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

In the matter of an application for Restitution-in-integrum and in terms of Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

CA RII 46/2025

D.C. Kurunegala Case No.8747/L

IN THE DISTRICT COURT

Badurali Arachchige Ariyaratne,
Of No. A 136-2,
Kiriwandeniya,
Rambukkana.

PLAINTIFF

Vs.

Biyanwilage Padmini Amarasekera,
Of No. 180,
Narammala,
Alawwa,

DEFENDANT

AND NOW BETWEEN IN THE COURT OF APPPEAL

Biyanwilage Padmini Amarasekera,
Of No. 180,
Narammala,
Alawwa.

DEFENDANT-PETITIONER

Vs.

Badurali Arachchige Ariyaratne,
Of No. A 136-2,
Kiriwandeniya,
Rambukkana.

PLAINTIFF-RESPONDENT

Before: **Ratnapriya Gurusinghe J.**

&

Dr. Sumudu Premachandra J.

Counsel: Dr. Sunil Cooray with Sudharshani Cooray and Malmi Karunarathne instructed by Diana Rodrigo for the Petitioner.

P. K. Prince Perera for the Plaintiff - Respondent.

Written Submissions: On behalf of the Plaintiff – Respondent filed on 08/12/2025

Argued On: 26/11/2025.

Judgement on: 30/01/2026.

Dr. Sumudu Premachandra J.

1] This dispute involves a property in Kurunegala originally owned by the Defendant-Petitioner (Biyanwilage Padmini Amerasekera). The Plaintiff-Respondent (Badurali Arachchige Ariyaratne) claims ownership via Deed of Transfer No. 83 dated 07/09/2017, attested by Dinesh Manikpura, Notary Public, asserting it was an outright sale. However, the Defendant contends that this deed was never intended as a sale but was actually executed as security for a loan of Rs. 3,500,000 obtained to help her son find work abroad. She contends that because the matter was pending before the Debt Conciliation Board, the original District Court action should not have been maintained. This goes on to mean that Before the District Court case began, the matter was referred to the Debt Conciliation Board; the Defendant argues that because this application was pending, the Plaintiff was legally barred from maintaining the District Court action under section 56 of the Debt Conciliation Ordinance.

2] Now, the Petitioner prays for the following reliefs;

a. Issue Notice of this application of Restitutio In Integrum on the Plaintiff Respondent

b. Set aside the Settlement and Order dated 2021.02.10 entered in this action and to fix this action again for trial

c. For Judgement by Your Lordships Court to allow the Defendant Petitioner to contest this action

d. Stay the operation of the settlement entered in D.C. Kurunegala Case No. 8747/L, on 2021.02.10 until this application is finally determined by Your Lordships Court

e. For costs

f. For such other further relief as Your Lordships shall seem

3] A critical turning point occurred on 10/02/2021, when a settlement was entered in open court requiring the Defendant to pay Rs. 5,500,000 to the Plaintiff to retain the land. The Defendant failed to pay and was subsequently evicted by a writ of execution in July 2022. She now seeks to overturn this settlement, alleging it was signed under extreme duress. Specifically, she claims that the Plaintiff's son-in-law threatened to kill her two grandsons if she did not agree to the settlement, and that she was further prevented from seeking legal remedy at the time due to the COVID-19 pandemic. Furthermore, she asserts that the terms of the settlement and the consequences of a "writ of execution" were never fully explained to her by the court or her counsel. Her subsequent attempts to appeal or revise the decision through the High Court were dismissed, often due to her ill health and inability to provide instructions to her lawyers. She is now appealing to the higher court's jurisdiction, arguing that the land is worth over Rs. 10,000,000 (100 Lakhs) and that the settlement was a grave injustice that must be overturned.

4] It is seen that the Petitioner has sought redress from the Civil Appellate High Court to vacate the said settlement. However, it was refused by the order dated 30/10/2023 of HCCA/LA/Kuru Application 23/2023/LA.

5] To the said refusal, the Petitioner has filed an application for leave to appeal to the Supreme Court. The Petitioner argued that the High Court erred by dismissing her case for "non-prosecution" when her lawyer's requests for postponements due to her ill health were rejected. She asked the Supreme Court to review whether the initial settlement is void due to fraud and malice, and

whether the legal proceedings were fundamentally flawed because of the concurrent proceedings before the Debt Conciliation Board. When the application was supported in the Supreme Court, by order dated 15/07/2025 of S.C.(HC) CA.LA No. 503/2023, the leave was refused and petition was dismissed without costs.

6] Thereafter, within two weeks of the above dismissal, the Petitioner filed this application on 30/07/2025.

7] In the objections, the Respondent highlights that the Petitioner previously challenged this same settlement in the Civil Appellate High Court and the Supreme Court of Sri Lanka, both of which dismissed her claims; the matter is now Res Judicata (already judged), and the Court of Appeal lacks the jurisdiction to hear the case again.

8] The Respondent further says that the Petitioner has acted in bad faith, noting she failed to honour the original settlement, leading to writ executions and even contempt of court proceedings. The objections state that the application lacks merit, fails to show "exceptional circumstances," and is an abuse of the court process. The Respondent pleads for dismissal of this application.

