

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

In the matter of an application for
the issue of Writs in the nature of
Certiorari and Mandamus under
Article 140 of the Constitution of the
Democratic Socialist Republic of Sri
Lanka.

Ranjith Sirilal Wijesuriya Arachchi
No.03,
Samudra Mawatha,
Inginiyagala,
Monaragala.

Petitioner

C.A. (Writ)Application

No. 235/2017

Vs.

01. K.H.A. Meegasmulla
The Commissioner General,
The Department of Excise,
No.28,
Steppel Street,
Colombo 02.
02. Wasantha Dissanayake,

Deputy Commissioner of
Excise (Revenue)
(Uwa Province)
District Office,
Badulla.

03. Wijitha Gamanayake
The Superintendent of Excise
The Superintendent's office of Excise
Monaragala.
04. R.S.W. Perera,
Officer in Charge of Excise,
Monaragala.
05. R.M.R.S. Thilakaratne,
Divisional Secretariat,
The office of Divisional
Secretariat, Madulla, Dambagalla.
06. Don. Wijewardhana Mayagunne,
No.07, Battaramulla Road,
Ethul Kotte,
Kotte.
07. Prasanna Pradeep Udaya,
T 1116, Gabada Road,
Inginiyagala.

Respondents

BEFORE : P. PADMAN SURASENA, J. (P/CA) &
A.L. SHIRAN GOONERATNE, J.

COUNSEL : M.D.J. Bandara for the petitioner
Saliya Peiris P.C. with Susil Wanigapura
for the 7th respondent.

DECIDED ON : 08th February, 2018

P. PADMAN SURASENA, J. (P/CA)

This matter came up today for the learned Counsel for the petitioner to support for notices.

Learned Counsel for the petitioner as well as learned President's Counsel for the 7th Respondent were heard in support of their cases. The petitioner seeks to quash in this proceeding the decision contained in the document produced marked **P 53** which is dated 08.04.2014. At the outset this Court observes that this is a decision which had been taken almost four years ago.

The complaint of the petitioner is that he was not given a fair hearing in the inquiry which led to the said decision. Perusal of the document **P 53** shows that the petitioner has failed to establish his entitlement to this liquor license at the said inquiry.

Learned Counsel for the petitioner relies on the affidavit marked **P 54** to establish that he had furnished all material pertaining to his entitlement at the said inquiry. However, this Court observes that this is an affidavit which had been prepared on 12.08.2014. When queried by this Court from the learned Counsel for the petitioner as to the background which led to the preparation of this affidavit, the learned Counsel was unable to explain any back ground reason as to why such affidavit was prepared in the year 2014. (This application has been filed in the year 2017.) Therefore there is no justification before this Court as to why the particular Attorney-at-Law who is said to have appeared for the petitioner was prompted to prepare this affidavit almost four years ago. This casts a serious doubt to the credibility of this affidavit.

On the other hand, the affidavit produced marked **P 54** only refers to the fact that the petitioner had tendered such documents to the inquiry which led to the decision dated 18.04.2014. We observe that there is no such decision made on that date. Learned Counsel for the petitioner also concedes that. Thus, the assertion in the said affidavit is not relevant to the impugned decision in this case.

Learned President's Counsel for the 7th respondent brings to the notice of this Court that the 7th respondent had entered into a lease agreement with the petitioner to run this liquor shop. Learned Counsel for the petitioner states that he is not aware of the said lease agreement. He informs Court that he is not aware as to who ran this liquor shop between the period 2014 – 2017 (That is the period in the lease agreement).

We observe that this liquor shop is situated in Monaragala. We also observe that the petitioner too resides in Monagarala (according to the address given in the petition). This Court is not inclined to accept the position of the learned

Counsel for the petitioner that the petitioner was not aware as to who ran the liquor shop during the said period.

For the above reasons this Court refuses to issue notices on the respondents. The application is dismissed without costs.

PRESIDENT OF THE COURT OF APPEAL

A.L. SHIRAN GOONERATNE, J.

I agree.

JUDGE OF THE COURT OF APPEAL

Kwk/=