

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
Certiorari and Mandamus in terms of
Article 140 of the constitution of the
Democratic Socialist Republic of Sri
Lanka*

C A (Writ) Application

No. 294 / 2015

Ven. Handapangoda Mahinda Thero
Viharadhipathi and Trustee of the
Kiriella Nadun Raja Maha Viharaya,
Nadun Raja Maha Viharaya,
Kiriella.

PETITIONER

-Vs-

1. Hon. M K D S Gunawardhana,
Minister of Lands,
Mihikatha Medura,

No. 1200/6,
Rajamalwatta Avenue,
Colombo 07.
and others.

Respondents

AND NOW BETWEEN

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

1. Imihamilage Somaratne,
Chairman,
Dumbara Himikam Surekeeme Subha
sadhaka Sanvidhanaya,
Ketepola,
Ellagawa.

and five others.

1st - 6th Intervenant-Petitioners

Vs.

Ven. Handapangoda Mahinda Thero

Viharadhipathi and Trustee of the

Kiriella Nadun Raja Maha Viharaya,
Nadun Raja Maha Viharaya,
Kiriella.

Petitioner - Respondent

Before: P. Padman Surasena J (P/CA)

A L Shiran Gooneratna J

Counsel: Padma Bandara PC with Thisath Wijeyagunawardhana and S Rajapaksha for the Intervenient Petitioners.

Gamini Marapona PC with Nishantha Mendis for the Petitioner - Respondents.

Decided on: 2018-03-02

ORDER RELATING TO THE APPLICATION FOR INTERVENTION

P Padman Surasena J

This order pertains to an application made by the Interveniient - Petitioners to intervene in the application filed by the Petitioner - Respondent.

The Petitioner - Respondent has relied on the Divisional Bench judgment of this court in the case of Weerakoon and another vs Bandaragama Pradeshiya Sabhawa.¹

This Court in the said Divisional Bench judgment has held that the Court of Appeal (Appellate Procedure) Rules 1990 do not provide for third party interventions in applications for Prerogative Writs.

The Petitioner - Respondent has also cited the order of this Court in the case of C A (Writ) Application No. 187 / 2016 ² in which this Court has stated that in view of the said Divisional Bench judgment it is not in a position to entertain the applications made by third parties for intervention in that case which is also a writ application.

It is the duty of the Petitioner - Respondent to ensure that all relevant necessary parties are added to the application because it is he who will

¹ C A Writ Application No. 586 / 2007 decided on 2011-11-22 (2012 BLR 310).

² Decided on 2016-10-05.

have to face a dismissal, in case this Court finds that he had omitted to add necessary parties to the application.

As has been done by this Court in C A (Writ) Application No. 187 / 2016³ and in view of the ruling of the Divisional Bench of this court above referred to, this Court decides to refuse the application made by the Intervient - Petitioners to intervene in the application filed by the Petitioner - Respondent.

Application for intervention refused.

PRESIDENT OF THE COURT OF APPEAL

A L Shiran Gooneratna J

JUDGE OF THE COURT OF APPEAL

³ Ibid.