

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

C.A. (Writ) Application No. 596/2011

Yahala Kelle Estates Co. Ltd.,
"Yahala House",
No. 33, Staples Street,
Colombo 02.

Petitioner

Vs.

1. Pearl Weerasinghe,
Commissioner General of Labour,
Labour Secretariat, Narahenpita,
Colombo 05.

2. Commissioner of Labour-EPF,
Labour Secretariat,
Narahenpita,
Colombo 05.

and another

Respondents

C.A.Writ Application No.596/2011

BEFORE : ANIL GUNARATNE, J. &
SUNIL RAJAPAKSHE, J.

COUNSEL : D.H. W. Kirinde with Lahiru de Silva for the
petitioner .
Milinda Gunathilake DSG for the respondents.

ARGUED AND
DECIDED ON : 21st July, 2014.

ANIL GUNARATNE, J.

The petitioner in this application is a company registered under the provisions of the Companies Ordinance. Prayer to the petition indicates that the petitioner has sought a writ of certiorari as described in sub paragraph (d) of the prayer tot the petition. The subject matter of this application relates to Employees Provident Fund dues which have fallen in due as averred in paragraph 6 and 8 of the petitioner's petition and as well as referred to in the objections of the 1st to 3rd respondents. This matter was originally fixed for argument on 07.11.2012. On the said date matter had not been taken up for argument. However, Counsel had moved for extension of interim relief. Perusal of the subsequent journal entries indicates to this Court that arguments have been postponed from time to time.

Learned Deputy Solicitor General who appears before this Court informs that by motion dated 15.07.2014 the provident fund dues

were to be settled. It is brought to the notice of this Court by learned Deputy Solicitor General that in case No.68094 part payments have been made (a sum of Rs.50,000/=) and party concerned has given an undertaking to pay the balance sum. It is also submitted that in case No. 65615 a sum of Rs. 100,000/= has been deposited and for the balance sum an undertaking has been given by the party concerned. It is also brought to the notice of Court that in case No.65616 all payments have been made. Writ of Certiorari is a discretionary remedy of Court. This Court has given several dates and the matter was fixed for argument on several times, appears to Court that the petitioner has not exercised due diligence to prosecute this application. No useful purpose will be served by keeping this application in the roll of this Court. In view of the nature of Writ of Certiorari which is a prerogative writ, this Court has the discretion to make a suitable order. In all the above circumstances, this Court proceed to dismiss this application without costs.

JUDGE OF THE COURT OF APPEAL

SUNIL RAJAPAKSHE, J.

I agree.

JUDGE OF THE COURT OF APPEAL

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