

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

In the matter of an application for Revision in
terms of Article 138 of the Constitution against
the Order dated 6th March 2025 delivered in DC
Nugegoda Case No: SPL/679/2024.

Court of Appeal Case No:

CA/REV/0005/2025

DC Nugegoda Case No:

SPL/679/2024

SQUIRE MECH ENGINEERING (PVT) LTD,
No. 135/1, Old Kottawa Road,
Nawinna,
Maharagama.

Plaintiff

Vs.

**ILLAYPERUMA
KODITUWAKKUARACHCHILAGE
DAYANANDA,**
63/2, Araliya Gardens,
Elhena Road,
Maharagama.

Defendant

AND NOW BETWEEN

SQUIRE MECH ENGINEERING (PVT) LTD,
No. 135/1, Old Kottawa Road,
Nawinna,
Maharagama.

Plaintiff-Petitioner

Vs.

**ILLAYPERUMA
KODITUWAKKUARACHCHILAGE
DAYANANDA,**
63/2, Araliya Gardens,
Elhena Road,
Maharagama.

Defendant-Respondent

Before: **D. THOTAWATTA, J.
K. M. S. DISSANAYAKE, J.**

Counsel: Suren De Silva with Jehan Samrasinghe instructed by Kanchana Senanayake for the Plaintiff-Petitioner.

Jagath Wickramanayake PC. with Sachira Andrahannadi instructed by Rasika Wellappili for the Defendant-Respondent.

Supported on : 21.07.2025

Written Submissions
of the
Plaintiff-Petitioner
tendered on : 20.08.2025

Written Submissions
of the
Defendant-Respondent
tendered on : 25.08.2025

Decided on : 18.09.2025

K. M. S. DISSANAYAKE, J.

This is an application in revision filed by the Plaintiff-Petitioner (hereinafter called and referred to as “Plaintiff”) only against that part of the order of the Learned District Judge of Nugegoda dated 06.03.2025 made in an action bearing No. SPL/679/2024, a certified copy of which was annexed to the petition marked as ‘**A2**’ (hereinafter called and referred to as “the order”) refusing a kind of interim injunction as prayed for in prayer ‘f’ of the plaint. We have heard the Learned Counsel for the Petitioner in support of the application for notice and interim order and the learned President’s Counsel for the Defendant-Respondent (hereinafter called and referred to as “the defendant”) in opposition thereto and this matter is now, coming up before us for order thereon.

The Plaintiff had instituted the action bearing No. SPL/679/2024 in the District Court of Nugegoda against the Defendant praying *inter-alia*, for the following relief, namely;

- (a) a declaration that the Defendant is not entitled to possess or use the vehicles bearing numbers PH 7136 [**P7A** and KO 1151 (**P7B**) since his resignation from the employment of the Plaintiff Company with effect from 31st October 2023;
- (b) a declaration that the Defendant nor his servants and agents have any right in law to obstruct and or interfere with the Plaintiff or its servants and agents from obtaining possession of the vehicles bearing numbers PH 7136 [**P7A** and KO 1151 [**P7B**];
- (c) a permanent injunction restraining the Defendant, his servants and agents from using in any manner whatsoever the vehicles bearing numbers PH 7136 [**P7A**] and KO 1151 [**P7B**];
- (d) a permanent injunction restraining the Defendant, his servants and agents from obstructing and/ or interfering with the Plaintiff or its servants and

agents from obtaining possession of the vehicles bearing numbers PH 7136 [P7A] and KO 1151 [P7B];

(e) an interim injunction restraining the Defendant his servants and agents from using in any manner whatsoever the vehicles bearing registration numbers PH 7136 [P7A] and KO 1151 [P7B], pending the grant of the permanent injunction;

(f) an interim injunction restraining the Defendant his servants and agents from obstructing and/or interfering with the Plaintiff or its servants and agents from obtaining possession of the vehicles bearing numbers PH 7136 [P7A] and KO 1151 [P7B], pending the grant of the Permanent Injunction;

The pivotal basis of the action of the Plaintiff is that the Defendant's continued, wrongful and illegal possession of the vehicles bearing registration numbers PH 7136 (P7A) and KO 1151 (P7B) ownership of which admittedly, lies with the Plaintiff being the registered owner thereof, which were assigned to him by the Plaintiff as means of facilitating him in performing his official duties in his position as the Director (Engineering Services) under and in terms of Clause 4.9 of the agreement (P4A) and the provisions of the Contract of Service (P6A) entered into between the Plaintiff and the Defendant, even upon Defendant's resignation from his position as Director (Engineering Services) in the Plaintiff's Company as manifest from (P16). It is in this premise, the Plaintiff had in prayers 'e' and 'f' of the plaint, prayed for two interim injunctions against the Defendant and the Defendant had in his statement of objections, objected to the granting of such interim injunctions on the basis that, those two vehicles had been purchased by him out of his personal assets and therefore, the Plaintiff was holding those two vehicles in trust for him. However, the learned District Judge of Nugegoda had proceeded to grant an interim injunction as prayed for in prayer 'e' of the plaint and refused the interim injunction as prayed for in prayer 'f' of the plaint on the premise that should the interim injunction as prayed for in prayer 'f' of the plaint be granted allowing the

Plaintiff to obtain possession of the vehicle pending final determination of the said action, there is a possibility that the Defendant may incur potential and greater loss and damage as the Plaintiff could be able to dispose of the said two vehicles. It is this part of the order of the learned District Judge of Nugegoda that the Plaintiff now, seeks to canvas before us by way of revision.

