

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

In the matter of an application for mandates in the nature of Writs of *Habeas Corpus* under and in terms of Article 140 of the Constitution of the Democratic Republic of Sri Lanka.

Jayapathma Herath Mudiyansele
Anura Kumara Jayapathma,

In front of Mahaweli Grounds,
Nochchiyagama.

Petitioner.

Vs.

H.C.A.No. HB 03/2013

1. Saman Hewakandambi,
Samanala Rice Mill,
Ikiriwewa, Sinharagama,
Nochchiyagama
2. Hatan Archchige Manori,
No.62, Samanala Building,
Nochchiyagama
3. Lal Hewa Kandambi,
No.2615, 3rd Stage,
Anuradhapura
4. Sithuni Aishwarya Dewasmitha
Hewa Kandambi

-The Corpus

(Location Presently Unkonwn)

5. Deputy Inspector General of Police,
DIG Office – Anuradhapura,
Anuradhapura.

Respondents

BEFORE : SISIRA J. DE ABREW, J. (ACTING P/CA) &
P.W.D.C. JAYATHILAKA, J.

COUNSEL : Chatura Galhena with Manoja
Liyanagunawardena for the petitioner.
Upali Jayamanne with Dilanka Perera for the
1st, 2nd, and 3rd respondents.
Priyantha Fernando with Kumudini Keerthiwella
for the 4th respondent.

ARGUED AND

DECIDED ON : 17th January, 2014

SISIRA J. DE ABREW, J. (ACTING P/CA)

Heard all Counsel in support of their respective cases.

Learned Counsel for the 4th respondent seeks to tender objections and an affidavit signed by the 4th respondent. We have perused the said documents. Registrar is directed to file the said documents in the docket.

Counsel appearing for the 1st, 2nd, and 3rd respondents seeks to tender objections and an affidavit of the 1st, 2nd and 3rd respondents. We have perused the said documents. Registrar is directed to file the said documents in the docket.

This is a Habeas Corpus application.

The petitioner has sought an order from this Court directing the 1st, 2nd and 3rd respondent to produce the corpus (4th respondent). The 4th respondent is present in Court. She has signed an affidavit. In that affidavit she states that she has filed an action in the District Court to annul the marriage between her and the petitioner. Petitioner alleges that there is a valid marriage between the petitioner and the 4th respondent. But the 4th respondent has now taken steps to annul the marriage between the two. A certified copy of the District Court case is annexed to her objections. Since the 4th respondent (the corpus) is present in Court, the purpose of the Habeas Corpus application is fulfilled. We should now decide whether we should hand over the corpus to the petitioner. Since the corpus has filed a case in the District Court, to annul the marriage, if we make an order that the corpus should be handed over to the petitioner such an order would be rendered futile. We therefore hold the view that the proceedings in this case should be terminated.

In these circumstances we make order terminating the proceedings. We dissolve all interim orders issued by this Court. Registrar of this Court is directed to inform the Controller of Immigration and Emigration by way of a letter that the interim orders issued by this Court have been dissolved and that there is no impediment for her (4th respondent) to leave the country.

ACTING PRESIDENT OF THE COURT OF APPEAL

P.W.D.C. JAYATHILAKA, J.

I agree.

JUDGE OF THE COURT OF APPEAL

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