

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

Hettiarachchilage Gunarathne Bandara,  
“Budugewatta”,  
Kahagalla,  
Dewalegama.

**PETITIONER**

**C.A. Case No. WRT/0400/24**

**Vs.**

1. Jayawardena Rupasinghe Mudiyanseelage  
Nayananda Kumara Amarasinghe,  
Kahagalla, Dewalegama.
2. Shyma Hemamali Godagama,  
Power of Attorney holder of the 1<sup>st</sup>  
Respondent,  
Kahagalla, Dewalegama.
3. Hon. P.S.K. Rathnayake,  
Chairman,  
Debt Conciliation Board – Kurunegala  
Branch,  
159, Welangolla Road,  
Kurunegala.
4. Hon. J.G.N. Thilakarathne,  
Member,

Debt Conciliation Board – Kurunegala  
Branch,  
159, Welangolla Road,  
Kurunegala.

5. Hon. W. Senanayake,  
Member,  
Debt Conciliation Board – Kurunegala  
Branch,  
159, Welangolla Road,  
Kurunegala.

6. Ms. N.G.D.S. Dayananda,  
Secretary,  
Debt Conciliation Board,  
Department of Debt Conciliation Board,  
No. 35A, Dr. N.M. Perera Mawatha,  
Colombo 08.

7. Hon. (Dr.) Wijayadasa Rajapaksa,  
Minister of Justice, prison Affairs and  
Constitutional Reforms,  
19, Sri Sangaraja Mawatha,  
Colombo 10.

7A.Hon. Harshana Nanayakkara,  
Minister of Justice and National Integration,  
19, Sri Sangaraja Mawatha,  
Colombo 10.

8. Mr. M.N. Ranasinghe,  
Secretary,  
Ministry of Justice, Prison Affairs and  
Constitutional Reforms,

19, Sri Sangaraja Mawatha,  
Colombo 10.

8A.Ayesha Jinasena, PC,  
Secretary,  
Ministry of Justice and National Integration,  
19, Sri Sangaraja Mawatha,  
Colombo 10.

**RESPONDENTS**

**BEFORE : K.M.G.H. KULATUNGA, J**

**COUNSEL :** Pulasthi Rupasinghe with Zaneta Ragel instructed by S.P.  
Rathnayake for the Petitioner.

Chanaka Kulatunga instructed by H. Lokusatuheewa for the  
01<sup>st</sup> and 02<sup>nd</sup> Respondents.

Madhusa Thanippuliarachchi for the 06<sup>th</sup> to 08<sup>th</sup>  
Respondents.

**SUPPORTED ON :** 17.07.2025

**DECIDED ON :** 05.08.2025

**ORDER**

**K.M.G.H. KULATUNGA, J**

1. The petitioner has tendered an amended petition to which the respondents objected, and this order is in respect of the said objection.
2. The petitioner by his original application, sought the following substantive relief: a writ of *certiorari* quashing the proceedings of the Branch of the Debt Conciliation Board holden in Kurunegala,

application bearing No. 43018; a writ of *certiorari* quashing the Order dated 04.10.2023 made in the Branch of the Debt Conciliation Board holden in Kurunegala, application bearing No. 43018 produced marked “P8” and/or any consequential orders made thereafter in the said Branch of the Debt Conciliation Board, including the Order dated 08.05.2024 marked “P10”; and a writ of prohibition preventing any further proceedings being conducted in the Branch of the Debt Conciliation Board holden in Kurunegala, application bearing No. 43018.

3. The petitioner also sought the following interim relief: an interim order until the final hearing and determination of this application, staying the operation of the Order dated 04.10.2023, made in the Branch of the Debt Conciliation Board holden in Kurunegala, application bearing No. 43018 and/or any consequential Orders made thereafter in the said Branch of the Debt Conciliation Board including the Order dated 08.05.2024; and an interim order until the final hearing and determination of this application, staying the conducting of any further proceedings of the Branch of the Debt Conciliation Board holden in Kurunegala application bearing No. 43018.
4. Though this application was filed on 24.06.2024, this is yet to be supported. No interim relief had been granted up until now. After the initial filing of the application, the Debt Conciliation Board issued several more orders. Consequently, the petitioner filed an amended petition on 29.04.2025, which included the following subsequent documents, and several new prayers for writs to quash the same:
  - further objections dated 23.07.2024 (P10A);
  - the Board's Order dated 30.10.2024 (P10B) rejecting those objections;
  - a certificate issued under section 32(2) of the Debt Conciliation Board Act dated 20.11.2024 (P11); and

