

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

CA/ Writ Application No:

In the matter of an Application for Mandates in the nature of Writs of Certiorari, Mandamus and Prohibition under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

CA/WRT/356- 368/2025

CA/WRT/370- 387/2025

CA/WRT/338/2025

CA/WRT/339/2025

CA/WRT/340/2025

CA/WRT/341/2025

CA/WRT/342/2025

CA/WRT/402/2025

CA/WRT/389/2025

CA/WRT/390-387/2025

CA/WRT/391/2025

CA/WRT/392/2025

CA/WRT/393/2025

CA/WRT/395/2025

CA/WRT/396/2025

CA/WRT/346/2025

1. Dr. Suresh Gangatharan

Secretary
Democratic National Alliance
No. 25 3/2, Lauri's Road,
Colombo 05.

2. Mr. P Udayarasa

No. 148, Station Road,
Vairaoian Kulam,
Vavuniya.

PETITIONERS

Vs.

Returning Officer

Vavuniya South Pradeshiya Sabha,
Vavuniya.

& others

RESPONDENTS

CA/WRT/399/2025

CA/WRT/398/2025

CA/WRT/355/2025

CA/WRT/347/2025

CA/WRT/348/2025

CA/WRT/351/2025

CA/WRT/354/2025

CA/WRT/345/2025

CA/WRT/352/2025

CA/WRT/353/2025

CA/WRT/401/2025

CA/WRT/410/2025

Before: **M. T. MOHAMMED LAFFAR, J (President C/A)- Acting.**
K. P. FERNANDO, J.

Counsel: Nizam Kariapper, P. C. with Ahamed Ilham Nizam Kariapper and
Chathurika Perera for the Petitioners, instructed by M. I. M.
Iynullah

Manohara Jayasinghe, D. S. G. with K. D. Sampath, S. C. and
Nayanathara Balapatabendi, S. C. for the Respondents.

Supported on: 09.04.2025

Decided on: 10.04.2025

MOHAMMED LAFFAR, J. (President of The Court of Appeal- Acting)

The Petitioners are seeking, *inter alia*, a mandate in the nature of a Writ of Certiorari to quash the decision of the Returning Officers rejecting the nomination papers submitted by the Petitioners for the Local Government Elections. Moreover, the Petitioners are seeking a Writ of Mandamus directing the Returning Officer to accept the nomination papers submitted by the Petitioners for the Local Authorities Election to be held on 06.05.2025.

We heard the Learned President's Counsel for the Petitioners in support of these applications and the learned Deputy Solicitor General for the Respondents as well.

The fundamental issue before this Court concerns the rejection of the nomination papers by the Returning Officers on grounds that the Petitioners' copies of birth certificates were certified by either a Justice of the Peace or a Notary Public.

Regarding these identical issues, this Court in *Kurusamy v. Piyumi Artigala* (CA/WRT/241/25, dated 04.04.2025) held that copies of birth certificates certified either by a Justice of the Peace or a Notary Public constitute valid certified documents for compliance with Section 28(4A) of the Local Authorities Elections Ordinance No. 53 of 1946 (as amended).

These present applications raise identical substantive issues. When these applications were taken up for argument, the learned Deputy Solicitor General appearing for the Respondents brought to this Court's attention the Supreme Court's observation in *Vigneshwaran v. I. Saseelan* (SC/FRA/59/2025, dated 04.04.2025), which observed that certifications by Justices of the Peace and Notary Publics of birth certificate copies do not satisfy the statutory requirements for lawful certification under the relevant provisions of the Ordinance.

As such, the learned Deputy Solicitor General requested from this Court;

1. To revise the order made in *Kurusamy's Case (supra)*
2. To dismiss the instant applications *in limine* on the strength of the aforesaid observation made by the Supreme Court.

We heard the Learned Presidents Counsel for the Petitioners and the learned Deputy Solicitor General for the Respondents in regard to the application made by the learned Deputy Solicitor General.

The contention of the president's counsel is that the aforesaid supreme court observation is not a judgement and the central issue before this court is not analysed, when the notices for the fundamental rights applications were refused, the supreme court, *ex parte*, without hearing the defendants made certain observations as such these observations have no binding effect to this court.

The learned President's Counsel contends that the observations made by the Supreme Court in *Vigneshwaran v. I. Saseelan* do not constitute a binding judgment, as the central issue before this Court was not substantively examined in that case. He further submits that since the Supreme Court made those observations *ex parte* while refusing notices in the fundamental rights application, they lack precedential value and are not binding on this Court.

In our legal system, under the doctrine of *stare decisis*, all tribunals and courts, including the Court of Appeal, are bound to follow the determinations of the Supreme Court of the Democratic Socialist Republic of Sri Lanka, the apex judicial authority vested with ultimate interpretative power under the Constitution. At this juncture, the question before this Court is whether the observations made by the Supreme Court in *Vigneshwaran v. I. Saseelan* carry binding precedent for this Court.

The Doctrine of Stare Decisis in Sri Lankan Jurisprudence

The doctrine of *stare decisis*, Latin for "to stand by things decided", forms the bedrock of our legal system. It requires courts to adhere to principles established in prior decisions of higher courts when faced with similar cases. This principle ensures consistency, predictability, and fairness in the administration of justice. By treating like cases alike, it upholds public confidence in the rule of law and prevents arbitrary adjudication. In Sri Lanka, all subordinate courts, including the Court of Appeal, are constitutionally bound by the precedents set by the Supreme Court, the apex judicial authority under Article 118 of the Constitution.

