

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

In the matter of an application for mandates
in the nature of Writs of Certiorari and
prohibition in terms of Article 140 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

Athma Labbe Ahamed Hubail
No.11C, "Notaries Villa"
2nd Cross Street,
Akkarraipattu – 14

Petitioner.

C.A.No.345/2017(Writ)

1. D.K.Rohitha Swarna
Director General,
Road Development Authority,
" Maganaguma Mahamedura"
No.216, Denzil Kobbekaduwa Mawatha,
Koswatta, Battaramulla.

And 17 others.

Respondents.

C.A.No.345/2017(Writ)

Before : **P.Padman Surasena, J. (P/CA) and
A.L.Shiran Gooneratne,J.**

Counsel : Dr. U. L. Ali Zakky for the Petitioner.
Nayomi Kahawita SSC for Respondents.

Argued and

Decided on : 12/03/2018

P.Padman Surasena ,J (P/CA).

At the outset Learned Senior State Counsel brings to the notice of Court that the Supreme Court has refused leave to proceed in the Fundamental Rights Application filed by the petitioner for the same reliefs on the same grounds with regard to the same matter. Learned Senior State Counsel tenders to this Court, a copy of the order of the Supreme Court dated 17/11/2017 relevant to the said application. She also draws the attention of this Court to the amended petition dated 18/12/2017 filed

by the petitioner in this Court. It is her submission that the petitioner in the writ application filed before this Court has failed to disclose the fact that the Supreme Court has refused leave to proceed in the said Fundamental Rights Application.

Learned Counsel for the petitioner concedes these facts.

Petitioner is unable to offer any reason for the non disclosure of this fact in the writ application he has filed before this Court. This Court observes that the amended petition has been filed after the Supreme Court had refused leave to proceed in the Fundamental Rights case. It is trite law that a petitioner in a writ application is under a duty to disclose all relevant facts to Court. The facts that the supreme Court had refused leave to proceed in the relevant application is very much relevant fact in this application as this application has been filed by the petitioner for the same grievance on the some facts. It is the view of this Court that it should not (due to the above reason) further consider this application. Application is dismissed without costs.

Registrar is directed to file, the order of the Supreme Court tendered by the learned Senior State Counsel and the copy of the petition filed in the Supreme Court in to the record of this case.

PRESIDENT OF THE COURT OF APPEAL

A.L.Shiran Gooneratne,J.

I agree.

JUDGE OF THE COURT OF APPEAL

WC/-