

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

An application for revision of the order delivered by the Hon. High Court Judge of Panadura dated 7.11.2017 and/or the judgment delivered by the Hon. High court Judge of Panadura dated 26.10.2017 in Revision application no. HCRA 26/2017.

Court of Appeal Application No.
CA (PHC) / APN / 178 / 2017
Provincial High Court of Panadura
Revision Application No. HCRA 26/2017

M. C. Kesbewa case No. 78213

Kottage Osmand Perera
No. 36/A, Chapel Road,
Nugegoda.

**2nd PARTY 3RD RESPONDENT
RESPONDENT APPELLANT PETITION**

Vs.

Susil Morris Wannigathunge
No. 218, Aachariya Thotupola Road,
Kahapola Road.

Appearing through his Power of Attorney Holder
Maarasinghearachchige Milton Marasinghe
No. 34,Sagobo Mawatha,
Borupana,
Rathmalana.

**1ST PARTY RESPONDENT PETITIONER
RESPONDENT RESPONDENT**

1. Senath Kapila Abayagunawardena,
No. 20,Stubbs Place,
Colombo 05.
2. Kaluarachchige Anura Sanath Perera,
No. 192/1, Polhena Junction,
Madapatha,
Piliyandala.

**2ND PARTY 1ST AND 2ND RESPONDENT
RESPONDENT RESPONDENT RESPONDENTS**

2. Danuka Roland Wannigathunga
No. 218, Aachariya Thotupola Road,
Kahapola Road.
3. Liyanage Don Gnanapala,
No. 150/1, Polhena, Madapatha,
Piliyandala.
4. Kehel Badderage Hemapala Perera,
No.218,Aachariya Thotupola Road,
Kahapola Road.

**1ST PARTY 2ND, 3RD AND 4TH RESPONDENT
RESPONDENT RESPONDENT RESPONDENTS**

C. A. (PHC) APN 178/2017

PHC – Panadura HCRA 26/2017

BEFORE : **P. Padman Surasena, J (P/CA)**

A. L. Shiran Gooneratne, J

COUNSEL : Athula Perera for the 2nd Party 3rd Respondent
Respondent Applicant Petitioner.

Anura Meddegoda P.C. with M. Perera for the 1st
Party Respondent- Petitioner Respondent-Respondent
and the 1st Party 2nd Respondent -Respondent-
Respondent Respondent.

Dilshan Jayasuriya with Dushantha Nelson for the 2nd
Party 1st Respondent Respondent Respondent
Respondent.

SUPPORTED AND

DECIDED ON : 20.02.2018

Padman Surasena, J (P/CA)

This Court heard the submissions of the Learned Counsel for the Petitioner and learned President's Counsel for the 1st Party Respondent- Petitioner

Respondent-Respondent and the 1st Party 2nd Respondent -Respondent-Respondent - Respondent.

Learned Counsel for both Parties agree that it would be proper for this Court to make an order directing the learned Provincial High Court Judge to accept the appeal that has been filed by the Petitioner against the judgment of the Provincial High Court dated 26.10.2017.

Perusal of the journal entry dated 07.11.2017 shows that this Petition of appeal has been filed by the Petitioner within the appealable period. That appeal is an appeal against a judgment of the Provincial High Court pronounced in the exercise of its revisionary jurisdiction. Therefore there is no impediment for accepting such appeal by the Provincial High court. Parties before this Court today agree that an appeal lies to Court of Appeal against the judgment dated 2017.10.26.

In these circumstances, we set aside the order made by the learned Provincial High Court Judge on 2017.11.07 refusing to accept this appeal. We direct the learned provincial High Court Judge to accept this appeal and thereafter take necessary steps in that regard according to law.

Learned President's Counsel for the Respondent undertakes to maintain the status quo as at today until the final determination of that appeal.

Learned President's Counsel for the 1st Party Respondent Petitioner - Respondent-Respondent and the 1st Party 2nd Respondent- Respondent- Respondent- Respondent agrees to maintain the status quo as it stands today until the final determination of the appeal. In view of this order we terminate the proceedings of this application.

PRESIDENT OF THE COURT OF APPEAL

A. L. Shiran Gooneratne, J

I agree

JUDGE OF THE COURT OF APPEAL

YD/