

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

In the matter of a Rule in terms of Section 42(2) of the Judicature Act No. 2 of 1978, against Dahanayake Liyana Arachchige Sujeewa Laal Kumara, Attorney-at-Law.

Ranjan Gamini Gunarathne,
No. 72/4, Udu Mull Road,
Battaramulla.

SC RULE 03/2023

COMPLAINANT

Vs.

Dahanayake Liyana Arachchige Sujeewa
Laal Kumara,
No.867, Ethul Kotte,
Kotte.

RESPONDENT

Before: **Justice A. L. Shiran Gooneratne**
Justice K. Priyantha Fernando
Justice M. Sampath K. B. Wijeratne

Counsel: Kuvera De Zoysa, PC with Sanjana De Zoysa for the **Respondent**.
Viveka Siriwardena, ASG with Sabrina Ahmed, SSC for the **Hon. Attorney General**.
Harith De Mel, AAL for the **Bar Association of Sri Lanka**.

Mentioned on: 11/09/2025

Judgement on: 18/12/2025

A. L. Shiran Gooneratne, J.

Pursuant to a complaint made by the Complainant to His Lordship the Chief Justice, this Court issued a Rule containing charges against the Respondent Attorney-at-Law, requiring him to show cause why he should not be suspended from practice or removed from the office of Attorney-at-Law of the Supreme Court in terms of Section 42(2) of the Judicature Act No. 2 of 1978.

The charges relate to the filing of a proxy on behalf of the 1st and 2nd Defendants in Case No. 620/L instituted in the District Court of Kaduwela, wherein the Plaintiff has, *inter alia*, challenged the validity of Deed of Transfer No. 306 dated 26/07/2015, which the Respondent Attorney-at-Law had attested. In that case, the Respondent Attorney-at-Law has prepared and settled pleadings seeking, *inter alia*, a declaration that the said Deed of Transfer had been executed and registered in accordance with the law.

The charges were read out to the Respondent Attorney-at-Law on 29/05/2023, to which he pleaded not guilty.

When the matter was taken up for inquiry on 24/11/2025, both parties moved to record the following admissions that;

- (1) the Complainant Ranjan Gamini Guneratne filed a case in the District Court of Kaduwela bearing Case No. 620/L, in which case the Complainant, who is the Plaintiff, impugned inter alia the validity of the deed of transfer bearing No. 306 dated 26/07/2015
- (2) the afore-said impugned deed No. 306 dated 26/07/2015 has been executed by the Respondent Attorney-at-Law
- (3) the Plaintiff in the D.C. Kaduwela Case No.620/L has been filed on 25/04/2016
- (4) the Respondent Attorney-at-Law has filed proxy on behalf of the 1st and 2nd Defendants on 31/03/2017
- (5) the Answer on behalf of the 1st and 2nd Defendants has been filed by the Respondent Attorney-at-Law on 22/09/2017
- (6) the Respondent Attorney-at-Law appeared for the 1st and 2nd Defendant until 14/03/2019
- (7) the Respondent Attorney-at-Law revoked the proxy on 14/03/2019
- (8) the trial commenced on 09/10/2019
- (9) all journal entries are admitted from the inception of the case until January/2022
- (10) the Complaint as Plaintiff in the District Court of Kaduwela case bearing No. 620/L has closed the case for the Plaintiff on 22/08/2024.

Consequent to the admissions recorded above, the learned Additional Solicitor General submitted that no witnesses would be led at this stage and that the evidence in support of the Rule may, for the time being, be considered concluded.

At this juncture, learned President's Counsel for the Respondent Attorney-at-Law informed Court that the Respondent Attorney-at-Law wished to withdraw his earlier plea of not guilty and to plead guilty to the charges. Accordingly, the charges were once again read out to the Respondent Attorney-at-Law, who thereupon pleaded guilty.

In mitigation of sentence, the learned President's Counsel for the Respondent Attorney-at-Law submitted that the Respondent, by pleading guilty to the charges, expresses his remorse and tenders his unreserved apology to this Court. The learned Counsel further submitted that the proxy was filed solely due to the peculiar circumstances in which the action was instituted, and that the Respondent Attorney-at-Law had, from the very outset, informed his clients that the proxy would be revoked. It was accordingly revoked at the earliest available opportunity.

The learned President's Counsel also informed the Court that the Plaintiff has now closed its case and that the impugned deed has been admitted in evidence without further proof. He further asserted that if summoned by his clients, the Respondent Attorney-at-Law is able and willing to testify as an impartial witness.

The learned Additional Solicitor General observed that, in Rule proceedings instituted against Attorneys-at-Law, the Hon. Attorney General does not function as a prosecutor, but appears solely to assist the Court by placing before it the material supporting the Rule, in accordance with the Supreme Court Rules governing the conduct of Attorneys-at-Law. She further submitted that this matter concerns a breach of **Rule 12** of the Supreme Court (Conduct of and Etiquette for Attorneys-at-Law) Rules 1988, the acceptance of a professional matter in which the Attorney-at-Law knew, or had reason to believe, that he would be required to give evidence as a witness. It was also submitted that the Respondent Attorney-at-Law has pleaded guilty to the Rule filed against him by the Registrar of the Supreme Court, and that it now lies within the discretion of this Court to make an appropriate order.

