I stayed in Qatar and Bahrain, all the money and assets I earned were spent on the Defendant-Petitioner, our child, and also, with her consent, for my children from my first marriage.
  - (g) That during that entire period, the Defendant-Petitioner and I lived a married life together with our child.
  - (h) That in February 2012, I lost my job in Bahrain and had to come to Sri Lanka.
  - (i) That from the day I lost my job, the Defendant-Petitioner started quarreling with me and demanding money.
  - (j) That as a result, she has filed this bogus petition and affidavit with the sole intention of obtaining money from me.
8. I emphasize that the Defendant-Petitioner and I, after the entry of the Decree Nisi on 03.06.2005, abandoned the intention to divorce and permanently resided as husband and wife in one house with our child with the intention of resuming the marriage, and subsequently came to Bahrain and resided as such.
  - o [He lists several documents as annexures ('V1' to 'V5') including visa copies, photographs, her CV, and letters to prove they lived together in Bahrain.]
9. ... I state that the purpose of a Decree Nisi is to provide an opportunity for the parties to resume married life if they have such an intention, and after the Decree Nisi was granted on 03.06.2005, after continuous discussions with the Defendant-Petitioner, we both agreed to resume the marriage. Accordingly, we reunited, and I later brought the

Defendant-Petitioner to Bahrain where I was residing.

10. I state that it was for the above reasons that the Defendant-Petitioner did not require to act according to condition 4 of the settlement reached in the case.
11. Accordingly, as we had commenced and maintained a married life together with our child for 7 years, I further state that the Decree Nisi entered in case D 4221 on 03.06.2005 has now reached a state where it cannot be enforced in law.
12. For that very reason, I state that the Defendant-Petitioner has no legal right to obtain from me the sum of Rs. 1,050,000/- as stated in the Decree Nisi entered based on the settlement of 03.06.2005.
13. I further state that during the period the Decree Nisi was effective, I unfailingly credited money to the Defendant-Petitioner's account for the child's maintenance.
14. ... I further state that I lost my job in 2012, and after that, I came to Sri Lanka. I spent all the money I earned for the Defendant-Petitioner and the child. At present, I have no assets whatsoever, and I state that I am currently residing temporarily at a friend's house in Sri Lanka.
15. The Defendant-Petitioner, knowing full well that I have no money at present, has filed her petition with false statements, concealing from the court the fact that we had resumed and continued our marriage, with the intention of obtaining money from me. This is contrary to Section 225 of the Civil Procedure Code, and therefore the Decree Nisi dated 03.06.2005 cannot be executed.
16. The fact that she did not request the enforcement of the Decree Nisi of 03.06.2005 for a period of 10 years confirms the matters stated by me in the preceding paragraphs. I further state that this request is invalid in law due to the Defendant-Petitioner's delay, and therefore, the request should be dismissed.
17. I further state that the Defendant-Petitioner is currently residing in the Rawathawatta area with my daughter and, by providing false information to the police, has obtained a police restraining order preventing me from coming to that area. Because of that, I state that I have no opportunity to see my child.
18. I further state that the Defendant-Petitioner is carrying out all these actions at the instigation of her mother and relatives and is now acting with extreme malice towards me by not providing access to the child.
19. I submit this affidavit affirming the matters stated in the petition.

[Affidavit sworn and signed on 08 September 2015 at Kalutara before a Justice of the Peace/Commissioner for Oaths.]

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**Pages 31-34**

**[Petition of the Defendant-Petitioner, Malavige Shirani De Silva, to enforce the payment**

**order]**

[Notice to Plaintiff-Respondent]

[Dated 14 May 2015, summoning Rajeeva Sampath Kumara to appear in court on 23 June 2015 to state objections to the Defendant's petition.]

**[Petition of the Defendant-Petitioner, dated 30 March 2015]**

The petition of the above-named Defendant-Petitioner, appearing through her Attorney-at-Law Indrani Saluwadana, states as follows:

1. A Decree Nisi has been entered in this case on 03/06/2005 in terms of the settlement reached between the Plaintiff and the Defendant.
2. According to the Decree Nisi so entered, it has been ordered and decreed that the Plaintiff-Respondent must pay a sum of one million fifty thousand rupees (Rs. 1,050,000/-) to this Defendant-Petitioner as permanent alimony, and that only after such payment is made should the Decree Nisi entered in this case be made a Decree Absolute, and only after the payment of the said permanent alimony should the Co-Defendant-Respondent be discharged from this case.
3. The Defendant-Petitioner states that although the Decree Nisi was entered in this case on 03/06/2005, the Plaintiff-Respondent has not taken steps to pay the permanent alimony to date.
4. The Defendant-Petitioner states that although she, through her Attorney-at-Law, by letter dated 14/11/2014 sent by registered post, informed the Plaintiff-Respondent to pay the permanent alimony of one million fifty thousand rupees (Rs. 1,050,000/-) as per the Decree Nisi, the Plaintiff-Respondent has failed and/or neglected to act accordingly to date.
  - [The petition notes that true copies of the letter and the registered post receipt are attached as 'Pe1' and 'Pe2'.]
5. Therefore, this Defendant-Petitioner needs to obtain an order from the Honourable Court to recover the permanent alimony, which is due but has been defaulted on by the Plaintiff-Respondent in this case according to the Decree Nisi, by selling a property of the Plaintiff-Respondent at a public auction or by recovering it from his salary.