- a letter dated 08.01.2025 (P12) from the Board to the Kegalle Land Registry to register P11. The amended petition also expanded the reliefs sought to include quashing P10B, P11, and P12 and staying their operation.
5. The 1<sup>st</sup> and 2<sup>nd</sup> respondents objected to the amended petition, on the basis that the petitioner was attempting to alter the causes of by introducing new facts and documents that arose after the initial filing of this application. They contended that this would bring in a new cause of action, that has arisen after the institution of this application. Citing ***Kusala Hasanthi Perera and another vs. Gayantha Karunatileke and others***, CA/WRIT/224/2017, it was argued that a different cause of action that accrued after the date of filing the application cannot be allowed to be brought in by way of an amended petition.
  6. The petitioner, by written submissions dated 29.07.2025, submits that the precedents relied upon by the respondents is not applicable because the proposed amended petition was filed before formal notice was issued. The petitioner maintained that the crux of their case remains the impugning of the original Order P8 and that all subsequent added documents (P10A to P12) are “*consequential orders and/or documents*” flowing from P8.

### **The facts as narrated by the petitioner.**

7. The petitioner’s submission stems from a land transaction between the petitioner and the 1<sup>st</sup> respondent, followed by contentious proceedings before the Debt Conciliation Board. The petitioner submits that he agreed to purchase the 1<sup>st</sup> respondent's land at "Budugewatta" for Rs. 2,000,000/-. According to the petitioner, an initial payment of Rs. 200,000/- was made to the 2<sup>nd</sup> respondent (the 1<sup>st</sup> respondent's Power of Attorney holder) in September 2012; the petitioner later learned that the property was mortgaged to Sampath Bank under two bonds (Primary Mortgage Bond No. 269 dated December 29, 2006, and Secondary

Mortgage Bond No. 484 dated December 14, 2007) and that the 1st respondent had defaulted on loan payments.

8. To avoid an auction, the 1st respondent requested the petitioner to pay Rs. 1,700,000/- to cover the outstanding loan and retain the excess. The petitioner subsequently transferred Rs. 1,057,500/- to the 1st respondent's account for Sampath Bank dues, paid Rs. 172,500/- to the 2nd respondent, and received the property keys. Upon executing the Deed of Transfer (No. 9378 dated November 5, 2012), the petitioner paid an additional Rs. 270,000/- to the 2nd respondent and Rs. 60,000/- to the Notary Public, bringing the total paid to approximately Rs. 2,000,000/-. Crucially, the petitioner discovered that only one of the two mortgage bonds had been released by Sampath Bank. Around April 2013, the petitioner took possession and undertook developments on the property.
9. Subsequently, the 1<sup>st</sup> respondent, through the 2nd respondent, filed police complaints alleging forceful entry but did not initiate legal action in court to recover possession. On December 5, 2013, the 1st respondent, via the 2<sup>nd</sup> respondent, applied to the Debt Conciliation Board under Section 14 of the Ordinance to release the property. The Board, in an order dated October 4, 2023, found that the Deed of Transfer was merely a security for the amount owed to the petitioner, not an outright transfer. The petitioner sought a review, which the Board reaffirmed on May 8, 2024. The petitioner then objected, arguing that the application could not be made through a Power of Attorney. Despite the Board finding that the 1st respondent lacked locus standi to institute proceedings via a Power of Attorney holder, it overruled the petitioner's objections on October 30, 2024. On November 20, 2024, the Board issued a certificate under section 32(2) of the Act, stating that the petitioner must pay an additional Rs. 1,200,000/- and that the respondents were debtors, not vendors. This certificate was sent to the Kegalle Land Registry for registration on January 8, 2025.

10. The petitioner alleges that the Board failed to consider key aspects of Section 21A of the Debt Conciliation Ordinance, such as the petitioner's possession of the property, the Deed's clear language of vacant possession, the lack of an interest agreement, and the 1<sup>st</sup> respondent's failure to prove the Deed was a mortgage. The petitioner claims the 1<sup>st</sup> respondent is perpetrating fraud by not discharging the secondary mortgage, a fact discovered when attempting to obtain a loan from Commercial Bank, and asserts he is a bona fide purchaser. Furthermore, the petitioner contends that the Board's order of October 4, 2023, was invalid as it was signed by only two members, falling short of the required three-member quorum under Section 3(2) of the Ordinance.