When this matter came up before us for support of the application for notice and interim relief, learned President's Counsel for the Defendant raised a preliminary objection as to the maintainability of the instant application in revision in that, it was contended by the learned President's Counsel drawing attention of this Court to the parallel proceedings in the Civil Appellate High Court of Western Province and the Court of Appeal and relying on the decision in **SC(SPL) L.A. Application No. 24/2024-decided on 11.07.2025** that the instant application in revision is an abuse of process of Court as the same is impugned by the Plaintiff before the Civil Appellate High Court of Western Province holden in Mt. Lavinia by way of leave to appeal application and therefore, the instant application in revision ought to be dismissed *in-limine*.

It may now, be examined.

It is beyond dispute that the Plaintiff had initiated parallel proceedings both in the Civil Appellate High Court of Western Province holden in Mt. Lavinia and the Court of Appeal impugning the very same order as is now, being impugned by the Plaintiff before us by way of Revision.

The core contention of the learned President's Counsel for the Defendant is that initiation of parallel proceedings by way of revision before this Court by the Plaintiff impugning the very same order as is being impugned by the Plaintiff by way of leave to appeal in the Civil Appellate High Court of Western Province holden in Mt. Lavinia is in law, an abuse of the process of Court.

It was held by the Supreme Court in the case in **SC(SPL) L.A. Application No. 24/2024**(Supra) that, "In Saskatchewan (Environment) v. Metis Nation

Saskatchewan [2025 SCC 4] it was held that a multiplicity of proceedings which engage the same issues can amount to an abuse of process; duplicative proceedings might waste the resources of the parties, courts and witnesses, or might risk inconsistent results and therefore undermine the credibility of the judicial process. However, the fact that there are two or more ongoing legal proceedings which involve the same, or similar, parties or legal issues, is in itself not sufficient for an abuse of process. There may be instances where multiple proceedings will enhance, rather than impeach, the integrity of the judicial system, or where parties have a valid reason for bringing separate, but related proceedings. The analysis should focus on whether allowing the litigation to proceed would violate the principles of judicial economy, consistency, finality or the integrity of the administration of justice.”

A copy of the petition filed by the Plaintiff in the Civil Appellate High Court of Western Province holden in Mt. Lavinia was annexed to the instant application in revision marked as ‘**A3**’. Upon a careful comparison of the petition (**A3**) filed by the Plaintiff in the Civil Appellate High Court of Western Province holden in Mt. Lavinia and the petition filed by the Plaintiff in the Court of Appeal, it clearly, appears that both the petitions bear the same date, namely; 25.03.2025 which clearly, appears beyond doubt that both the application were instituted before Court on the same date; and that the parties in both applications are one and the same parties; and that the pleadings and the relief sought in both applications are identical and *verbatim* the same in substance.

However, upon a careful perusal of the petitions filed by the Plaintiff in the Civil Appellate High Court of Western Province holden in Mt. Lavinia and before this Court, it clearly, appears that no reason whatsoever had been adduced by the Plaintiff in either of those two petitions for bringing separate but, parallel and related proceedings before both of the Courts. It is however, significant to observe that it was *inter-alia*, stated in unambiguous terms by the Plaintiff in paragraph 16 of the written submissions filed before this Court that the leave to appeal application was instituted purely, out of an abundance of caution

with the sole purpose of preserving the Petitioner's rights and ensuring that all available remedies are properly, invoked which undoubtedly, and unambiguously shows that the Plaintiff had no valid reason to give for so doing for; parallel proceedings cannot in law, be permitted to be instituted out of an abundance of caution as asserted by the Plaintiff.

Under those peculiar circumstances of the instant case, can it be said that multiple proceedings before the Court of Appeal and in the Civil Appellate High Court of Western Province holden in Mt. Lavinia will enhance, rather than impeach the integrity of the judicial system?, I would think not for; it would in my opinion, open a gateway to abuse of process of Court by instituting parallel proceedings before different judicial forums on the very same issue, and between the very same parties, emanating from the very same order of Court thereby, utterly, wasting of the resources not only of the parties but also of the Court thus, paving the way for the duplicity of the proceedings.

Besides, if, the parallel proceedings are allowed to be instituted in different judicial forum in the guise of instituting actions purely, out of an abundance of caution as averred by the Plaintiff in paragraph 16 of the written submissions, it will no doubt, be violative of not only of the principles of judicial economy, (which means promoting the efficient management of court resources by minimizing unnecessary litigation, streamlining legal processes, enhancing the efficient use of the court's time and resources to avoid duplication of effort and unnecessary delays in the legal process, aiming to streamline proceedings with a view to reducing case backlogs, and ensuring timely justice by encouraging the resolution of disputes in a manner that conserves judicial resources), but also of consistency, finality or the integrity of the administration of justice.

In view of the above, I am of the view that institution of the instant application in revision by the Plaintiff before this Court is an abuse of the process of Court as the same is impugned by the plaintiff in the Civil Appellate High Court of Western Province holden in Mt. Lavinia by exercising the statutory right of

appeal with leave first had and obtained as rightly, contended by the learned President's Counsel for the Defendant.

I would therefore, hold that the preliminary objection raised by the learned President's Counsel for the Defendant is entitled to succeed.

Hence, the preliminary objection is upheld.

In the result, I would refuse to act in revision of the order sought to be impugned in these proceedings before us.

I would thus, dismiss the instant application in revision with costs.

JUDGE OF THE COURT OF APPEAL

D. THOTAWATTA, J.

I agree.

JUDGE OF THE COURT OF APPEAL