Therefore, this Defendant-Petitioner respectfully prays from this Honourable Court:

- (a) For an order to recover from the Plaintiff-Respondent the permanent alimony of one million fifty thousand rupees (Rs. 1,050,000/-) due to the Defendant-Petitioner as per the Decree Nisi entered in this case, the payment of which has been defaulted on to date;
- (b) For an order to call this case in open court to establish the facts regarding this matter;
- (c) For the costs of this case, and
- (d) For all such other and further relief as to this Honourable Court shall seem meet.

Signed/-

Attorney-at-Law for the Defendant-Petitioner.

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## Pages 35-37

[Affidavit of the Defendant-Petitioner, Malavige Shirani De Silva]

[Stamped by the Court Archives on 14 MAY 2015. The attestation is undated.]

I, Malavige Shirani De Silva, of No. 3, 1/1 First Templers Mawatha, Templers Road, Galkissa, being a Roman Catholic, do solemnly, sincerely and truly declare and affirm as follows:

1. I am the deponent herein.
2. I am the Defendant-Petitioner in this case.
3. A Decree Nisi has been entered in this case on 03/06/2005 in terms of the settlement reached between me, the Defendant, and the Plaintiff.
4. According to the Decree Nisi so entered, it has been ordered and decreed that the Plaintiff-Respondent must pay a sum of one million fifty thousand rupees (Rs. 1,050,000/-) to me, the Defendant-Petitioner, as permanent alimony, and that only after such payment is made should the Decree Nisi entered in this case be made a Decree Absolute, and only after the payment of the said permanent alimony should the Co-Defendant-Respondent be discharged from this case.
5. I, the Defendant-Petitioner, state that although the Decree Nisi was entered in this case on 03/06/2005, the Plaintiff-Respondent has not taken steps to pay the permanent alimony to date.
6. I, the Defendant-Petitioner, state that although I, through my Attorney-at-Law, by letter dated 14/11/2014 sent by registered post, informed the Plaintiff-Respondent to pay the permanent alimony of one million fifty thousand rupees (Rs. 1,050,000/-) as per the Decree Nisi, the Plaintiff-Respondent has failed and/or neglected to act accordingly to date.
  - o [The affidavit notes that true copies of the letter and the registered post receipt are attached as 'Pe1' and 'Pe2'.]
7. Therefore, I, the Defendant-Petitioner, need to obtain an order from the Honourable Court to recover the permanent alimony, which is due from the Plaintiff-Respondent but has been defaulted on, by selling a property of the Plaintiff-Respondent at a public auction or by recovering it from his salary.
8. Based on the foregoing facts, I pray for an order to recover from the Plaintiff-Respondent the permanent alimony of one million fifty thousand rupees (Rs. 1,050,000/-), for this case to be called in open court to establish the facts, for the costs of this case, and for all such other relief as to this Honourable Court shall seem meet.

[Signature of Deponent]

[Affidavit sworn before a Commissioner for Oaths / Justice of the Peace. The date of

attestation is left blank.]

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### [Letter of Demand]

Indrani Saluwadana (L.L.B)  
Attorney-at-Law, Notary Public  
Commissioner for Oaths and Company Secretary  
Office: Station Road, Kalutara South.  
14.11.2014.

To:  
Rajiva Sampath Kumara,  
No. 36,  
Railway Station Road,  
Dehiwala.  
Dear Sir,

#### **Re: Kalutara District Court Case No. D 4221**

According to the Decree Nisi entered in the above-numbered case based on the settlement reached between you, the Plaintiff in the said case, and your wife, Malavige Shirani De Silva, you, the Plaintiff in the said case, are required to pay a sum of one million fifty thousand rupees (Rs. 1,050,000/-) to your wife, the Defendant in the said case, Malavige Shirani De Silva.

You are hereby informed to pay and settle the said amount to the Defendant, Malavige Shirani De Silva, within a period of thirty (30) days from the date of this letter.

I hereby inform you that should you fail and/or neglect to act accordingly, steps will be taken to recover the said sum by pursuing legal action in the above-numbered case.

Yours faithfully,  
Signed/-  
(Attorney-at-Law for Mrs. Malavige Shirani De Silva)