

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

Ceylinco Leasing Corporation
Limited.,
No. 97, Hyde Park Corner,
Colombo 2.
Presently at
No. 283, R.A. de Mel Mawatha,
Colombo 3.
Petitioner

CA CASE NO: CA/RI/297/2011
DC KURUNEGALA NO: 11412/M

Vs.

K.M.C. Wijewardena,
No. 41/1,
Andagala Road,
Kurunagala.
Respondent

Before: Mahinda Samayawardhena, J.
Counsel: Palitha Kumarasinghe, P.C., with Asanka Ranwala
for the Petitioner.
Jacob Joseph for the Respondent.

Decided on: 24.01.2019

Samayawardhena, J.

The petitioner filed this application by petition dated 06.07.2011 for *restitutio in integrum* seeking “to issue an order for restitution directing the respondent to return the sum of Rs. 254,807/= he had obtained in an illegal and unlawful manner.” In addition to costs, this is the only relief sought by the petitioner in the prayer to the petition.

When this matter came up before me for the first time, parties agreed to dispose of the argument by way written submissions.

According to the petition, when the petitioner came before this Court the same order had been made by the District Court of Kurunagala (vide X7) upon the application made to the District Court by the petitioner (vide X5) seeking the same relief.

The petitioner has filed this application before this Court because (according to the petition) the respondent had filed an appeal against that order of the District Court to the Provincial High Court of the North Western Province, and “*in the event of Provincial High Court of North Western Province set aside the order of the District Court of Kurunagala, irremediable loss and damage would be caused to the petitioner*”!

It is abundantly clear that this application of the petitioner is clearly misconceived in law and absolutely devoid of merit.

When the District Court has already made an order in favour of the petitioner, the petitioner Company need not and cannot file this application in this Court seeking the same relief using an additional word “restitution”. There is no magic in the word

“restitution”. It appears to me that the petitioner Company has filed this application to harass the respondent.

In the written submissions, the petitioner has informed Court that the Provincial High Court has now dismissed the appeal of the respondent.

The application of the petitioner is dismissed with costs.

As agreed on 25.06.2018, the parties in CA/RI/293, CA/RI/298, CA/RI/299, CA/RI/300, CA/RI/301 will abide by this Judgment.

Judge of the Court of Appeal