

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

*In the matter of an application in revision
under and in terms of the Article 138 of
the Constitution.*



Magistrate Court of
Tangalle Case No: - 5138

High Court of Tangalle
Case No: - HCRA 17/2011

Court of Appeal Case No:-
CA PHC (APN) 12/2012

1. Rev. Daniel Sandahami,
No. 42, Sea Avenue, Tangalle.
2. Palitha Galappaththi,
No. 49, Mihindu Mawatha,
Tangalle.
3. Somadasa Abesundara,
No. 41, Mihindu Mawatha,
Tangalle.
4. Loku Yaddehige Anura,
No. 42, Mihindu Mawatha,
Tangalle.
5. Loku Yaddehige Ajith,
No. 40, Mihindu Mawatha,
Tangalle.
6. Ariyasena Gawasinghe,
No. 38, Mihindu Mawatha,
Tangalle.
7. Maalanie Weerasekara,
No. 31, Mihindu Mawatha,
Tangalle.
8. Samanmali Wettrampathirana,
No. 27, Mihindu Mawatha,
Tangalle.

9. John Singho Balapitiya
Liyanage,
No. 5 A, Mihindu Mawatha,
Tangalle.
10. Rohana Nenaruwan
Gaallahewage,
No. 245, Mihindu Mawatha,
Tangalle.
11. Dudley Monroy De Silva,
No. 43, Mihindu Mawatha,
Tangalle.
12. Andrahannadi Gnanathissa,
No. 25, Mihindu Mawatha,
Tangalle.
13. Ediriweera Aarukkattu
Patabadige Daniel Silva,
No. 05, Mihindu Mawatha,
Tangalle.
14. Maha Mudiyanseelage Asanga
Aravinda Perera,
No. 25, Mihindu Mawatha,
Tangalle.
15. Kumarini Chandrika
Wikramasuriya,
No. 20, Mihindu Mawatha,
Tangalle.
16. Kanishka Parakrama Ranjith
Atapattu,
No. 23, Mihindu Mawatha,
Tangalle.

17. Nihal Samaraweera,
No. 04, Mihindu Mawatha,
Tangalle.

Complainants

-Vs-

1. Ceylon Electricity Board
No. 50, Sir Chittampalam A
Gardiner Mawatha, Po. Box.
540, Colombo 02.
2. Chief Engineer (Construction)
Electricity Board of Sri Lanka,
No. 14, Mathara Road, Galle.
3. Rathnaweera Patabadige
Wasula Priyanka. No. 132,
Weerakatiya Road, Tangalle.

Respondents

And

1. Rev. Daniel Sandahami,
No. 42, Sea Avenue, Tangalle.
2. Palitha Galappaththi,
No. 49, Mihindu Mawatha,
Tangalle.
3. Somadasa Abesundara,
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Tangalle.
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Complainant-Petitioners

-Vs-

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Gardiner Mawatha, Po. Box.
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No. 14, Mathara Road, Galle.

3. Rathnaweera Patabadige
Wasula Priyanka. No. 132,
Weerakatiya Road, Tangalle.

Respondent-Respondents

And Now Between

Rathnaweera Patabadige
Wasula Priyanka. No. 132,
Weerakatiya Road, Tangalle.

**Respondent-Respondent-
Petitioner**

V

1. Rev. Daniel Sandahami,
No. 42, Sea Avenue, Tangalle.
2. Palitha Galappaththi,
No. 49, Mihindu Mawatha,
Tangalle.
3. Somadasa Abesundara,
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**Complainant- Petitioners-
Respondents**

1. Ceylon Electricity Board,
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540, Colombo 02.
2. Chief Engineer (Construction)
Ceylon Electricity Board No.
14, Mathara Road, Galle.

**Respondent-Respondent-
Respondents**

C.A. (PHC) APN 12/2012

H.C. Tangalle Case No: 17/2011 Revision.

BEFORE : Sisira de Abrew, J. &
Deepali Wijesundera, J.

COUNSEL : Saliya Peiris with Chandima Dharmasena for the
Petitioner.
N. Wickramasekara SC for the Respondent.
N. Criden for the CEB.
Anil Silva PC for 2nd Party Respondent.

DECIDED ON : 15.03.2012

Sisira de Abrew, J.

Heard Counsel for the Petitioner, Complainant-Petitioner-Respondents and State Counsel for the Respondent-respondent-Respondents. Complainant Petitioner-Respondents in this case filed an application in the Magistrate's Court in terms of section 98 of the Criminal Procedure Code seeking an order against the Petitioner in this case when the Petitioners were taking step to draw up 33000 V electricity line through

Mihindu Mawatha, in Tangalle. The Complainant Petitioner-Respondent live at Mihindu Mawatha, Tangalle. Learned Magistrate by his order dated 04.05.2011 issued an interim order restraining the Petitioner and Respondent-Respondent-Respondents (CEB) from drawing up electricity line over Mihindu Mawatha, Tangalle. Learned Magistrate thereafter after hearing evidence of the parties by his order dated 24.08.2011 vacated the order issued by learned Magistrate on 04.05.2011. As a result of the order dated 24.08.2011 of the Magistrate the Petitioners and the Electricity Board were at liberty to draw up electricity line over Mihindu Mawatha, Tangalle. Being aggrieved by the said order of the learned Magistrate dated 24.08.2011, the Complainant Petitioners-Respondents filed a revision application in the High Court of Tangalle moving to set-aside the said order of the learned Magistrate.

Learned High Court Judge on 23.11.2011 issued an interim order staying the operation of the learned Magistrate's order dated 24.08.2011. Being aggrieved by the said order of the learned High Court Judge the Petitioners in this case have filed the present petition seeking to set-aside the order of the learned High Court Judge.

We note that the order issued by the learned High Court Judge on 23.11.2011 is only an interim order. The Petitioners by this petition seek an interim order staying the operation of the learned High Court Judge's order dated 23.11.2011. We note that if this relief is granted there will be no case for the High Court Judge to examine which has been filed before him. We further note that if the interim relief is issued it will amount to final relief being granted by this Court to the Petitioners. Complainant Petitioner-

Respondents have filed documents in Court (in the Magistrate's Court) that if 33000 V electricity wires are drawn up as planed by the Petitioners and the Electricity Board, it may cause various health problem to the residence of the area.

Learned State Counsel appearing for the Electricity Board submitted that the petition by the Petitioners is pre mature. When we consider all these matters we are of the opinion that we must permit the learned High Court Judge to inquire into the complaint made by the Complainant Petitioners- Respondents. When we consider all these matters we hold the view that there is no merit in the petition filed by the Petitioner. Considering all these matters we refuse to grant an interim order prayed for by the Petitioners and also refuse to issue notice on the Respondents. We dismiss the petition.

Petition dismissed.

JUDGE OF THE COURT OF APPEAL

Deepali Wijesundera, J.

I agree.

JUDGE OF THE COURT OF APPEAL

NR/-