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

In the matter of an **application for Revision under and in terms of Article 138** of the Constitution of the Democratic Socialist Republic of Sri Lanka, from an order of the learned High Court Judge of Gampaha dated 7th December 2011 in the exercise of its Revisionary Jurisdiction.

M.E.P Samaraweera
Assistant Commissioner of Labour
District Labour Office
No. 207, Sri Bodi Road,
Gampaha



CA Application No.
H/C Case No. Rev/27/2011
M/C Case no. 15214

COMPLAINANT

Vs.

Fergasam Garment Industries (Pvt) Limited
Export Processing Zone
Wathupitiwala,
Nittambuwa

RESPONDENT

AND NOW BETWEEN

Fergasam Garment Industries (Pvt) Limited
Export Processing Zone
Wathupitiwala,
Nittambuwa

RESPONDENT-PETITIONER

Vs.

M.E.P Samaraweera
Assistant Commissioner of Labour
District Labour Office
No. 207, Sri Bodi Road,
Gampaha

COMPLAINANT-RESPONDENT

AND NOW BETWEEN

Before : **Sisira de Abrew, J. &
K.T.Chitrasiri, J.**

Counsel : M.Adamaly with J.Abeysonder for the Petitioner

M.Fernando DSG for the Respondent

Argued &

Decided on : 26.03.2012

Sisira de Abrew, J.

Both Counsel heard in support of their respective cases.

The Commissioner of Labour filed a certificate in the Magistrate's Court to recover sum of Rs.24,750/00 from the petitioner in this case as it had failed to pay EPF. The learned Magistrate has made an order dated 29.08.2011 directing the petitioner to pay the said amount and to recover that amount by way of a fine.

Being aggrieved by the said order of the learned Magistrate, the petitioner filed a revision application in the High Court seeking inter alia to stay

the operation of the Magistrate's order. The learned High Court Judge has refused to stay the operation of the learned Magistrate's order and decided to proceed with the case.

Learned Counsel for the petitioner submits that if the operation of the Magistrate's order is not stayed an irreparable damage will be caused to the petitioner as he had to pay the fine. In these circumstances he seeks an order from this Court to stay the operation of the learned Magistrate's order dated 29.08.2011 until the final determination of the High Court case.

Learned DSG has no objection to this application.

Learned Counsel for the Petitioner limits his case filed in this Court to the paragraph (b) of the prayer to the petition dated 12.12.2011.

Considering all these matters we issue an order staying the operation of the learned Magistrate's order dated 29.08.2011 until the final determination of the High Court Case No.Rev.27/11.

Registrar is directed to communicate this order to the Magistrate Court of Attanagalla by way of a telegram and over the telephone on payment of charges

by the petitioner. Registrar is also directed to issue a certified copy of this order to the petitioner on payment of usual charges.

In view of this order learned Counsel for petitioner makes an application to withdraw the petition in this case. The application for withdrawal of the petition is allowed.

The proceedings in this case are terminated.

JUDGE OF THE COURT OF APPEAL

K.T.Chitrarsiri, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KLP/-