

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

Chandanie Rupasinghe Weragala,
Nexia Corporation Consultants
(Pvt) Ltd.,
No.51/1A, Fife Road,
Colombo 5.
Liquidator of Dart West Asia
Holding (Pvt) Ltd.,
No.260,
Sri Ramanathan Mawatha,
Colombo 15.
Petitioners

CASE NO: CA/WRIT/429/2015

Vs.

1. G.W.M.G. Wickramasinghe,
Deputy Commissioner,
Industrial Relations Divisions,
Department of Labour,
Labour Secretariat,
No.41,
Kirula Road,
Colombo 5.
And 4 Others
Respondents

Before: Mahinda Samayawardhena, J.
Counsel: Nalin Ladduwahetty, P.C., with Janaprith
Fernando for the Petitioner.
Susantha Balapapatabendi, S.D.S.G., for the
Respondents.
(No written submissions on behalf of the
Respondents have been filed.)
Decided on: 02.05.2019

Samayawardhena, J.

The petitioner as the liquidator of Dart West Asia Holdings (Pvt) Ltd. filed this application seeking to quash by way of certiorari the decision P5 made by the Commissioner General of Labour directing the Managing Director of the said company to pay EPF and Gratuity to the 3rd respondent-a former employee of the said company.

At the argument learned Senior DSG for the respondent *inter alia* took up a preliminary objection regarding standing of the petitioner to file this application.

In the 1st paragraph of the petition, although the petitioner gives the impression to Court that the said company is presently under liquidation, the petitioner in paragraphs 32-34 has stated with supporting documents P20-P22 that winding up procedure is now concluded and Final Account of the liquidator has also been sent to the Registrar General of Companies.

From those documents it is clear that, it was a voluntary winding up of the company, and P22 is the Final Accounts sent

by the liquidator to the Registrar General of Companies under section 331(3) of the Companies Act, No.7 of 2007 on or around 16.06.2015 after the affairs of the company were fully wound up and Final General Meeting was held.

In terms of section 331(4) of the Companies Act, the Registrar General of Companies upon receiving the Final Accounts shall forthwith register them and on the expiration of three months from the date of the registration of them, the company is dissolved automatically.

It is clear that this application has been filed by the petitioner several months after the company is dissolved on the purported basis that he is still the liquidator of the company.

The petitioner has no *locus standi* to file this application.

Application is dismissed with costs.

Judge of the Court of Appeal