Ratio Decidendi: The Binding Core of Precedent

A precedent's binding force lies in its *ratio decidendi*, the legal reasoning essential to the court's decision. By example, if the Supreme Court holds that "a contract signed under duress is void," this principle must guide lower courts in analogous cases. However, *obiter dicta* (incidental remarks) lack binding effect. To determine whether a precedent applies, courts examine, whether the higher court's decision originates from the same judicial hierarchy, whether the material facts align and whether

the *ratio* remains undisturbed by subsequent rulings. A precedent may be "distinguished" if the facts are materially different.

The Limited Authority of Ex Parte Orders

An *ex parte* order, issued without hearing the opposing party, serves urgent interim relief but carries no precedential weight. Such orders are provisional by nature, often grounded in incomplete arguments and exigent circumstances. They lack the rigorous legal analysis characteristic of a binding *ratio decidendi*. For example, a stay order granted *ex parte* to prevent imminent harm cannot establish a legal principle. Only after a full hearing, where both parties present arguments, can a court deliver a judgment capable of setting precedent. Thus, while *ex parte* rulings address immediate needs, they do not contribute to the jurisprudential corpus that binds future cases.

In the aforementioned fundamental rights applications before the Supreme Court, the central issue was not whether birth certificates attested by a Justice of the Peace or Notary Public were legally valid. Rather, the Court's determination focused exclusively on whether the Petitioners' fundamental rights had been violated by the rejection of their nomination papers. In its *ex parte* order refusing the applications, the Supreme Court made passing observations suggesting that such certifications by Notaries Public or Justices of the Peace could not constitute proper certification. These remarks were rendered without the benefit of full argument, as the Respondents were not heard in the proceedings, as such, it is not a determination of the Supreme Court in regards to the central issue at hand which pertains to the certification of birth certificates and compliance with the 7th schedule to the Constitution.

This position is substantiated in the Supreme Court's determination in *Jeevan Thonadaman V. Returning Officer, Nuwaraeliya*, (SC Writ Application No. 33/2025 dated 04.04.2025), where certain petitioners sought to invoke the Supreme Court's writ jurisdiction concerning the validity of birth certificates certified by Justices of the Peace or Notaries Public and adhering to the 7th Schedule of the Constitution. The Supreme Court expressly declined to entertain the application, holding that such matters properly fall within the jurisdiction of the Court of Appeal. This ruling makes abundantly clear that the Supreme Court consciously abstained from adjudicating the substantive certification issue and compliance to the 7th schedule of the Constitution, affirmed the Court of Appeal as the appropriate forum for such determinations.

In light of the above, it is abundantly clear that on the doctrine of *stare decisis*, the passing remarks or mere observation made by the Supreme Court in the aforesaid Fundamental Rights applications, cited by the Learned Deputy Solicitor General, has no binding effect on the Court of Appeal with respect to the central issues before this Court.

It is pertinent to note that, under Article 140 of the Constitution Writ jurisdiction is purely vested in the Court of Appeal, which reads thus;

“Subject to the provisions of the Constitution, the Court of Appeal shall have full power and authority to inspect and examine the records of any Court of First Instance or tribunal or other institution and grant and issue, according to law, orders in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto against the judge of any Court of First Instance or tribunal or other institution or any other person”

In terms of Article 140 of the Constitution in *Kurusamy’s Case (supra)* and in the case of *Sagara Kariyawasam V. Suranga Ambagahatanne* (WRT/309/2025 dated 04.04.2025), after a comprehensive argument this court held that the copies of the birth certificate certified by a Justice of Peace or Notary public is adequate and the declaration filed in terms of the 7th Schedule to the Constitution, as it is (without any attestation) is sufficient to maintain lawful nominations in terms of the provisions of the Local Authorities Ordinance.

Indeed, these determinations by this Court is subject to the appellate jurisdiction of the Supreme Court. However, as these determinations have not been varied or revised by the Supreme Court, they still stand as it is.

The judgments in *Kurusamy’s Case* and *Sagara Kariyawasam’s Case* were delivered by this Court prior to the Supreme Court’s order in the referenced Fundamental Rights application. It is well established that where this Court has already rendered a final judgment on a matter, it is not bound to retrospectively alter its decisions merely because the Supreme Court subsequently expresses a different view in a separate proceeding. In such instances, it falls within the purview of the Honourable Attorney General to provide guidance to public authorities regarding which judicial determinations they ought to follow.

That being said, this Court acknowledges its obligation to adhere to any final and authoritative determination by the Supreme Court on these issues in future cases.

However, the learned Deputy Solicitor General's present application, seeking revision of this Court's concluded judgments in *Kurusamy* and *Sagara Kariyawasam* is legally untenable, devoid of merit and fundamentally misconceived in law.

For the reasons set forth above, I hold that the passing observations/ remarks made by the Supreme Court in the referenced Fundamental Rights applications carry no binding authority over these proceedings under the doctrine of *stare decisis*. Thus, I hold in terms of the determination made by this Court in *Kurusamys case* and *Sagara Kariyawasams case*, the copies of the birth certificate certified by the Justice of Peace or the Notary Public are valid in law, and the declarations tendered in accordance with the 7th schedule of the Constitution are also valid in law in terms of the provisions of the Local Authorities Elections Ordinance. Accordingly, a writ of certiorari quashing the decisions of the Returning Officers rejecting the nomination papers is issued. A mandamus directing the returning officers to accept the said nomination papers is also issued. Applications are allowed without costs.

This judgement is applicable and binding on all parties in connected application bearing nos. CA/WRT/356 to 368, 370 to 387 and 338, 339, 340, 341, 342, 402, 389, 390, 391, 392, 393, 395, 396, 346, 399, 398, 355, 345, 352, 353, 347, 348, 351, 354, 401, 410/25

President of the Court of Appeal (Actg)

K. P. Fernando, J.

I agree.

Judge of the Court of Appeal