9] I now consider the merits of this application. According to the journal entry No.13 dated 10/02/2021, it is seen that the terms were fully explained to the Petitioner, who signed the case record in the presence of the judge. It says;

> "දෙපාර් ශවය අතර සමාදාන සම්පුර් න සහ අවසන් සමථයක් ඇති බව දන්වා කොන්දේසි වාර් ථා කරයි.
>
> අද දින වීවත අධිකරණයේදී එළබී සමථ කොන්දේසි කියවා තේරුම් කර දීමෙන් පසුව එය තේරුම් ගෙන නඩු වාරථාව අත්සන් තැබීම සඳහා නියම කරමි. (ස/බ) එකී සමථය ප්‍රකාර සමථ තීන්දු ප්‍රකාශයක් ඇතුලත් කරන්න."

10] It is seen that the Petitioner was represented by Mr. N. Samaraweera, Attorney at Law. Thus, I hold that her claim of "duress" is legally unfounded and barred by the principle of estoppel.

11] It seems to me that the Petitioner has exhausted all legal avenues, as this settlement was previously challenged in the Civil Appellate High Court and the Supreme Court.

12] On the other hand, the core of the argument is that at the time the civil action was initiated on 13/12/2018, an application regarding the same debt/property was already pending before the Debt Conciliation Board (filed on 04/10/2018), which should have legally barred the court from proceeding.

13] It is clear that Section 56 of the Debt Conciliation Ordinance, which explicitly states that no civil court shall entertain any action in respect of a matter pending before the Board. It says;

> *"No civil court shall entertain-*
>
> *(a) any action in respect of-*
>
> *(i) any matter pending before the Board; or*
>
> *(ii) the validity of any procedure before the Board or the legality of any settlement;*
>
> *(b) any application to execute a decree, the execution of which is suspended under section 55."*

14] With regard to this question in ***Baby v. Banda and Others*** [1999] 3 Sri L.R.419, His Lordship Kulatilleka, J. concluded as follows;

> *"As regards section 56 of the Debt Conciliation Ordinance there is no such condition precedent attached to it and* ***there is an absolute bar to jurisdiction.*** *It reads as follows: "No Civil court shall entertain any action in respect of any matter pending before the Board."*

Hence, ***we are of the considered view the want of jurisdiction is patent and objection to jurisdiction may be taken up at any time****. Vide the decision in Fernando v. Fernando 74 NLR 57).*

*In that case Samerawickrema, J. further observed: "****In such a case it is, in fact, the duty of court itself ex mere motu to raise the point even if the parties fail to do so****."* [Emphasis is added]

15] Further, in ***Hilda Perera v. Lawrence Perera*** 67 NLR 186, His Lordship Tambiah J held that,

"the date from which an application for relief under the Debt Conciliation Ordinance is regarded as pending before the Board is the date when the application is received by the Board and not the date when it is entertained by the Board under Section 19 of the Ordinance."

His Lordship further held;

"The Debt Conciliation Ordinance was enacted to provide for the establishment of a debt conciliation Board and other matters connected with the purposes for which it was established. It was clearly a piece of legislation intended to give relief to debtors. The language of Section 56 of the Ordinance is plain. It states that "no civil court shall entertain any action in respect of any matter pending before the Board." By the word "matter", is meant the particulars in the application. In my view, the moment the application is received by the Board, the matters stated in the application are pending before the Board. Thereafter, it is for the Board to decide as to whether they wish to entertain the application or not."

16] Thus, it is clear, there is a clear bar to entertain the original application by the District Judge as prevented by section 56 of the Debt Conciliation Board Ordinance, but our hands are tight that we could not go above the recent judgement of Supreme Court, ***W.T.S. Nilantha Fernando vs P.M.S. Nilanthi***

Perera, SC/APPEAL/65/2025, Decided on: 10.10.2025. In that His Lordship Samayawardhena, J. clearly ousted the jurisdiction of this court, held as follows;

> *"Hence, I hold that the Court of Appeal has no jurisdiction, whether by way of final appeal, revision, or restitutio in integrum, to review the judgments or orders of the Provincial High Court, whether in the exercise of its appellate jurisdiction under Act No. 19 of 1990, as amended by Act No. 54 of 2006, or in the exercise of its original jurisdiction under Act No. 10 of 1996. Such jurisdiction is vested exclusively in the Supreme Court."*

17] I do admit that the District Court lacks the jurisdiction; thus, the proceedings *are ab initio void*. However, this point should have been agitated before the competent courts. It is seen that the Petitioner (As the Defendant) filed the answer dated 05/11/2019 and in paragraph 02 as a preliminary objection, the jurisdictional matter was raised. It is unclear why the Defendant agreed to a settlement despite a clear-cut case/objection. However, this court lacks jurisdiction since the High Court has concurrent jurisdiction; if we revise or set aside the Civil Appeal High Court Judgement, it will amount to quashing its own order/judgment, as both courts have concurrent jurisdiction. On the other hand, leave was refused by the Supreme Court; it is unclear whether a jurisdictional matter was agitated before the Supreme Court. However, if the lack of jurisdiction is patent, the result renders all proceedings invalid. Thus, it is a matter for the competent court to decide whether all orders made by the court are valid and have legal force, not for this court.

18] If we allow this application, it will have a direct impact on the Supreme Court decision, agitate on same facts. I think, if the Supreme Court held against the Petitioner, there can be no room for any court. It is my considered view that there should be an end to litigation once you have exhausted all avenues; once you have achieved the last triumph, you cannot agitate the jurisdiction of this court under *restitution in integrum.*

19] For the aforesaid reasons, we dismissed the application for *restitution-in-integrum*, with costs.

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE J.

I agree

JUDGE OF THE COURT OF APPEAL