

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

*In the matter of an Application for
revision in terms of Article 138 of the
constitution of the Democratic Socialist
Republic of Sri Lanka against a
judgment of Provincial High Court
exercising its revisionary jurisdiction.*

C A (PHC) Application

No. 105 / 2015

Provincial High Court of

Western Province (Colombo)

Case No. HCRA No. 136/2013

Magistrate's Court Nugegoda

Case No. 14206 (Labour)

1. Paul Newmen Wijeyarathne
2. Sharmila Chrisshanthi De Silva

Both of 5/10,

Sramadhana Mawatha,

Pagoda,

Nugegoda.

DEFENDANT - PETITIONERS -
APPELLANTS - PETITIONERS

-Vs-

1. Commissioner General of Labour,
Department of Labour,
Colombo 05.

COMPLAINANT PLAINTIFF -
RESPONDENT - RESPONDENT -
RESPONDENT

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

RESPONDENT - RESPONDENT -
RESPONDENT

AND NOW BETWEEN

***In the matter of an Application for
Intervention***

Vidarshana Bimal Fonseka
No. 44,
Park Road,
Rathmalana.

INTERVENIENT-PETITIONER

Vs.

Petitioner-Respondent

1. Paul Newmen Wijeyarathne
2. Sharmila Chrisshanthi De Silva

Both of 5/10,

Sramadhana Mawatha,

Pagoda,

Nugegoda.

DEFENDANT - PETITIONER -
APPELLANT – PETITIONER -
RESPONDENTS

3. Commissioner General of Labour,
Department of Labour,
Colombo 05.

COMPLAINANT PLAINTIFF -
RESPONDENT - RESPONDENT -
RESPONDENT - RESPONDENT

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

RESPONDENT – RESPONDENT –
RESPONDENT -RESPONDENT

Before: K K Wickremasinghe J

P. Padman Surasena J

Counsel: J P Gamage for the Intervening Petitioners.

Mudithawo Premachandra for the Defendant - Petitioner -

Appellant – Petitioner – Respondents

Ureka Perera ASA for the Complainant Plaintiff - Respondent -

Respondent –Respondent – Respondent and Respondent –

Respondent – Respondent -Respondent

Decided on: 2016-09-07

ORDER RELATING TO THE APPLICATIONS FOR INTERVENTION

P Padman Surasena J

In this order, the party who has filed the application for revision in this Court will be referred to as the Petitioners. The parties who have been named as Respondents in the said revision application will be referred to as

the 1st and 2nd Respondents. The party who subsequently seeks to intervene after this application was filed in this Court will be referred to as the Interventient Party.

Learned counsel for all the Parties when this case came up on 2017-06-27 before us, agreed to abide by the written submissions, they had filed with regard to the question of intervention, and requested this Court to pronounce the order pertaining to the application for intervention after considering the written submissions, They dispensed with their necessity of making oral submissions. Therefore this judgment would be based on the material adduced by the parties in their pleadings and written submissions.

The Petitioners are the directors of the company named Fashion Tex International (Pvt) Ltd which had employed the Interventient Petitioner. On a complaint being made by the Interventient Petitioner regarding nonpayment of his salary the 1st Respondent had issued a certificate in terms of section 3 D of the Wages Boards Ordinance. As the Petitioners did not comply with the order of the 1st Respondent to pay the specified sum of money to the Interventient Petitioner, the 1st Respondent had instituted proceedings in the Magistrate's Court to recover it as a fine.

Learned Magistrate had accordingly ordered the said amount be recovered as a fine. The Petitioners thereafter filed an application for revision in the

High Court of Colombo. Learned High Court Judge having heard parties had dismissed the said revision application. The Petitioners have now appealed to this Court and the said appeal is said to have not yet been listed¹.

The Petitioners have admitted that the interest of the Interventient Party was looked after by an Attorney at law appearing for the aggrieved party both in the Magistrate's Court as well as in High Court². The Petitioners however has failed to put forward any acceptable basis as to why this Court should refuse the application made by the Interventient Party to intervene in this case. Further, in the light of the facts and circumstances of this case which is an application for revision under Article 138 of the Constitution, it is the view of this Court that no prejudice would be caused to any party by allowing the Interventient Party to intervene in this case. After all, it is the money due to him that the learned Magistrate had recovered in the impugned order. Thus, he could be considered as a party who has sufficient interest in this matter.

¹ Paragraph 2 (XIV) of the written submission filed by the Interventient Party.

² Paragraph 11 of the written submission filed by the Petitioners.

For the foregoing reasons we decide to allow the Interventient Party to intervene in this case as an Interventient Respondent to this revision application.

JUDGE OF THE COURT OF APPEAL

K K Wickremasinghe J

I agree,

JUDGE OF THE COURT OF APPEAL