

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

**CA (PHC) 158/2012**  
PHC Chilaw HCR 13/09

L.B. Finance (Pvt) Ltd  
No: 275/75,  
Prof. Standley Wijesundera Mawaatha,  
Colombo 07.

**PETITIONER**

**Vs.**

Hon. The Attorney General  
Attorney General's Dept.,  
Colombo - 12.

OIC  
Police Station,  
Wennappuwa.

**RESPONDENTS**

CA (PHC) 158/2012

PHC Chilaw HCR 13/09

Before : A.W.A. Salam,J, &  
Sunil Rajapakshe ,J.

Counsel : Widura Ranawaka with Suraj Rajapakshe &  
Chintaka Kohona for the Appellant.

Argued &

Decided on : 01.11.2013

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A.W.A. Salam,J.

This is an appeal preferred against the judgment of the learned High Court Judge, refusing to entertain the application filed in revision of the order of the learned Magistrate confiscating the vehicle in question. The revision application has been dismissed inter alia on the following grounds:

- 1) That the affidavit tendered along with the petition has not been sworn or affirmed to by the Chairman or Director of the Company.
- 2) That the petitioner has failed to disclose exceptional circumstances warranting the exercise of revisionary powers.

As regards the purported defects pointed out by the learned High Court Judge it has to be observed that the affidavit tendered in support of the averments in the petition need not be necessarily by the Chairman or

one of the Directors but it has to be by a person who has the knowledge regarding the matters referred to in the petition.

Secondly in paragraph '9' of the petition, the petitioner has raised an arguable question of law as regards the procedure set out in the Code of Criminal Procedure Act with regard to prerequisites to be satisfied before an order of confiscation is made. This by itself in our opinion, constitutes exceptional circumstance and in the result we are compelled to set aside the impugned judgment of the learned High Court Judge and send this matter back to hear the revision application and enter judgment accordingly to law .

Judge of the Court of Appeal

Sunil Rajapakshe,J.

I agree.

Judge of the court of Appeal

Jmr/-