

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

CA (PHC) APN No.175/2013
PHC.Matara No.Rev.113/2013
M.C. Matara NO.20216

G.P. Weeraratne Jayasuriya,
No. 1,Kadapola,
Gandara.

Petitioner –Petitioner

Hon. Attorney General
Attorney General's Department
Colombo 12,

Officer - in- Charge,
Police Station,
Gandara.

Respondent- Respondents

C.A. (PHC)APN No.175/2013

P.HC.Matara No.Rev.113/2013

M.C. Matara No.20216

BEFORE : K.T.CHITRASIRI, J. &

W. M.M. MALINIE GUNARATNE, J.

COUNSEL : Razik Zarook P.C. with Rohana Deshapriya &
Chanakya Liyanage for the petitioner.

Himali Jayanetti SC for the 1st and 2nd
respondents.

ARGUED AND

DECIDED ON : 30th October, 2014

K.T.CHITRASIRI, J.

Heard both Counsel in support of their respective cases.

This is an application seeking inter alia to set aside the judgment dated 12th November 2013 of the learned High Court Judge of Matara and to direct the learned High Court Judge to hear and determine the revision application bearing No. 113/2013. Learned President's Counsel for the petitioner made submissions as to the procedure and the manner in which the final decision of the learned High Court Judge had been made. Learned State Counsel also referred

to the relevant proceedings recorded before the learned High Court Judge.

The petitioner in this application, being aggrieved by the order dated 27th July 2013, of the learned Magistrate of Matara filed a revision application bearing No.113/2013 seeking to have the vehicle SPGK 1987 which was the vehicle involved in the case bearing No.20216, released to her. The said revision application had been supported on the 07th October 2013. On that date, the learned Counsel for the petitioner has moved Court to issue notice on the respondents. However, the learned State Counsel who was present on that date even without any notice being received has made lengthy submissions and has moved that the application of the petitioner be dismissed. Thereafter, the learned High Court Judge adjourned the matter for the 12th November 2013 to consider whether the notice should be issued or not. However, when the matter was mentioned on the 12th November 2013 the learned High Court Judge has delivered his order dismissing the petition of the petitioner. The aforesaid facts are not in dispute.

The circumstances referred to above show that the learned High Court Judge, without giving an opportunity for the parties to

present their respective cases has decided the issue finally. It is our view that the learned High Court Judge was in error when he made the final order without giving an opportunity for the petitioner to present his case which amounts to violation of the Principles of Natural Justice.

For the aforesaid reasons, we set aside the judgment of the learned High Court Judge dated 17th September 2013. The learned High Court Judge who is now sitting at the High Court of Matara is directed to issue notice on the parties and to proceed with the matter according to law.

Application allowed.

JUDGE OF THE COURT OF APPEAL

W. M.M. MALINIE GUNARATNE, J.

I agree.

JUDGE OF THE COURT OF APPEAL

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