

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

CA (Writ) 188/2012

Debt Conciliation Board case No. 41777

Kankanamage Upul Karunatillaka,
Kanattawatta,
Janaraja Mawatha,
Kubalgama,
Devinuwara,
Matara.

PETITIONER

- Vs -

01. Tuppahige Deepika Kithsiri,
Urugamuwa,
Wehella,
Matara.
02. Malini Abeywardene Ranatunga,
Chairperson,
Debt Conciliation Board,
No: 80,
Adikarana Mawatha,
Sanchi Arachchigewatta,
Colombo 02.
03. Piyasena samararatne,
Member,
Debt Conciliation Board,
No. 80, Adikarana Mawatha,
Sanchi Arachchigewatta,
Colombo 02.

04. M.A.N.S. Gunawardene,
Member,
Debt Conciliation Board,
No. 80, Adikarana Mawatha,
Sanchi Arachchigewatta,
Colombo 02.

05. D .M. Sarathchandra,
Member,
Debt Conciliation Board,
No. 80,
Adikarana Mawatha,
Sanchi Arachchigewatta,
Colombo 02.

06. A.P. Rajakaruna,
Member,
Debt Conciliation Board,
No. 80,
Adikarana Mawatha,
Sanchi Arachchigewatta,
Colombo 02.

RESPONDENTS

C.A. Writ Application No.188/2012

Before : **S.Sriskandarajah, J (P,C/A)**
 Deepali Wijesundera, J

Counsel: Dines de Alwis for the Petitioner.

Argued &

Decided on: 19.07.2012.

S.Sriskandarajah, J. (P,C/A)

Counsel for petitioner heard in support.

The petitioner in this application seeking a writ of certiorari to quash the order dated 04.05.12 marked X9. The petitioner by application dated 25.08.2010 in the capacity of the debtor made an application to the Debt Conciliation Board for relief under the Debt Conciliation Ordinance. The petitioner submits that after the application was filed the property was transferred to one Hewa Bandulage Ashanthi on 05.08.2010, a few days prior to the institution of the said action. Thereafter an amended application was filed on 13.05.2011 by the petitioner to include the said Hewa Bandulage Ahsnathi as the 2nd respondent. The 1st respondent and the said Hewa Bandulage Ashanthi objected to the said amended application. In these circumstances according to the proceedings dated 03.02.2012 the 2nd to 6th respondents,

constitutes the Debt Conciliation Board determined that the petitioner should firstly prove that he was in possession of the property and that thereafter decision would be made as to whether the said Hewa Bandulage Ashanthi would be made respondent to the application. On 04.05.12 the petitioner sought to establish possession by leading evidence of his father-in-law Mr.Hettiarachchige Piyadasa Kulatunga.

After leading the said evidence the Board had expressed the view that the debtor should have first given evidence and commenced the case. At this stage the debtor informed the Court that the debtor is not ready and moved for time lead evidence. In these circumstances this Court is of the view that this application is premature as the Board has not made an order in this matter.

Therefore notice to respondents is refused.

PRESIDENT OF THE COURT OF APPEAL

Deepali Wijesundera, J

I agree

JUDGE OF THE COURT OF APPEAL

KLP/-