

**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 Writs of Certiorari and Mandamus under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**Court of Appeal Application No.
CA/WRT/0239/21**

1. Ekanayake Mudiyanseelage Upul
Sanath Kumara Bandara
Seventh Day Adventist Church,
Weweldeniya Watte,
Pitabeddara.

2. C. K. G. Ashoka Kumara
Director-Education/Health
Public Affairs and Religious
Liberty,
Seventh Day Adventist Church,
Seventh Day Adventist Mission,
No.7, Alfred House Gardens,
Colombo-03.

PETITIONERS

Vs.

1. Pitabeddara Pradeshiya Sabha
Millaela, Morawaka.

2. M.R. Sirirwardena
Chairman,
Pitabeddara Pradeshiya Sabha,
Millaela, Morawaka.

RESPONDENTS

3. Amali Nadeeshani
Hewamadduma
Secretary,
Pitabeddara Pradeshiya Sabha,
Millaela, Morawaka.

ADDED RESPONDENT

BEFORE : **Mohammed Laffar, J.**
P. Kumararatnam, J.

COUNSEL : **Saliya Peiris, P.C., with Varuna De
Seram and Jagadeesha Ranasinghe for
the Petitioners.**
**Priyantha Alagiyawanna with Suri
Senanayake instructed by Sineth
Kassapa for the Respondents.**

DECIDED ON : **20/02/2025.**

JUDGMENT

P. Kumararatnam, J.

The Counsel appearing for the Petitioners and the Respondents consented to dispose this matter by way of Written Submissions.

The Petitioners instituted this Writ Application praying for the following relief in the Petition dated 22.04.2021.

- a) Issue notice on the Respondents;
- b) Grant an interim order, staying the operation of letter dated 03.03.2021 temporarily cancelling the approval granted to construct the building permit marked **P-36**;
- c) Grant an interim order, staying the operation of letter dated 10.03.2021 cancelling the extension given for the construction and

approval granted to Plan No.PPS/PLA/01/UDABA/07/20/2019/06 marked **P-37**;

d) Grant an interim order directing the Respondents to submit to Your Lordship's Court with a copy to the Petitioners the following documents which have been referred to by the Respondents in their letter dated 10th March 2021 marked **P - 37**;

I. Letter dated 10th September 2008 bearing Reference No. පා. 1/අ.ක/ලදි කිරිමි/2008 issued by the Secretary of the Ministry of Religious Affairs (ආගමික කටයුතු හා සළාතාර වර්ධන අමාත්‍යාංශය);

II. Letter dated 10th October 2008 bearing Reference No. පා. 1/අ.ක/ලදි කිරිමි/2008 issued by the Secretary of the Ministry of Religious Affairs (ආගමික කටයුතු හා සළාතාර වර්ධන අමාත්‍යාංශය)

III. Inspector General of Police Circular No. 2154/2009 and Crime (අපරාධ) Circular No. 08/2009;

IV. Letter dated 04th January 2012 bearing Reference No. BSRA/BRA/03/Con./Gen/2011 issued by the Secretary of the Ministry of Buddhasasana & Religious Affairs;

V. Letter dated 18th October 2013 bearing Reference No. MBRA/2-SAD/10/Con.Gen/2013 issued by the Secretary of the Ministry of Buddhasasana & Religious Affairs;

VI. Letter dated 02nd August 2015 bearing Reference No. MBRA/2-SAD/10/Con.Gen/2015-B issued by the Secretary of the Ministry of Buddhasasana & Religious Affairs;

e) Grant a mandate in the nature of a Writ of Certiorari quashing the decision of the Pitabeddara Pradeshiya Sabha to temporarily stop the constructions on the premises.

f) Grant a mandate in the nature of a Writ of Certiorari quashing the decision of the Pitabeddara Pradeshiya Sabha to cancel the

approval granted to Plan No.
PPS/PLA/01/UDABA/07/20/2019/06;

- g) Grant and issue a Writ of Mandamus directing the Pitabeddara Pradeshiya Sabha to issue the necessary approvals and extensions thereto to as required to carry out the construction depicted in the Building Plan No. PPS/PLA/01/UDABA/07/20/2019/06;
- h) Grant costs; and
- i) Grant such other and further relief that Your Lordship's Court shall seem meet.

