

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

In the matter of an Application for contempt
of Court.

C.A. Contempt : 756/2010

01. Ediribandana Hewage Thilakasena,
No. 23A 6/1,
Dabare Mawatha,
Narahenpita,
Colombo 05.
02. Wickramasinghe Arachchilage Luxman
Kularatne Bandara Wickramasinghe,
No. 35/B/1,
Galtotahena Road,
Arukgodra,
Alubomulla.
03. Weerasinghege Subasinghe,
Welagedara,
Nakkawatta.
04. Dissanayake Pathiraja Mudiyanse
Ajith Kumara Dissanayake,
Ihala Elathalawa,
Deegala,
Kuliyapitiya.

05. Arakgalage Gunasena,
No. 30, Udagaoda,
Undugoda.
06. Pitigalage Jayawan Sunil Kulatunga,
'Sisira',
Boyagoda,
Atala.
07. Wijekoon Mudiyanseelage Jayantha,
Hureemaluwa,
Rambukkana.
08. Rajapaksha Pathiranage Chandima Shironi
Jinadasa,
Iswetiya,
Pahaladiyadara,
Kiliyapitiya.
09. Kapila Nalaka Arukgoda,
No. 55,
Kanatta Road,
Thalpathpitiya,
Nugegoda.
10. Rathnayaka Mudiyanseelage Tharalika
Kumuduni Poojitha Livera,
No. 1228, Zone 5,
Millennium City,
Athurugiriya.
11. Kapuduwage Sunethra Madhura Vishakha,
No. 18, Galwala Road,
3rd Mile Post,
Ampitiya.

12. Edirisinghege Nihal Pradeep Kumara
Ratnapala,
No. 805,
Pragathi Mawatha,
Pannipitiya.
13. Haputhanthrige Don Jayantha Gunasekara,
No. 80/1A, Temple Road,
Jaburaliya,
Madapatha,
Piliyandala.
14. Liyanarachchige Wasantha Pushpakumara,
Wedagedara Road,
Nawuththuduwa,
Mathugama.
15. Senanayake Arachchige Wasantha Kumara
Senanayake,
No. 2/60, 'Senani',
Medawathugoda,
Yakkala.
16. Attanayaka Mudiyanse Lage Henagedara
Pradeep Ajith Bandara Karunaratne,
No. 384/2, Jayamawatha,
Dalupotha,
Negombo.
17. Munasinghe Emiyage Janaka Sampath
Munasinghe,
No. 132A, Megoda,
Thammita Makewita,
Ja-Ela.

18. Welathanthri Gurunnanselage Don
Dharmaraja Karunaratne,
No. 251, Morris Road,
Welipotha,
Galle.
19. Hettiarachchilage Priyanthi Hettiarachchi,
No. 70, Keppitiwalana,
Alawwa.
20. Warnakulasuriya Kingsley Fernando,
No. 134, 'Jayabima',
Kadirana South,
Negombo.
21. Silinduwage Nimal Chandratissa,
No. 355 A,
Bothale Pahalagama,
Ambepussa.
22. Molligodaliya Don Harischandra,
No. 44/16, Adarsha Patumaga,
Bandaragama.
23. Samarakoon Arachchige Damayanthi
Samarakoon,
No. 53, Madamulla,
Minuwangoda.
24. Ilandaran Pedige Vincent,
Wilattawa, Godellayaya,
Bingiriya.
25. Widanalage Don Saman Janaka Kumara,
No. 105/A1, Ehalape Road,
Katuwawala, Boralessgamuwa.

26. Dunya Samanthi Samarakoon
Jayawardena,
No. 31, Sandunpura, Mattegoda,
Polgasowita.
27. Totage Priyanga Thushara Fernando,
No. 15/2, Sri Maha Vihara Road,
Panadura.
28. Anupiya Nanda Ruwanpitiya,
No. 350/1, Kadirana,
Negombo.
29. Puwakdandawe Muhandiramge Ajantha,
No. 47/2,
Dharmarathna Mawatha,
Uyanwatte,
Matara.
30. Thibbotuge Dushyanthi Diranya
Kumarasiri,
'Manahara',
Raigama,
Bandaragama.
31. Wasala Mudiyanseelage Melum Jagath
Wijyaratne,
'Manahara',
Raigama,
Bandaragama.
32. Thibbotuge Manoj Janaka Perera,
'Hemakanthi',
Rerukana,
Bandaragama.

