

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

In the matter of an Appeal to under  
Article 154 P (6) read with Article 138 of  
the Constitution against a judgment of  
Provincial High Court exercising its writ  
jurisdiction.

C A (PHC) / 106 / 2006

Provincial High Court of

Western Province (Panadura)

Case No. 14 / 2001(Certiorari)

Hewage Sarath Karunawansa,

97/12,

De Zoysa Road,

Rawathawaththa,

Moratuwa.

**PETITIONER - APPELLANT**

-Vs-

1. Commissioner of Co-operative  
Development (Western Province).
2. W D Yasarthna (Arbitrator),  
308/135/6,  
Kimbulgoda,  
Yakkala.
3. Moratuwa Multi Purpose Co-  
Operative Society Ltd.,  
No. 60,  
Main Street,  
Motatuwa.

**RESPONDENT - RESPONDENTS**

**Before:      K K Wickremasinghe J**

**P. Padman Surasena J**

Counsel; Chula Bandara for the Petitioner - Appellant.

Vidura Gunarathna for the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents-Respondents

Decided on : 2017 - 09 - 18

### JUDGMENT

### **P Padman Surasena J**

Learned counsel for all the Parties when this case came up on 2017-07-04 before us, agreed to have this case disposed by way of written submissions, dispensing with their necessity of making oral submissions. They agreed that this Court could pronounce the judgment after considering the written submissions they would file. Therefore, this judgment is based on the material that has been adduced by parties in their pleadings and the written submissions.

The Petitioner- Appellant (hereinafter sometimes referred to as the Appellant) had filed an application in the Provincial High Court of the Western Province holden at Panadura praying for a writ of Certiorari to quash the decision dated 1999-09-11 of the 2<sup>nd</sup> Respondent Respondent

(who is hereinafter sometimes called and referred to as the 2<sup>nd</sup> Respondent or Arbitrator). The said decision is an award made pursuant to an arbitration conducted by him.

Learned Provincial High Court Judge had refused to issue a writ of certiorari and had proceeded to dismiss the application, as there had been no ground for such a writ.

It is against that judgment that the Appellant has filed this appeal in this Court.

Learned counsel for the Appellant has agreed to be content by filing written submissions to set out his complaint before this Court. He has indeed filed the written submissions as undertaken.

Although he has taken up certain grounds to argue as to why the Provincial High Court should have issued the writ sought for, he has failed to satisfy the Court that such grounds indeed exist to the satisfaction of this Court. Further, it appears that the Appellant admittedly had exhausted his rights of appeal and it was thereafter that he had thought of canvassing the same decision by way of a writ of certiorari.

Perusal of the application filed in the Provincial High Court shows clearly that the Appellant had filed the said application on 2001-02-23 requesting the Court to quash a decision taken on 1999-09-11. Thus, the Appellant is clearly guilty of laches.

In these circumstances, the refusal to grant a writ of certiorari by the Provincial High Court is justifiable. This Court sees no basis to interfere with the said finding. Therefore, this Court decides to dismiss this appeal with costs.

Appeal dismissed with costs.

**JUDGE OF THE COURT OF APPEAL**

**K K Wickremasinghe J**

I agree,

**JUDGE OF THE COURT OF APPEAL**