**Timeline.**

11. This application was filed on 24.06.2024. It was due to be supported on 08.07.2024, on which day the petitioner has been directed to support with notice to the respondents. Then, this matter was mentioned on 11.07.2024, on which day it was fixed for support for 06.08.2024. Once again, order has been made to support upon issuing of notices. Thereafter, the matter has been fixed for support for 21.10.2024. The petitioner has then moved the matter out and the matter was then refixed for support for 11.02.2025. On 11.02.2025, the petitioner has moved to file an amended petition, which had been allowed, subject to objection. On 06.03.2025, further time appears to have been granted. Then, on 30.04.2025, the amended petition has been tendered and the respondents granted time to inform if they are objecting. On 02.06.2025, the counsel for the 1<sup>st</sup> and 2<sup>nd</sup> respondents has informed that they are objecting to the same, and the inquiry into this was fixed for 17.07.2025, on which day the matter was taken up, and this Order is accordingly made.
12. This application is yet to be supported. For all purposes, this application has been filed on 24.06.2024. That date remains static

notwithstanding the applications to amend the petition. Even if the petitioner is permitted to file the amended petition, yet for all the date of instituting action will remain as 24.06.2024; this will be so even if notice is yet to be granted. This is so, as the application is to amend the petition and if the application is allowed, what will subsist is the petition as so amended, referred to as the amended petition.

13. In these circumstances, even prior to the matter being formally supported, the petitioner cannot by a process of amending the petition, bring in any fresh matters that are in the nature of new causes of action, that may have arisen after the filing of this application. The decision challenged in the initial petition is P-10, being an order dated 08.05.2024 and P-8, the determination 04.10.2023. What is relevant and critical is that the determination pronounced by the Debt Conciliation Board, upon hearing the application, is P-8 dated 04.10.2023. The petitioner has not preferred any application to this Court immediately after the pronouncement of the said determination P-8. It appears that the petitioner has then made an application for review under Section 54 (1) of the said Ordinance, which had been considered and by Order dated 08.05.2024 the said application has been rejected and refused. This Order is marked P-10. The initial petition is in respect of challenging these two orders. Since the filing of this application, the petitioner has once again preferred an objection to the issue of the certificate, by the Debt Conciliation Board by an application dated 23.07.2024. The said objection had been rejected by the order dated 30.10.2024 (marked P-10B). The Debt Conciliation Board has then issued the certificate under Section 32 (2) of the Ordinance and forwarded the same for registration by letter dated 08.01.2025 (marked P-12). The said certificate is dated 20.11.2024 (marked P-11).
14. The petitioner, by an amendment, is now seeking to include P-10a, P-11 and P-12 and also the order dated 30.10.2024 (P-10B), to be brought into this application, and is seeking to quash the same. The objection of



the learned State Counsel is that these are subsequent and different orders made after the filing of this application. The Order P-8 is the determination upon the inquiry. All other orders that have been made the subject matter of this application, as well as added to the amended petition (P-10a, P-10b, P-11, and P-12) are applications and orders made after the pronouncement of the determination P-8, especially, P-10a, P-10b, P-11, and P-12, are matters that had arisen or raised after P-8. To that extent, they are different causes of action and orders, notwithstanding so arisen in the course of the Debt Conciliation Board matter.

15. The principle as determined in ***Kusala Hasanthi Perera and another vs. Gayantha Karunatileke and others***, CA/WRIT/224/2017, is that a petitioner cannot be allowed to amend the petition in order to accommodate new causes of action, which arose after the filing of the application. In that matter, the initial application was to quash a vesting order and a notice under Section 2 and Section 38 of the Land Acquisition Act. Subsequently, an order in respect of compensation had been made. The petitioners then sought to amend and add the said order to the said application. Samayawardhena, J., held as follows:

*“The acquisition process ends with an award of compensation to the persons whose lands have been acquired. Notwithstanding the acquisition process and compensation process are interconnected and cannot be considered in watertight compartments, they are two different processes for which different principles apply. In my view, an award of compensation is a different cause of action, which has accrued, according to learned Counsel for the Petitioners himself, after the filing of this application.”*

16. Similarly in this application, the issuing of the certificate is a different process and issued on 20.11.2024 long after the initial order made on 04.10.2023. In these circumstances, the above principle is applicable. Accordingly, the objection is upheld, the application to amend the

petition is not allowed, the amended petition is not accepted, and the same is accordingly rejected. The matter will now proceed on the initial petition. However, the petitioner is permitted to amend the caption to include the names of the members of the Debt Conciliation Board.

17. Application for amendment is dismissed.

**JUDGE OF THE COURT OF APPEAL**