Justice A. R. B. Amarasinghe explains in "Professional Ethics and Responsibilities of Lawyers", (Page 377) that, "*Although a party may call his attorney as a witness and*

although a court may permit the examination of an attorney at any stage in the case on any relevant matter, ordinarily an attorney should decline to act as counsel in a matter in which he has reason to believe he or a member of his firm is likely to be a witness on a material question of fact, except as to merely formal and non-contentious matter such as the identification, attestation or custody of a document and the like.”.

Justice A. R. B. Amarasinghe cites with approval the case of ***Jeffery v Associated National Insurance Co Ltd [1984] 1 Qld R 238***, where Justice Thomas of Queensland Supreme Court stated, “*No doubt he did not think the matter through. In any case, where a solicitor has reason to believe that he may be required to give evidence of a controversial kind in a proceeding, he should arrange for an independent solicitor to take over the matter so that his objectivity cannot be questioned when he gives evidence.*” (Page 378).

Rule 12 of the Supreme Court Rules 1988, embodies a fundamental safeguard against conflicts of interest. It prohibits an Attorney-at-Law from accepting any professional matter in which he knows, or has reason to believe, that he will be required to give evidence as a witness. The rationale is clear, the dual role of an Attorney-at-Law and an Attorney-witness in one and the same action, is inherently incompatible. An attorney who appears as counsel while also testifying risks undermining both the fairness of proceedings and the credibility of the profession.

Rule 12 of the Supreme Court Rules states as follows:

12. *“An Attorney-at-Law shall not accept any professional matter in respect of which he knows or has reason to believe that he would be required as a witness.*

The same principle would apply where an Attorney-at-Law after accepting any professional matter finds that he would be required as a witness in the same matter:

Provided, however, an Attorney-at-Law may accept any professional matter in which he may be required only as a witness in respect of any formal non-contentious matter.”

The Rule extends beyond initial acceptance of a brief. Even if the Attorney-at-Law only later discovers that he will be required as a witness, he is obliged to withdraw from representation. This ensures that the integrity of proceedings is preserved at all stages, and that the attorney does not continue in a conflicted role once the risk becomes apparent.

The proviso creates a narrow exception for formal, non-contentious matters. In such cases, the testimony of the Attorney-at-Law is purely procedural. The Rule thus balances strict ethical obligations with procedural requirements inherent to the legal practice.

In essence, Rule 12 enshrines the principle that an Attorney-at-Law must avoid any situation where his professional obligation as an Attorney-at-Law could be compromised by his personal involvement as a witness. It is a rule designed not only to protect litigants, but also to uphold the dignity of the profession and the confidence of the public in the administration of justice.

Justice Amarasinghe also portrays in “Professional Ethics and Responsibilities of Lawyers”, that, *“If having accepted a matter, it later appears that he is likely to be a witness in the case on a material question of fact, an attorney may retire or withdraw only if he can do so without jeopardizing his client’s interests.”* (Page 379)

In the instant matter, having considered the totality of the circumstances, this Court is mindful that disciplinary proceedings against Attorneys-at-Law are not intended to be punitive in the ordinary sense, but rather corrective, with the paramount objective of safeguarding the dignity of the profession and the confidence of the public in the administration of justice. In the present matter, the Respondent Attorney-at-Law has candidly admitted his lapse, withdrawn his earlier plea of not guilty, and tendered an

unreserved apology to the Court. Such conduct demonstrates remorse and a willingness to accept responsibility for his actions.

It is further noted that the Respondent Attorney-at-Law revoked the proxy well before the commencement of trial, thereby ensuring that he did not continue to act in a dual capacity as counsel and potential witness. The delay in revocation, though regrettable, has been explained to the satisfaction of Court as arising from unavoidable personal circumstances of his clients. The Respondent Attorney-at-Law has not sought to derive any improper advantage from his conduct, nor has prejudice been occasioned to the Plaintiff, whose case has since been closed with the impugned deed admitted in evidence.

The failure in question, though constituting a technical breach of Rule 12 of the Supreme Court Rules, has not risen to the level of gross misconduct contemplated under Section 42(2) of the Judicature Act that would warrant suspension or removal from practice.

Moreover, the Respondent Attorney-at-Law has expressed his willingness to testify impartially if summoned by his clients, thereby affirming his commitment to assist the Court in the due administration of justice. This readiness to act in accordance with the law, coupled with his acknowledgment of error, persuades this Court that the ends of justice would be met by issuing a stern warning rather than imposing the extreme penalty of suspension or removal.

In considering a proportional sanction, this Court is guided by Rule 61 of the Supreme Court Rules, which requires Attorneys-at-Law to conduct themselves in a manner worthy of their office. While the conduct of the Respondent Attorney-at-Law fell short of professional standing, his subsequent candour, apology, and corrective action mitigate the gravity of the breach. A warning, duly recorded in the Role of Attorneys-at-Law, will serve both as a deterrent to the Respondent Attorney-At-Law and as a reminder to the profession at large of the importance of scrupulous adherence to ethical rules.

Accordingly, this Court holds that the Respondent Attorney-at-Law should not be suspended from practice or removed from the roll of Attorneys-at-Law. Instead, the Respondent Attorney-at-Law is hereby discharged subject to a formal warning, cautioning him to exercise greater diligence in the future to avoid any conduct that may compromise the integrity of the profession or the administration of justice. The Registrar is directed to make such entries in the Role of Attorneys-At-Law.

The Respondent Attorney-at-Law is warned and discharged.

Judge of the Supreme Court

K. Priyantha Fernando, J.

I agree

Judge of the Supreme Court

M. Sampath K. B. Wijeratne, J.

I agree

Judge of the Supreme Court