This matter was supported on 21.07.2022 and based on the pleadings and the circumstances of this case, this Court was inclined to issue notice on the Respondents. However, the learned Counsel for the Respondents agreed to accept notices on behalf of the Respondents.

On 13.09.2023 the Counsel for the Respondents informed Court that the 1st Respondent has ceased to hold office. As such, 3rd Respondent was added to the Application on 03.12.2024.

The background of the case *albeit* briefly is as follows;

The Petitioners Ceylon Financial Association of Seventh-Day Adventists became the owner of the land by a deed of transfer bearing No. 307 attested by N. Y. Kunaseelan.

On 02.11.2011, almost a year subsequent to the 1st Petitioner commencing the conducting of services at Pitabeddera, the Divisional Secretariat of Pitabeddera informed the 1st Petitioner about the objection raised by the Shasanarakshaka Management Board and the residents of the area against the religious activities by the Seventh Day Adventist Church. The letter further stated that it is illegal to maintain a religious place without the approval of the Ministry of Buddhasasana and Religious Affairs.

As such, the Petitioners had made an application to the Pitabeddara Pradeshiya Sabha dated 16.01.2013 seeking permission to build or maintain a new place of worship. This request was turned down by the Pitabeddara Pradeshiya Sabha.

Against the refusal, the 1st Petitioner had filed a Writ Application No.CA (Writ) 159/2016 challenging the said decision of the Divisional Secretary of Pitabeddara on 17.05. 2016. But this application was dismissed by the Court of Appeal on 13.06.2016. As this was suppressed by the 1st Petitioner, the Respondents submit that the Petitioners had not come before this Court with clean hands and therefore, cannot invoke the Writ Jurisdiction of this Court.

The suppression of material facts to the court means intentionally withholding or concealing important information that is relevant to a legal proceeding. Such actions can significantly impact the fairness of a trial, as they may prevent one party from having all the facts necessary to present their case or defend against allegations.

In short, suppression of material facts is a serious violation of legal principles that can undermine the integrity of the justice system. Courts take such actions seriously, as they directly affect the ability to reach fair and just outcomes in legal cases.

Alponso Appuhamy v Hettiarachchi 77 NLR 131 the Court held that:

“When an application for a prerogative writ or an injunction is made, it is the duty of the petitioner to place before the Court, before it issues notice in the first instance, a full and truthful disclosure of all the material facts; the petitioner must act with uberrima fides”.

Walkers Sons & Company Ltd. v Wijesena [1997] 1 SLR 293 the Court held that;

"It is now settled that a person who makes an ex parte application is under an obligation to make the fullest possible disclosure of all the material facts and that if he does not make the fullest possible disclosure, then he cannot obtain any advantage which may have already have been obtained by him.

"A party cannot plead that the misrepresentation was due to inadvertence or misinformation or that the Applicants was not aware of the importance of certain facts which he omitted to place before court."

Since the Courts rely on the information provided by the parties, the duty of full disclosure is of great importance in legal proceedings, especially in writ petitions. Here the Courts rely heavily on the information provided in order to arrive at a fair and informed decision. Therefore, if a party withholds or misrepresents material or relevant facts, it can lead to an incomplete or inaccurate understanding of the case which will in turn will result in an unjust or unfair judgment.

The Petitioners seek direct judicial intervention through application of writ petitions. The Court's role here is to deliberate whether that the public authority concerned has acted within its authority. Therefore, the full disclosure of material facts is of utmost importance to the proper deliberation of the case. Access to proper facts material to the case is ensures that the courts are properly able to assess whether the relief sought is justified based on the law.

Courts discourage the suppression of material facts which not only misleads the court but also undermines the integrity of the judicial process and compromises their ability to arrive at just and equitable decisions. It will also inevitably lead to serious consequences including

dismissal of the petition, adverse inferences, and even potential legal penalties.

The principle is based on the notion that justice must not only be done but must seem to be done. It ensures that the court has all the necessary information to render a fair judgment.

As the application of the Petitioners is devoid of merit, this Court decided to dismiss this application. No costs ordered.

JUDGE OF COURT OF APPEAL

M. T. Mohammed Laffar, J.

I Agree

JUDGE OF COURT OF APPEAL