33. Wanasinghe Mudiyanseelage Gamini
Gunasekara,
'Gunasiri', 15th Mile Post,
Bakinigahawela,
Monaragala.
34. Jayawardhana Liyanaarachchilage
Chamila Deepani Liyanage,
No. 230/1-C,
Asiri Mawatha,
Yakkala.
35. Shyamila Rathnayake,
No. F-43, Matha Road,
Manning Town,
Colombo 8.
36. Mohan Kosala Jayasekara,
No. 10/1, Ruhunukula Mawatha,
Colombo 8.
37. Mohamed Cassim Mohamed Farook,
No. 93/55, Elvitigala Mawatha,
Colombo 8.

Petitioners

Vs.

1. Telecommunication Regulatory Commission
of Sri Lanka,
No. 276,
Elvitigala Mawatha,
Colombo 08.

2. Director General of Pensions,
Pensions Department,
New Secretariat Building,
Colombo 10.

Respondents

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

&

A.L. Shiran Gooneratne J.

Counsel : Manohara de Silva, PC with Imalka Abeysinghe for the Petitioner.

N. Kahawita, SC for the 1st and 2nd Respondents.

Written Submissions of the Petitioners filed on: 19/06/2017 & 29/11/2017

Written Submissions of the Respondents filed on: 16/06/2017

Judgment on : 24/07/2018

A.L. Shiran Gooneratne J.

By this application the Petitioners' inter alia, are seeking, to charge the 1st and 2nd Respondents for committing an offence of contempt of court, for failing to fully comply with the terms of settlement entered by the respective parties in case No. (Writ) 750/2007. On 11/09/2008, in terms of the said settlement, by joint motion dated 28/08/2008, the Petitioners withdrew the said application.

The application for contempt of court was supported on 09/12/2010, and the Court thereafter has directed the registrar to issue notice on the Respondents. The Petitioner's by motion dated 05/01/2011 have moved to issue notice on the Respondents and the said notice has been duly dispatched. The said motion states that the Petition, affidavit and the documents marked A1 to A17 have been already sent to the Respondents by registered post. The journal entry dated 29/12/2010, confirms that only notice was filed on the said date.

Thereafter, several mention dates have been obtained on account of parties moving for dates for settlement. When this matter was mentioned before Court on 08/11/2016, respective parties moved to file written submissions to disposed of this application. Thereafter on 14/11/2017, as per journal entry dated 08/11/2016, the parties have reiterated their agreement to dispose of this application relying on written submissions and therefore, the matter was fixed for Judgment.

In cases of contempt of court, simultaneously with the issue of notice, the complainant should state the nature of the alleged offence, the grounds on which the notice is issued and require the accused to appear on a day named therein to answer the charge. Thereafter, the hearing is commenced by asking the accused whether or not he admits the truth of the charge.

It is observed that in the instant case after the Court ordered the issue of notice on the Respondents, the complainants have failed to describe the nature of

the offence or file charges against the accused in writing and stating precisely the offence charged in support of their case. Therefore, by not filling a charge sheet to answer, the complainant has failed to comply with the procedural requirements in an application for contempt of court. There is also no prayer in the Petition to punish the Respondents for contempt of court.

Therefore, the Court observes a failure, on the part of the Petitioner to diligently prosecute this application.

In the circumstances, the Petition is dismissed. The Petitioners are directed to pay a sum of Rupees 25,000/- as costs to the Respondents.

JUDGE OF THE COURT OF APPEAL

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

I agree.

PRESIDENT OF THE COURT OF APPEAL